

**IOWA DEPARTMENT OF EDUCATION**  
(Cite as 26 D.o.E. App. Dec. 79)

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<i>In re Termination from CACFP</i>	:	
Erin Kaczinski,	:	
Appellant,	:	DECISION
v.	:	
Community Action of Southeast Iowa,	:	[Admin. Doc. 4724]
Appellee.	:	

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This matter was heard telephonically on January 11, 2011, before Carol J. Greta, J.D., designated administrative law judge, presiding on behalf of Kevin Fangman, Acting Director of the Iowa Department of Education. The Appellant, Erin Kaczinski, personally participated. The Appellee, Community Action of Southeast Iowa, was represented by CACFP director Cheryl Flaatten. Monitoring the hearing, but not otherwise participating, were Suzanne Secor Parker and Robin Holz of the Iowa Department of Education, which is the designated State Agency (SA) to administer the program at issue herein.

Hearing was held pursuant to this agency's administrative rules in 281 Iowa Administrative Code 6. The Iowa Department of Education has jurisdiction over the hearing pursuant to the federal regulation found at 7 C.F.R. 226.6(k).

***FINDINGS OF FACT***

Erin Kaczinski runs a child daycare home in Burlington. She has participated in the Child and Adult Care Food Program (CACFP), which is administered by the United States Department of Agriculture through the Iowa Department of Education's Bureau of Nutrition Programs, since October 2, 2009. The CACFP is a federal program that provides reimbursement for meals and snacks provided to children in daycare homes and centers.

Daycare homes such as Ms. Kaczinski's must be supervised by a sponsoring organization, in this case Community Action of Southeast Iowa ["Community Action"]. To participate in CACFP in Iowa, the home provider must possess a certification of registration from the Iowa Department of Human Services, and must sign an agreement that provides for the terms and conditions of program participation. In the agreement between Ms. Kaczinski and Community Action, it is noted that the sponsor must conduct at least two unannounced visits to the home per federal fiscal year (October 1 – September 30), and that at least one of the unannounced visits must include a review of an observed meal service. The agreement also states that failure to keep required records is a serious deficiency.

At an unannounced review conducted by Community Action at Ms. Kaczinski's home on May 1, 2010, the sponsor noted that no menu records were available for all of

the month of April. As a consequence, Ms. Kaczinski did not receive any reimbursement for meals served during April. The sponsor discussed recordkeeping with Ms. Kaczinski and had her initial a statement "I will have menu records available and up-to-date."

On October 18, 2010, the sponsor again conducted an unannounced visit to Ms. Kaczinski's home. No reimbursement menus records were recorded for the previous ten days. Community Action sent to Ms. Kaczinski a written Notice of Seriously Deficient Practice for her failure to keep required CACFP records. Ms. Kaczinski timely followed through with the Corrective Action Plan (CAP) required of her, and Community Action rescinded the Seriously Deficient Determination by written notice of December 1, 2010. However, on December 3, 2010, at an unannounced review of Ms. Kaczinski's home, Community Action discovered that menu records again were not prepared and available for inspection. Community Action thus sent to Ms. Kaczinski a notice of its intent to terminate her participation in CACFP.

Ms. Kaczinski does not deny any of the foregoing facts. She acknowledges that she had poor organizational skills, but states that she now has found a filing system that works for her.

### **CONCLUSIONS OF LAW**

CACFP is a program created by the Agricultural Risk Protection Act, 42 U.S.C. § 1766. That Act and its regulations dictate the minimum terms of the participation agreement between the sponsor and the home provider.

The regulations at 7 C.F.R. § 226.16 enumerate reasons why a daycare home may be terminated from CACFP. Being cited as "seriously deficient" and not correcting the deficiency is one cause for termination. A serious deficiency includes the provider's failure to comply with recordkeeping requirements. 7 C.F.R. § 226.16(l)(2)(v).

This Agency has noted in previous CACFP decisions that the regulations governing that program are quite strict. While a termination from CACFP may seem harsh, the rationale for the strictness of the regulations is simple. CACFP is funded by public monies; therefore, a provider is required to be accountable to the public for how s/he operates. When such accountability is lacking, the public trust is gone, and the sponsor is required to take appropriate action. Put another way, the sponsor has a duty, no matter how unpleasant at times that duty may be, to hold its child care homes accountable on behalf of the public.

The evidence presented here amply supports a finding that Ms. Kaczinski has failed to permanently and completely correct the seriously deficient practice of failure to maintain adequate records. Whether she understands now the importance of complying with the rules when using the public's money is unknown, but is not irrelevant to Ms. Kaczinski. We emphasize that because this is her first time to be terminated from CACFP and because the recordkeeping deficiency did not involve fraud or submission of false information, **she may request reinstatement to CACFP after six (6) months.** 7 CFR 226.6(c)(7)(v).

**DECISION**

For the foregoing reasons, the termination of Erin Kaczinski from the Child and Adult Care Food Program is hereby **ordered**.

01/12/11  
Date

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Carol J. Greta, J.D.  
Administrative Law Judge

It is so ordered.

01/12/11  
Date

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Kevin Fangman, Acting Director  
Iowa Department of Education