



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanservices

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

September 12, 2017

Corliss Horton, Owner
Future Leaders Learning Center
2341 Frayser Blvd
Memphis, Tennessee 38127-5860

Dear Ms. Horton,

The Department of Human Services (DHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Future Leaders Learning Center (Sponsor), Application Agreement 00282, on May 24, 2017. We reviewed the sponsor's records of reimbursements and expenditures for April 2017. The purpose of this review was to determine if the sponsoring organization complied with the *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

Background

CACFP sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch, supper and supplements meals served. Meals served by participating sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) system to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements and observed a meal service on April 21, 2017.

Our review of the sponsor's records for the test month of April 2017 disclosed the following:

- 1. The number of participants reported in the free, reduced-price, and paid categories was incorrect**

Condition

The Claim for Reimbursement for the test month reported 164 participants in the free category, 10 participants in the reduced-price category, and 12 participants in the paid category. However, based on our review of the Sponsor's records, we noted that there were

165 participants in the free category, 15 participants in the reduced-price category, and nine (9) participants in the paid category. The differences were based on the following:

- The Sponsor did not have applications on file for three participants claimed for the review month of April 2017. These 3 participants were reclassified as paid.
- One participant was classified as free on the application, however, based on the income and household size provided on the application, this participant should have been classified as reduced-price.
- The number of participants reported in the free category was over reported by two, the reduced-price category was under reported by five, and the paid category was over reported by three.

Based on our review of the Sponsor's documents, we noted that there were 189 participants reported in the CACFP program.

This is a repeat finding from a previous report dated May 2, 2014.

Criteria

Title 7 of the Code of Federal Regulation, Sections 226.10 (c) states, in part, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 18) states "To operate the CACFP and receive reimbursement, all independent child care centers and sponsoring organizations must keep accurate records on the eligibility of enrolled participants for free and reduced-price meals."

Recommendation

The Sponsor should ensure that each participant is classified and reported according to the income eligibility application for child care center participants and kept on file.

2. A meal service observed at the feeding site did not meet USDA meal pattern requirements

Condition

We observed lunch meal service on April 21, 2017 at the Sponsor's feeding site. The lunch meal observed had two fish sticks, fruit cocktail, corn/green beans mix, mash potatoes, white bread, and milk. The nutritional label provided by the Sponsor did not verify the ounces of meat per serving in the fish sticks and the menu did not indicate that additional meat/meat alternative was added.

Therefore, the cost reimbursed for 64 lunch meals are disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ..."

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual (p. 23) states that "An institution must maintain menus that meet the following requirements: a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified."

The USDA Crediting Foods in the Child and Adult Care Food Program, page 62, states, "When crediting such products as chili-macs, pizzas, pot pies, sloppy Joes, and raviolis toward the meat/meat alternate component, the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a sales person) that shows how the crediting has been determined. Remember that only a CN-labeled product carries a warranty that protects against financial audit claims. See the sample formulation statement on page 73 with required information and documentation."

Recommendation

The Sponsor should implement the following:

- Maintain copies of commercially prepared food CN labels or Product Formulation Statements on file and follow the recommended serving sizes/equivalents listed on the label.
- Ensure all meals prepared meet the meal patterns established by the USDA, and
- Reviewed menus to ensure they contain all required meal components to be eligible as a reimbursable meal.

3. The Sponsor purchased insufficient quantities of milk

Condition

Based on our review of the documents that showed the number of meals served with milk as a required component, we noted a total of 23,826 ounces were needed. However, the Center management could only provide documents to support the purchase of 22,608 ounces of milk, which resulted in a shortage of 1,218 ounces. Therefore, the cost reimbursed for 152 breakfast meals are disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.14 (b) states, "In the event that the State agency finds that an institution which prepares its own meals is failing to meet the meal requirements of § 226.20, the State agency need not disallow payment or collect an overpayment arising out of such failure if the institution takes such other action as, in the opinion of the State agency, will have a corrective effect. However, the State agency shall not disregard any overpayments or waive collection action arising from the findings of Federal audits."

Title 7 of the Code of Federal Regulations, Section 226.20 (c)(2) states "Lunch and supper. Fluid milk, meat and meat alternatives, vegetable, fruits, and grains are required components in the lunch and supper meals. ..."

Recommendation

- The Sponsor should ensure supporting documents are maintained for milk provided to all participants with the required ounces of milk for meals that were claimed for reimbursement.
- The Sponsor should complete a monthly milk inventory which is completed on the last day of operation for each month and list the amount of milk purchased and not used during the month and is available at the close of business on the last day of operation of that month.

4. There were menus that did not have the specific name of the cereal that was served

Condition

There were menus that did not have the specific name of the cereal that was served. The sponsor did not provide receipts to show the specific names of the cereal purchased. The sponsor should document the specific type of cereal that is served on the menus.

Criteria

The Tennessee Child and Adult Care Food Program Policies and Procedures Manual (pg. 24) states "It is recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services."

Recommendation

The Sponsor should ensure that menus include the specific names of all breads or bread alternatives, meats or meat alternatives, vegetables, fruits and juices served.

5. There were participants that did not have a CACFP enrollment addendum form

Condition

There were six participants that did not have a current CACFP enrollment addendum form on file. Five (5) CACFP enrollment addendum form listed the parent's name as participants.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15 (e)(2) states "Documentation of the enrollment of each participant at centers (except for outside-school-hours care centers, emergency shelters, and at-risk afterschool care centers). All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

In addition, the Tennessee Child and Adult Care Food Program Policies and Procedures Manual states, "Each institution must meet the enrollment requirements mandated by child care licensing regulations. In addition, each institution must have an enrollment form for each CACFP participant. The enrollment form must meet the following requirements:

1. Be updated annually and signed by a parent or guardian of the participant;
2. Identify the "normal" days and hours in care for each enrolled participant; and
3. Identify the meals to be received by each enrolled participant."

Recommendation

The Sponsor should ensure that all participants have a current CACFP enrollment form on file. This should be completed during the enrollment process.

6. The Sponsor did not have the "Building for the Future" flyer posted

Condition

The Sponsor did not have the English and Spanish versions of the "Building for the Future" flyer posted.

Criteria

Title 7 CFR Section 226.15(n) states "*Regulations and guidance*. Each institution must comply with all regulations issued by FNS and the Department, all instructions and handbooks issued by FNS and the Department to clarify or explain existing regulations, and all regulations, instructions and handbooks issued by the State agency that are consistent with the provisions established in Program regulations."

Recommendation

The Sponsor should ensure that the "Building for the Future" flyer is posted at the center and that the flyer is distributed annually to participating households.

Disallowed Meals Costs

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed meals cost of \$343.23.

Corrective Action

Future Leaders Learning Center must complete the following actions within 30 days from the date of this report:

- Login to the Tennessee Information Payment System (TIPS) and revise the claim submitted for each site for March 2017, which contains the claim data from the enclosed exhibit.
- Remit a check payable to the **Tennessee Department of Human Services** in the amount of \$343.23 for recovery of the amounts disallowed in this report. **Please return the attached billing notice with your check**

- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615)313-3769

Please note that the overpayment is subject to an interest charge. The interest charge will be waived if your revised claim is received by our office within 30 days from the date of this report. If the revised claim is not received by the 30-day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program
Fiscal Services
11th Floor, Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243


In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the overpayment identified by the monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of disallowed administrative and meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or Jackie.D.Yokley@tn.gov

Sincerely,


Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: Allette Vayda, Director, Child and Adult Care Food Programs
Sean Baker, Director of Quality Assurance
Elke Moore, Child and Adult Care Food Program
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Future Leaders Learning Center

Review Month/Year: April 2017

Total Meal Reimbursement Received: \$12,229.67

Program Area	Reported on Claim	Reconciled to Supporting Documents
Number of Days that CACFP Food Service was operated	19	19
Total Attendance	2,804	2,804
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	95%
Percentage of Participants in the Child Care Certificate Program (CCCP)	XXXXXX	NA
Number of Breakfasts Served	2,784	2,632
Number of Lunches Served	1,748	1,684
Number of Supplements Served	2,792	2,792
Number of Participants in Free Category	167	165
Number of Participants in Reduced-Price Category	10	15
Number of Participants in Paid Category	12	9
Total Number of Participants	189	189
Total Amount of Eligible Food Costs	XXXXXXXX	\$3,518.80
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$5,025.61



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September 12, 2017

Corliss Horton, Owner
Future Leaders Learning Center
2341 Frayser Blvd
Memphis, Tennessee 38127-5860

Notice of payment due to findings disclosed in the monitoring report dated September 12, 2017, for Child and Adult Care Food Program (CACFP).

Institution Name:	Future Leaders Learning Center
Institution Address:	2341 Frayser Blvd Memphis, TN 38127-5860
Agreement Numbers:	000282
Amount Due:	\$343.23
Due Date:	October 13, 2017

Based on the monitoring report issued on September 12, 2017, by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which requires your institution to reimburse the Department of Human Services unallowed cost in the amount of \$343.23.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of \$343.23 by the due date to:

**Tennessee Department of Human Services
Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403**

Please note that the unallowed cost/overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services- Food Programs- CACFP & SFSP at (615) 313-3769 or Allette.Vayda@tn.gov

Thank you for your attention



Corrective Action Plan for Monitoring Findings

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.
Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: Future Leaders Learning Center	Agreement No. 00282	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 2341 Frayser Blvd Memphis, Tennessee 38127-5860

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Corliss Horton, Owner	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 9/12/2017	Corrective Action Plan: 9/12/2017
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Section D. Findings

Findings:

1. The number of participants reported in the free, reduced-price and paid categories was incorrect.
2. A meal service observed at the feeding site did not meet USDA meal pattern requirements.
3. The Sponsor purchased insufficient quantities of milk.
4. There were menus that did not have the specific name of the cereal that was served.
5. There were participants that did not have a CACFP enrollment addendum form.
6. The Sponsor did not have the English and Spanish versions of the "Building for the Future" flyer posted.

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

Measure No. 1: The number of participants reported in the free, reduced-price and paid categories was incorrect

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.2: A meal service observed at the feeding site did not meet USDA meal pattern requirements

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 3: The Sponsor purchased insufficient quantities of milk

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 4: There were menus that did not have the specific name of the cereal that was served

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 5: There were participants that did not have a CACFP enrollment addendum form

The finding will be fully and permanently corrected.
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: Position Title:

Name: Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.6: The Sponsor did not have the "Building for the Future" flyer posted

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: _____

Date: / /

Signature of Authorized TDHS Official: _____

Date: / /

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.
4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.
6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.
7. To be considered for a fair hearing or for a review of written information in lieu of a fair

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.