



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

JAMES K. POLK BUILDING  
505 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243

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**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

January 15, 2019

John Burrell, Board Chair  
Anderson County Board of Education  
708 North Main Street  
Clinton, Tennessee 37716-3143

Dear Mr. Burrell,

The Department of Human Services (DHS) - Division of Audit Services staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Anderson County Board of Education (Sponsor), Application Agreement number 00-149, on November 30, 2018. Additional information was requested and provided on December 3, 2018. The purpose of this review was to determine if the Sponsor complied with the *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider agreement, and applicable Federal and State regulations.

Based on our review of the Sponsor's records and information provided, the Sponsor had five (5) child care centers, one (1) at-risk site, and 12 head start sites operating during the review period. The Andersonville Pre-K (Andersonville) child care center, Clinton Afterschool (Clinton) at-risk site, and Lake City Early Head Start (Lake City) and Oak Ridge Early Head Start (Oak Ridge) sites were selected as the sample.

**Background**

CACFP Sponsors utilize meal count sheets to record the number of breakfast, lunch, supper, and supplement 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) 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. In addition, we observed a meal service at each of the sample sites during the month of October 2018.

Our review of the Sponsor's records for October 2018 disclosed the following:

## **1. The Sponsor reported meal counts incorrectly**

### Condition

Based on our review of the Claim for Reimbursement for Clinton for the test month, the Sponsor reported 301 supplements served. However, based on our review of available documents, we found there were 272 supplements served, prior to any meal disallowances.

As a result, 29 supplements served were overreported. (See Exhibit C)

### Criteria

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

### Recommendation

The Sponsor should ensure that claims for reimbursement are completed correctly and based on accurate supporting documents.

## **2. The Sponsor provided a meal that did not meet USDA meal pattern requirements during an observed meal**

### Condition

During our monitoring visit on October 29, 2018 at Andersonville, we observed a supplement service. There were two classrooms that were served two different supplements. There were 17 supplements that consisted of Gold Fish crackers and apple juice served to one classroom, and 11 supplements served that consisted of graham crackers and water served to the other classroom. The graham crackers were creditable but a second creditable component was not served to the second classroom.

The Sponsor did not claim the 11 supplements that did not meet the meal pattern requirement, therefore, no meals were disallowed.

### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17a(l)* states, "At-risk afterschool snacks must meet the meal pattern requirements for snacks in §226.20(b)(6) and/or (c)(4); at-risk afterschool meals must meet the meal pattern requirements for meals in §226.20(b)(6) and/or (c)(1), (c)(2), or (c)(3)."

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(3)* states, "*Snack*: Serve two of the following five components: Fluid milk, meat and meat alternates, vegetables, fruits, and grains. Fruit juice, vegetable juice, and milk may comprise only one component of the snack..."

### Recommendation

The Sponsor should ensure that menus meet the USDA meal pattern requirements.

## **3. The Sponsor provided menus that did not meet USDA meal pattern requirements**

Condition

Based on our review of the menus provided by the Sponsor for Clinton for the test month, the menus provided did not meet the USDA meal pattern requirements. The menus reported one creditable component and water were served. The menus had deficiencies as follows:

**Clinton** – at risk sample site

Date	Menu	Menu Error	Meal Type	No. of Meals
10/3/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	18
10/17/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	18
10/24/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	17
10/31/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	15

As a result, 68 supplements were disallowed. (See Exhibit C)

The Sponsor provided menus for Lake City and Oak Ridge that contained components that were not creditable or were missing components. The Sponsor served cereal that exceeded the maximum six grams of sugar per dry ounce allowed: Frosted Flakes contains 25 grams of sugar per 100 grams of cereal and Cinnamon Toast Crunch contains 21.4 grams of sugar per 100 grams of cereal. The menus had deficiencies as follows:

**Lake City** – head start sample site

Date	Menu	Menu Error	Meal Type	No. of Meals
10/1/18	Frosted Flakes, apple juice, skim milk	Cereal not creditable	Breakfast	14
10/3/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	13
10/15/18	Frosted Flakes, apple juice, skim milk	Cereal not creditable	Breakfast	10
10/17/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	14
10/19/18	Cinnamon Toast Crunch, banana, skim milk	Cereal not creditable	Breakfast	13
10/23/18	Sausage/Biscuit/Gravy, Egg patty, applesauce, skim milk	No 2 <sup>nd</sup> vegetable or fruit	Lunch	14
10/24/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	15
10/31/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	11

As a result, 37 breakfast meals, 14 lunch meals, and 53 supplements were disallowed. (See Exhibit D)

**Oak Ridge** – head start sample site

Date	Menu	Menu Error	Meal Type	No. of Meals
10/1/18	Frosted Flakes, apple juice, skim milk	Cereal not creditable	Breakfast	10
10/3/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	10
10/15/18	Frosted Flakes, apple juice,	Cereal not creditable	Breakfast	8

	skim milk			
10/17/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	10
10/19/18	Cinnamon Toast Crunch, banana, skim milk	Cereal not creditable	Breakfast	9
10/23/18	Sausage/Biscuit/Gravy, Egg patty, applesauce, skim milk	No 2 <sup>nd</sup> vegetable or fruit	Lunch	8
10/24/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	8
10/31/18	Pop tarts, water	No 2 <sup>nd</sup> component	Supplement	3

As a result, 27 breakfast meals, eight (8) lunch meals, and 31 supplements were disallowed. (See Exhibit E)

### 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 ..."

*Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(ii)* states, "... Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal)...."

*Title 7 of the Code of Federal Regulations, Section 226.17a(l)* states, "At-risk afterschool snacks must meet the meal pattern requirements for snacks in §226.20(b)(6) and/or (c)(4); at-risk afterschool meals must meet the meal pattern requirements for meals in §226.20(b)(6) and/or (c)(1), (c)(2), or (c)(3)."

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(3)* states, "Snack: Serve two of the following five components: Fluid milk, meat and meat alternates, vegetables, fruits, and grains. Fruit juice, vegetable juice, and milk may comprise only one component of the snack..."

### Recommendation

The Sponsor should ensure that menus meet the USDA meal pattern requirements.

## **4. The Sponsor provided documents and claimed meals that were not consistent with an observation during a monitoring visit**

### Condition

During our monitoring visit on October 29, 2018 at Andersonville, we observed 28 participants in attendance. The Sponsor provided attendance rosters and meal count sheets that only contained 20 participants throughout the review period. Additionally, the Sponsor claimed 17 supplements and disallowed 11 supplements for the observed meals. This was consistent for what we observed, but was not supported by the meal count documentation provided for this date.

### Criteria

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

## Recommendation

The Sponsor should ensure that feeding sites personnel are keeping accurate documentation and reporting attendance and meal counts that are supported by this documentation.

### **5. The Sponsor did not complete monitoring as required**

#### Condition

The monitoring forms provided by the Sponsor for Oak Ridge disclosed monitoring was not completed as required. The documentation provided evidence that the Sponsor is conducting the required three monitoring visits within a 12 month period without more than six months lapsing between reviews. However, two of the three monitoring reviews were announced and we could not determine whether the third monitoring review was announced or unannounced based on the documentation.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.16(d)(4)(iii)* states, "Sponsoring organizations must review each facility three times each year, except as described in paragraph (d)(4)(iv) of this section. In addition: (A) At least two of the three reviews must be unannounced; (B) At least one unannounced review must include observation of a meal service; (C) At least one review must be made during each new facility's first four weeks of Program operations; and (D) Not more than six months may elapse between reviews."

#### Recommendation

The Sponsor should ensure that the required monitoring is completed timely and that at least two unannounced visits are completed in a twelve month period.

### **6. The Sponsor did not ensure that menus reflected substitutions that were made**

#### Condition

During our monitoring visit on October 31, 2018 at Lake City, the lunch meal served deviated from the menu posted. The menu showed Jack-O-Lantern quesadilla, sweet corn, mandarin oranges, milk, and Rice Krispy treats. We observed hamburger with bun, lettuce, tomatoes and pickles, tater tots, and milk served.

There were no meals disallowed due to the meal served meeting USDA meal pattern requirements.

#### Criteria

*Food & Nutrition Service (FNS) 796-2, Rev. 4*, states, "Menu records that identify the meal components served to participants must be maintained. Menu records must be updated to reflect changes to planned menus so that the menu records reflect the actual meal components and foods service to participants."

#### Recommendation

The Sponsor should ensure the menu is posted for each meal served and that all substitutions are noted on the posted menu.

**Note:** Our observations of meal services at Oak Ridge and Clinton during the review period revealed no deficiencies.

### **Technical Assistance Provided**

Technical assistance was offered however it was declined by the Sponsor.

### **Disallowed Meals Cost**

Based on the review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$357.26.

### **Corrective Action**

The Sponsor must complete the following actions within 30 days from the date of this report:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for October 2018, which contains the verified claim data from the enclosed exhibits. ***Please note that, if the claim is revised,*** TIPS will automatically deduct the overpayment from your next CACFP claim for reimbursement. **OR**
- If you are no longer participating in the CACFP program, remit a check payable to the ***Tennessee Department of Human Services*** in the amount noted in the report for recovery of the amounts disallowed in this report. ***Please return the attached billing notice with your check;*** and
- 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](mailto:AuditServices.CAPS.DHS@tn.gov)

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

Allette Vayda, Director of Operations  
Child and Adult Care Food Program  
James K. Polk Building, 15<sup>th</sup> Floor  
505 Deaderick Street  
Nashville, Tennessee 37243  
[Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)  
(615) 313-3769

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim within 30 days from the date of this report. If the revised claim is not completed 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  
James K. Polk Building, 16<sup>th</sup> Floor  
505 Deaderick Street.  
Nashville, Tennessee 37243

In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the amount of disallowed cost identified in this 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 Sean Baker, Audit Director 2, at 615-313-4727 or [Sean.Baker@tn.gov](mailto:Sean.Baker@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibits

cc: Debbie Silcox, Facilities and Nutrition Manager, Anderson County BOE  
Timothy Parrott, Director, Anderson County Schools  
Allette Vayda, Director of Operations, Child and Adult Care Food Program  
Debra Pasta, Program Manager, Child and Adult Care Food Program  
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program  
Marty Widner, Program Specialist, Child and Adult Care Food Program  
Comptroller of the Treasury, State of Tennessee

**Exhibit A**

**Sponsor Program Data**

**Sponsor: Anderson County Board of Education**

**Review Month/Year: October 2018**

**Total Reimbursement: \$12,854.92**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Number of Affiliated Centers	5	5
Number of At Risk Sites	1	1
Number of Head Start Sites	12	12
Total Amount of Eligible Food Costs	XXXXXXXX	\$7,277.55
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$9,079.40

**Exhibit B**

**Affiliated Center Data**

**Center: Andersonville**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total CACFP Food Service Days	17	17
Total Attendance	317	317
Number of Supplements Served	229	229
Number of Participants in Free Category	13	13
Number of Participants in Reduced-Price Category	1	1
Number of Participants in Paid Category	6	6
Total Number of Participants	20	20



**Exhibit C**

**At-Risk Site Data**

**Site: Clinton**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	365	324 <sup>1</sup>
Number of Supplements Served	301	204

<sup>1</sup>The difference in the reported and verified is immaterial and was not included in this report as a finding

**Exhibit D**

**Head Start Site Data**

**Site: Lake City**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	242	242
Number of Breakfast Served	218	181
Number of Lunches Served	224	210
Number of Supplements Served	218	165

**Exhibit E**

**Head Start Site Data**

**Site: Oak Ridge**

<b>Site Meal Service Reconciliation and Monitor Activity</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Days of CACFP Food Service	17	17
Total Attendance	227	227
Number of Breakfast Served	219	192
Number of Lunches Served	226	218
Number of Supplements Served	204	173



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**DANIELLE W. BARNES**  
COMMISSIONER

January 15, 2019

John Burrell, Board Chair  
Anderson County Board of Education  
708 North Main Street  
Clinton, Tennessee 37716

**Notice of payment due to findings disclosed in the monitoring report for Child and Adult Care Food Program (CACFP)**

Institution Name:	Anderson County Board of Education
Institution Address:	708 N Main Street Clinton, TN 37716
Agreement Numbers:	00-149
Amount Due:	\$357.26
Due Date:	<b>February 15, 2019</b>

Based on the monitoring report issued, 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 require your institution to reimburse the Department of Human Services the disallowed cost noted in the report

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

**Fiscal Services 16<sup>th</sup> Floor  
James K. Polk Building  
505 Deaderick Street  
Nashville, Tennessee 37243-1403  
Tennessee Department of Human Services**

Please note that the disallowed meals 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 of Operations at (615) 313-3769 or [Allette.Vayda@tn.gov](mailto: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: Anderson County Board of Education	Agreement No. 00149	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 708 North Main Street Clinton, TN 37716

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

Name and Title: John Burrell, Board Chair	Date of Birth: / /
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## Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 1/15/2019	Corrective Action Plan: 1/15/2019
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## Section D. Findings

Findings:

1. The Sponsor reported meal counts incorrectly
2. The Sponsor provided a meal that did not meet USDA meal pattern requirements during an observed meal
3. The Sponsor provided menus that did not meet USDA meal pattern requirements
4. The Sponsor provided documents and claimed meals that were not consistent with an observation during a monitoring visit
5. The Sponsor did not complete monitoring as required
6. The Sponsor did not ensure that menus reflected substitutions that were made

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

### Measure No. 1: The Sponsor reported meal counts incorrectly

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:

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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?):

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

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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:

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**Measure No.2: The Sponsor provided a meal that did not meet USDA meal pattern requirements during an observed meal**

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:

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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?):

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

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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:

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**Measure No. 3: The Sponsor provided menus that 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:

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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?):

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

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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:

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**Measure No. 4: The Sponsor provided documents and claimed meals that were not consistent with an observation during monitoring visit**

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:

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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?):

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

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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:

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**Measure No. 5: The Sponsor did not complete monitoring as required**

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:

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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?):

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

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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:

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**Measure No. 6: The Sponsor did not ensure that menus reflected substitutions that were made**

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:

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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?):

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

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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:

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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;

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

- (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 16<sup>th</sup> 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

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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

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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](mailto: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.