



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243
TELEPHONE: 615-313-4700 FAX: 615-741-4165
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www.tn.gov/humanservices

BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

February 24, 2020

Shellia Jackson, Owner/Director
TLC Learning Academy
4364 Millbranch Road
Memphis, Tennessee 38116-0000

Dear Ms. Jackson,

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 TLC Learning Academy (Sponsor), Application Agreement number 00604 on January 10, 2020. Additional information was requested and received on January 13, 2020. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider agreement, and applicable Federal and State regulations.

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) for reimbursement.

We inspected meal count 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 lunch meal service on November 22, 2019.

Our review of the Sponsor's records for November 2019 disclosed the following:

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

Condition

Based on our review of the Claim for Reimbursement for the test month, we noted the Sponsor reported 56 participants in the free category, zero participants in the reduced-price category,

and zero participants in the paid category. However, based on our review of the records available, we found there were 44 participants in the free category, zero participants in the reduced-price category, and 10 participants in the paid category.

The differences were based on the following:

- The Sponsor did not have applications on file to cover the review period of November 2019 for 33 participants who were reported in the free category. The participants either did not have an application on file at all, the application was dated after the review month or the date of the determining official's signature was over 12 months old. We were able to verify through an alternate method that 28 of those participants were beneficiaries of the Child Care Certificate program, but the remaining five (5) were reclassified as paid.
- There were 13 participants reported as free, but the applications on file did not have the determining official's signature and/or date. We were able to verify through an alternate method that 10 of those participants were beneficiaries of the Child Care Certificate program, but the remaining three (3) were reclassified as paid.
- There were three participants reported in the free category, but the applications on file did not have income or a families first case number, the last 4 digits of an adult's social security number, no determining official's signature and/or date or parent's signature. We were able to verify through an alternate method that two (2) of those participants were beneficiaries of the Child Care Certificate program, but the remaining participant (1) was reclassified as paid.
- There were two participants reported in the free category, but the applications on file did not have the last 4 digits of an adult's social security number or signature and/or date of determining official. We were able to verify through an alternate method that one (1) of those participants was a beneficiary of the Child Care Certificate program, and the remaining participant (1) was reclassified as paid.
- There were three participants reported in the free category, but the applications on file did not have income or a families first case number, the last four digits of the adult's social security number, or the signature and/or date of the determining official. We were able to verify through an alternate method that these three (3) participants were beneficiaries of the Child Care Certificate program.
- The Sponsor over reported the total number of free participants by two.

There were 56 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we noted that there were 54 participants enrolled in the program.

This is a repeat finding from a previous report dated May 3, 2017.

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 ..."

Title 7 of the Code of Federal Regulations, Section 226.15(e)(2) states, "...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."

Title 7 of the Code of Federal Regulations, Section 226.17(b)(8) states, in part, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). ..."

Recommendation

The Sponsor should maintain all information used to determine eligibility and ensure that each participant is classified and reported accurately based on categorical or income eligibility. The applications are to be updated annually and thereafter.

2. The Sponsor reported meal counts incorrectly

Condition

During our lunch meal observation on November 22, 2019, we requested meal count documentation from the first operating day of the month through the meal observation date. The Sponsor provided meal counts from November 1, 2019 through November 12, 2019. The Sponsor did not maintain or provide meal counts from November 13, 2019 through the breakfast meal of November 22, 2019. We explained to the Sponsor that meal counts must be maintained daily.

During a subsequent on-site visit on January 10, 2020 to review the documentation supporting the November 2019 claim for reimbursement, we requested meal counts records for November 2019. The meal counts provided during the feeding site visit on November 22, 2019 for November 1, 2019 through November 12, 2019 had different numbers than the meal counts provided during the Sponsor review on January 10, 2020. For our review of documentation supporting the claim for reimbursement, we used the meal counts provided on January 10, 2020. Based on our reconciliation, we noted the following:

The Sponsor claimed for reimbursement 755 breakfast meals, 747 lunch meals, eight (8) supper meals, and 755 supplements. However, based on our review of available documents, we noted that there was supporting documents for 679 breakfast meals, 671 lunch meals, eight (8) supper meals, and 676 supplements served, prior to any meal disallowances.

As a result, 76 breakfast meals, 76 lunch meals, and 79 supplements claimed for reimbursement were disallowed.

This is a repeat finding from a previous report dated May 3, 2017.

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...."

Title 7 of the Code of Federal Regulations, Section 226.15(e) states, “Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records shall be grounds for the denial of the reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained... (4) Daily records indicating the number of participants in attendance and the daily meal counts, by type (breakfast, lunch, supper, and snacks), served to family day care home participants, or the time of service meal counts, by type (breakfast, lunch, supper, and snacks), served to center participants...”

Title 7 of the Code of Federal Regulations, Section 226.17(b)(9) states, “Each child care center must maintain daily records of time of service meal counts by type (breakfast, lunch, supper, and snacks) served to enrolled children, and to adults performing labor necessary to the food service.”

Recommendation

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

3. The Sponsor reported number of meals from an observed meal service incorrectly

Condition

On November 22, 2019, we observed 22 lunch meals lunch meal served. However, the Sponsor claimed 37 lunch meals for reimbursement.

As a result, 15 lunch meals claimed for reimbursement were disallowed was disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 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...”

Recommendation

The Sponsor should ensure meals reported agree with the actual meals served during the approved meal service time.

4. The Sponsor provided infant menus that did not meet the updated CACFP meal pattern requirement that went into effect in October 2017

Condition

Based on our review of the infant menus provided by the Sponsor for the test month, the menus provided did not meet the revised USDA meal pattern requirements effective October 2017. The deficiencies are as follows:

Infant: JD, 11 months

Date	Menu Deficiency	Deficient Meal
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11/1, 11/4, 11/5, 11/6, 11/7, 11/8, 11/12, 11/13, 11/14, 11/15, 11/18, 11/19, 11/20, 11/21, 11/22	Missing Component: Fruit/Vegetable	15 Supplements
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Infant: MW, 6 months

Date	Menu Deficiency	Deficient Meal
11/20, 11/22, 11/25, 11/26, 11/27	Missing Component: Fruit/Vegetable	5 Breakfast Meals
11/20, 11/22, 11/25, 11/26, 11/27	Missing Component: Fruit/Vegetable and Break/Cracker/IFIC	5 Supplements

It should be noted that infant meal counts are taken by menus and menus provided during the site visit on November 22, 2020 were not the same as the menu and meal count records provided during the Sponsor review on January 10, 2020. We reconciled the menus provided during the site visit on November 22nd for meals from November 1, 2019 through November 22, 2019 breakfast for infant meals. The records provided on January 10, 2020 accounted for the remainder of the month.

No meals were disallowed due to Sponsor given time to conform to the updated USDA meal pattern requirements effective October 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(b)(4)(ii) states, "... (A) Breakfast, lunch, or supper. Six to 8 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both; and 0 to 4 tablespoons of iron-fortified dry infant cereal, meat, fish, poultry, whole egg, cooked dry beans, or cooked dry peas; or 0 to 2 ounces (weight) of cheese; or 0 to 4 ounces (volume) of cottage cheese; or 0 to 4 ounces of yogurt; and 0 to 2 tablespoons of vegetable, fruit, or portions of both. Fruit juices and vegetable juices must not be served. (B) Snack. Two to 4 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to ½ slice bread; or 0-2 crackers; or 0-4 tablespoons infant cereal or ready-to-eat cereals; and 0 to 2 tablespoons of vegetable or fruit, or portions of both. Fruit juices and vegetable juices must not be served. A serving of grains must be whole grain-rich, enriched meal, or enriched flour."

Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

5. The Sponsor reported the number of attendance days incorrectly

Condition

Based on our review of the Claim for Reimbursement for the test month, the Sponsor reported 1,008 participant days. However, we found that there were 750 participant days.

This is a repeat finding from a previous report dated May 3, 2017.

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 attendance is completed correctly and based on accurate supporting documents.

6. An annual inventory of food and non-food purchases was not maintained

Condition

The Sponsor did not maintain an annual inventory of food and non-food items purchased with CACFP funds. As a result, we could not determine if excess CACFP funds exist.

Criteria

The Independent Center Child Care A Child and Adult Care Food Program Handbook, pages 56-57, in part states, "Many State agencies require the calculation of the "cost of food used" at the end of each month. Other State agencies may, however, require an inventory to be taken once a year so centers can make adjustments in the cost of food on an annual basis. In this case, the same procedure as for the monthly inventory would be followed, but only once a year.... Costs of Nonfood Supplies Nonfood supplies include small kitchen equipment, paper goods, such as napkins and plates, and cleaning supplies used directly for the food service operation. Itemized receipts or invoices must be kept on file as documentation. State agencies may require a monthly or yearly inventory of these supplies."

Recommendation

The Sponsor should ensure an inventory is completed annually for food and nonfood supplies purchased with CACFP funds.

7. The Sponsor CACFP Training Agenda did not list name of participants

Condition

The Sponsor had documentation of the CACFP and Civil Rights training. However, the Sponsor did not provide the names of participants in attendance for the CACFP training. The Sponsor stated that the two trainings were completed on the same date, and the roster provided for the Civil Rights training was the same for the CACFP training. However, the documentation shows the two trainings were not completed on the same date.

This is a repeat finding from a previous report dated May 3, 2017.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15 (e) states "(e) Recordkeeping. Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency. Failure to maintain such records

shall be grounds for the denial of reimbursement for meals served during the period covered by the records in question and for the denial of reimbursement for costs associated with such records. At a minimum, the following records shall be collected and maintained:(12) Information on training session date(s) and location(s), as well as topics presented and names of participants; ...”

Recommendation

The Sponsor should maintain documentation of CACFP and Civil Rights training which includes the names of participants in attendance.

8. The Sponsor did not maintain enrollment information as required

Condition

There were 44 participants that did not have enrollment information on file for the review month of November 2019.

This is a repeat finding from a previous report dated May 3, 2017.

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 childcare 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.”

Recommendation

The Sponsor should ensure enrollment forms are current and up to date for each participant and are updated annually.

9. The Sponsor’s compensation policy did not have all required components

Condition

The Sponsor provided payroll documentation for staff paid with CACFP funds; however, the compensation policy did not include all required components. The Sponsor’s compensation policy did not list the hours of work or the pay schedule. The written compensation policy is a requirement for any employee paid with CACFP funds and must include: rate of pay, hours of work, (including breaks and meal periods), payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay, and payroll tax withholding.

Criteria

FNS instruction 796-2 Revision 4, Financial Management –Child and Adult Care Food Program (VIII I) (23)(c)(1) on page 44 states, “Institutions must establish and maintain a written compensation policy for every element of compensation charged to the Program. At a minimum,

the written compensation policy must apply to any individual group of individuals employed by the institution and identify: (a) rates of pay; (b) hours of work, including breaks, and meal periods; and (c) the institutions policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay and payroll tax withholding. The timing and frequency of the institution's payments to its employees will follow a routine schedule as directed by its human resource policy..."

Recommendation

The Sponsor should maintain written compensation policies listing all required components for staff paid with CACFP funds.

Technical Assistance Provided

The Sponsor received technical assistance regarding updating TIPS with new meal service times if needed, infant meal patterns requirements, ensuring meal counts are completed after each meal service daily, maintaining milk rollover log, updating applications and enrollment forms annually, and keeping records for the three-year minimum. The Program Specialist for CACFP was also sent an email regarding scheduling Technical Assistance for recordkeeping requirements based on preliminary findings during our Sponsor visit.

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 \$1,230.32.

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 November 2019, which contains the verified claim data from the enclosed exhibit. ***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

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, 15th Floor
505 Deaderick Street
Nashville, Tennessee 37243
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 is completed 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, 16th 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 meal 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.

Sincerely,


Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: 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
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

Name of Agency: TLC Learning Academy

Review Month/Year: November 2019

Total Meal Reimbursement Received: \$4,852.76

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	18	18
Total Attendance	1,008	750
Percentage of Free or Reduced-price Category	XXXXXXXX	81%
Number of Breakfasts Meals Served	755	679
Number of Lunch Meals Served	747	656
Number of Supplements Served	755	676
Number of Supper Meals Served	8	8
Number of Participants in Free Category	56	44
Number of Participants in Reduced-Price Category	0	0
Number of Participants in Paid Category	0	10
Total Number of Participants	56	54



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BILL LEE
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DANIELLE W. BARNES
COMMISSIONER

February 24, 2020

Shellia Jackson, Owner/Director
TLC Learning Academy
4364 Millbranch Road
Memphis, Tennessee 38116-0000

Note: If you are no longer participating in the CACFP, remit a check payable to the Tennessee Department of Human Services in the amounts disallowed in this report to the address below. Please return the attached billing notice with your check. If you plan to continue participating in the CACFP, log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for November 2019, which contains the verified claim data from the enclosed exhibit.

Institution Name:	TLC Learning Academy
Institution Address:	4364 Millbranch Road Memphis, Tennessee 38116-0000
Agreement Numbers:	00604
Amount Due:	\$1,230.32
Due Date:	March 24, 2020

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 16th Floor
James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
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.

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: TLC Learning Academy	Agreement No.00604	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 4364 Millbranch Road Memphis, Tennessee 38116-0000

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

Name and Title: Shellia Jackson, Owner/Director	Date of Birth:09/16/1974
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report:	Corrective Action Plan:
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Section D. Findings

Findings:

1. The Sponsor reported the number of participants in the free, reduced-price and paid categories incorrectly
2. The Sponsor reported meal counts incorrectly
3. The Sponsor reported number of meals from an observed meal service incorrectly
4. The Sponsor provided infant menus that did not meet the updated CACFP meal pattern effective October 2017
5. The Sponsor reported the number of attendance days incorrectly
6. An annual inventory of food and non-food purchases was not maintained
7. The Sponsor CACFP Training Agenda did not list name of participants
8. The Sponsor did not maintain enrollment information as required
9. The Sponsor's compensation policy did not have all required components

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 the number of participants in the free, reduced-price and paid categories 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:

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: 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:

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 reported number of meals from an observed meal service 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:

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: The Sponsor provided infant menus that did not meet the updated CACFP meal pattern requirement that went into effect in October 2017

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: The Sponsor reported the number of attendance days 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:

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: An annual inventory of food and non-food purchases was not maintained

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. 7: The Sponsor's CACFP Training Agenda did not list name of participants

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. 8: The Sponsor did not maintain enrollment information 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:

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. 9: The Sponsor's compensation policy did not have all required components

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:

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;

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- (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

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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

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.