

## **SFSP Serious Deficiency Procedure**

### **Purpose**

This procedure addresses what is considered a serious deficiency (SD) finding in the Summer Food Service Program (SFSP), that corrective action will be required of SD findings and for termination of sponsors' sites should those findings not be correctly completed in the time provided. This applies to all sponsors applying to or participating in the SFSP. Vermont Agency of Education Child Nutrition Programs (VTAOE CNP) will provide sponsors with reasonable opportunity to correct program violations before terminating the sponsor for being seriously deficient. VTAOE CNP may approve the application of a sponsor that has been disapproved or terminated in prior years if the sponsor demonstrates to the satisfaction of VTAOE CNP that it has taken appropriate corrective actions to prevent recurrence of the deficiencies.

### **Serious Deficiencies**

VT AOE CNP will issue a Notice of Serious Deficiency when serious deficiencies are identified. Serious deficiencies that are grounds for disapproval of applications and termination include, but are not limited to, any of the following provided under 7 CFR 225.11 (c):

1. The sponsor is not in compliance with the applicable bid procedures and contract requirements.
  - Failure to competitively procure goods and services
  - Anti-competitive practices, such as collusion, kickbacks, conflicts of interest
  - Inclusion of non-competitive provisions in a bid, e.g. "successful bidder for a contract to provide meals must establish a scholarship fund."
2. The submission of false information to VTAOE CNP, including but not limited to a determination that the sponsor has concealed a conviction for any activity that occurred during the past seven years that indicates a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.
3. The sponsor failed to return to VTAOE CNP any advance payments which exceeded the amount earned for serving meals, or the sponsor failed to submit all claims for reimbursement to offset any advance payments provided by VT AOE CNP. Claims that are currently under dispute shall not be grounds for disapproval.



4. A significant proportion of the sponsor's sites have program violations including, but not limited to the following:
  - Noncompliance with approved meal service time restrictions set forth in 7 CFR 225.16(c);
  - Failure to maintain adequate records;
  - Failure to adjust meal orders to conform to variations in the number of participating children;
  - Inflated meal counts, the meals claimed always equals the number of meals ordered/planned
  - Simultaneous service of more than one meal to any child;
  - Claiming of program payments for meals not served to participating children;
  - Claiming meals delivered/planned for as meals served to participants;
  - Inflating meal site counts;
  - Claiming nonexistent and nonparticipating sites;;
  - Claiming meals for ineligible sites;
  - Knowingly claiming dual participation sites;
  - Service of a significant number of meals that did not include the required quantities of all meal components;
  - Excessive instances of off-site meal consumption; and

- continued use of food service management companies that are in violation of health codes.

5. Failure to operate the program in conformance with 7 CFR 225.14(c), demonstrating financial and administrative capability and responsibility

6. Imminent threat to health and safety of participating children

7. Noncompliance with the requirements found in 7 CFR 225.14(d) *Requirements specific to sponsor types.*

## Serious Deficiency Notice

In the Administrative Review Report provided to sponsors, VTAOECNP will identify if and which findings are serious deficiencies. The report will include the Corrective Action required in response to the Serious Deficiency Finding. The timeframe for submitting SD Corrective Action will be 10 calendar days after the report is sent.

## Termination

### Termination of Sponsors

If prescribed corrective action is not taken to fully and permanently address serious deficiencies within the time period identified, VT AOE CNP will issue a termination notice to the sponsor.

### Termination of Sites

If prescribed corrective action is not taken to fully and permanently address serious deficiencies within the time period identified, VT AOE CNP will issue a termination notice for the sponsor's site.

VT AOE CNP will immediately issue a termination notice for a sponsor's site if the health or safety of the participating children is imminently threatened.

If the site is vended, within 48 hours, VT AOE CNP shall notify the food service management company providing meals to the site of the site's termination.

## Appeals

Participating sponsors and sites may continue to operate the SFSP during an appeal of termination. If the appeal results in overturning VT AOE CNP's action, reimbursement will be paid for meals served during the appeal process. However, such continued program operation will not be allowed if the VT AOE CNP's action is based on imminent danger to children's health or safety. The determination by a VT AOE CNP appeals official will be the final administrative determination to be afforded to the appellant.

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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](mailto:program.intake@usda.gov).

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