

Summer Food Service Program (SFSP) Appeals Procedure

Purpose

The purpose of this procedure is to outline the Vermont Agency of Education Child Nutrition Programs Summer Food Service Program (SFSP) Appeals Procedure.

Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under §225.9(d)(5).

Legal Requirements

Laws and regulations that serve as a basis for this procedure include:

7 CFR 225 and specifically 7 CFR 225.13

Implementation Requirements

VTAOE CNP will provide sponsors access to this procedure:

- VT AOE CNP Summer Food Service Program webpage
- During annual sponsor trainings
- When any fiscal action is addressed
- When a Termination Notice is sent

Appealable Actions

Sponsors may appeal the following actions taken by VT AOE CNP:

- Denial of a sponsor's application for participation
- Denial of a site's application for participation
- Denial of a sponsor's request for advance payment
- Denial of a sponsor's claim for reimbursement (except late submission under 7 CFR 225.9(d)(5))
- Refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim
- A claim against a sponsor for remittance of a payment
- Termination of the sponsor or a site
- Denial of a Food Service Management Company's (FSMC) registration. Note Vermont does not require FSMCs to register.



Notice

Sponsors shall be advised in writing of the grounds in which VT AOE CNP has based the action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also state that the sponsor has the right to appeal VT AOE CNP's action. The sponsor shall be advised in writing that the appeal must be made within 14 days and must meet the requirements of 7 CFR 225.13(b)(4). The appeal must be addressed to:

Rosie Krueger
State Director of Child Nutrition Programs
Vermont Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

Appeals Process

The appellant shall be allowed the opportunity to review any information upon which the action was based. The appellant shall be allowed to refute the charges contained in the notice of action, either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by an appellant within seven days of submitting the appeal, must clearly identify the action being appealed, and must include a photocopy of the notice of action issued by VT AOE CNP.

Hearing

A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of VTAOE CNP shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official. If the appellant has requested a hearing, the appellant and VT AOE CNP shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing. The hearing shall be held within 14 days of the date of the receipt of the request for review, but where applicable, not before the appellant's written documentation is received in accordance with 7 CFR 225.13(b)(4).

Review Official

The review official shall be independent of the original decision-making process and make a determination based on information provided by VT AOE CNP, the appellant, and program regulations. Within 5 business days after the appellant's hearing, or within 5 business days after the receipt of written documentation if no hearing is held, the reviewing official makes a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested. The determination by the state review official is the final administrative determination to be afforded the appellant.

During the Appeals Process

VT AOE CNP's decision remains in effect during the appeals process. However, the participating sponsors and sites may continue to operate the Summer Food Service Program (SFSP) during an appeal of termination, and if the appeal results in overturning VT AOE CNP's decision, reimbursement shall be paid for meals served during the appeals process. However, if the sponsor or site has been terminated for imminent threat to health and safety of participating children, they will not be allowed continued participation. This shall be specified in the notice of action.

Record Retention

A record regarding each review shall be kept by VT AOE CNP. The record shall document VT AOE CNP's compliance with regulations and shall include the basis for its decision.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at:

http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

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