

**IOWA DEPARTMENT OF EDUCATION
(Cite as 26 D.o.E. App. Dec. 294)**

<i>In Re: Termination from CACFP,</i>)	
)	
Melissa and Larry Williams,)	
)	DECISION
Appellants,)	
)	
v.)	
)	
West Central Community Action,)	Admin. Doc. No. 4761
)	
Appellee.)	

STATEMENT OF THE CASE

Melissa and Larry Williams, who provide in-home childcare services, requests review of a proposed decision by the Appellee, West Central Community Action (Community Action), who sponsors and administers the Child and Adult Care Food Program (CACFP), proposing termination of Mrs. Williams' agreement to participate in the CACFP program and disqualification from future CACFP participation, effective October 24, 2012. The Iowa Department of Education has jurisdiction over the appeal, pursuant to the Federal Code of Regulations found at 7 C.F.R. § 226.6(k). Hearing was held pursuant to this agency's administrative rules in 281—Iowa Administrative Code chapter 6.

This matter was held telephonically on November 26, 2012, before Nicole M. Proesch, J.D., designated administrative law judge, presiding on behalf of Jason E. Glass, Director of the Iowa Department of Education. The Appellants, Melissa and Larry Williams personally participated. The Appellee, Community Action, was represented by CACFP Manager Nancy Pash, Executive Director Joel Dirks, and Eula Green. Monitoring the hearing, but not otherwise participating, was Suzanne Secor Parker of the Iowa Department of Education, which is the designated State Agency (SA) to administer the program at issue herein.

The record includes a proposed termination and disqualification letter dated October 17, 2012, and Melissa and Larry Williams' Affidavit of Appeal. The Appellants did not offer any exhibits or supporting documents. Supporting documents, marked Exhibits A through K were offered into evidence by the Appellee and were admitted into the record without objection.

FINDINGS OF FACT

Melissa Williams runs a child daycare home in Council Bluffs, Pottawattamie County, Iowa. Mrs. Williams¹ has participated in the Child and Adult Care Food Program (CACFP) since October of 2007. The CACFP is a federal program that provides reimbursement for meals and snacks provided to children in daycare homes and centers. Daycare homes such Mrs. Williams' must be supervised by a sponsoring organization; in this case the sponsor is Community Action.

To participate in CACFP in Iowa, the home provider must agree to terms and conditions of program participation. One of the conditions of participation that Mrs. Williams agreed to is that she would annually attend a CACFP-related training approved by Community Action. The minimum requirement is one training per federal fiscal year (FFY), October 1 – September 30. This is specified in the annual written agreement between Mrs. Williams and Community Action at Section B, paragraph 15.

In FFY 2009, which ended on September 30, 2009, Mrs. Williams failed to attend any training for CACFP. As a result, Community Action placed her on a corrective action plan. The corrective action plan gave Mrs. Williams an additional 30 days (until October 31, 2009) in which to attend a training opportunity. On October 28, 2009, Mrs. Williams attended and successfully completed the required training. On November 5, 2009, Community Action sent out a letter of Successful Corrective Action and Rescission of Serious Deficiency to Mrs. Williams.²

Ms. Pash testified that during FFY 2012 she provided several training notices to Ms. Williams however, no training was completed. Mrs. Williams testified she planned to attend a training on September 11, 2012, but she was unable to attend due to her mother-in-law's funeral, which Community Action does not dispute. Ms. Pash testified that she had communicated with Mrs. Williams on September 25, 2012, about Mrs. Williams' failure to have her training requirement on file for FFY 2012. During that communication Ms. Pash told Mrs. Williams she could take online training to complete the requirement. The training needed to be completed by September 30, 2012. Mrs. Williams testified that on September 26, 2012, she attempted the online training but had problems logging in. Mrs. Williams did not communicate these issues to Ms. Pash. On October 1, 2012, Mrs. Williams contacted Ms. Pash by phone and email to come up with a solution and she completed the training online on October 1, 2012.

Ms. Pash testified that Mrs. Williams did not advise her of her technical difficulties in their conversations on October 1, 2012. Ms. Pash advised Ms. Williams the training needed to be completed by September 30, 2012, and Mrs. Williams does not dispute it was not completed by that date. Mrs. Williams admitted she was also aware that the prior recession letter noted that if Community Action later found during follow-up reviews that the deficiencies were not fully and permanently corrected, then they would immediately propose to terminate without further opportunity for corrective action.

On or about October 8, 2012, Community Action provided a written Proposed Termination and Proposed Disqualification to Mrs. Williams, who filed a timely appeal to the undersigned. The only issue on appeal is whether appellants failed to fully and permanently correct the serious deficiency of failing to attend annual training obligations.

¹ Melissa Williams signed her participation agreement under her maiden name Melissa White.

² The letter noted that if in a subsequent review the sponsor found these serious deficiencies had not been fully and permanently corrected, the sponsor would immediately propose termination of the CACFP agreement.

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 participate in training. 7 C.F.R. § 226.16(l)(2)(viii). Offering an opportunity to take corrective action is mandated in rule 226.16(l)(3). This procedure ensures that no provider is terminated without being given a second chance.

The regulations governing the CACFP are strict. The rationale for the strictness of the regulations is simple. CACFP is funded by public monies; therefore, a home 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. Ultimately, “[e]ach sponsoring organization shall accept final administration and financial responsibility for food service operations in all child ... day care facilities under its jurisdiction.” 7 C.F.R. § 226.16(c). Each sponsor has a duty to hold its home providers accountable on behalf of the public.

The CACFP procedures were followed correctly by Community Action. In 2009, Ms. Williams was given her second chance with the 30 day extension and the serious deficiency notice was rescinded. Ms. Williams failed to ensure that she had fully and permanently corrected those prior deficiencies by not completing her FFY 2012 training by September 30, 2012. She may have had a legitimate reason for not attending her scheduled training in September, but that does not account for her failure to attend any training during FFY 2012 itself or her failure to attend to the on-line training by September 30, 2012. The federal law did not permit this agency to give the appellants relief in three previous cases regarding this issue. *See, Cash v. Southern Iowa Economic Development Association*, 26 D.o.E. App. Dec. 161 (2011), *Al-Hameed v. Mid-Iowa Community Action, Inc.*, 25 D.o.E. App. Dec. 21 (2007), and *Wheeler v. Mid-Iowa community Action, Inc.*, 26 D.o.E.App.Dec. 174 (2012).³

The evidence presented here amply supports a finding that Mrs. Williams failed to permanently and completely correct the seriously deficient practices of failure to participate in training.

³ In *Cash*, we upheld the termination of a provider from CACFP where the provider attended a make-up training opportunity for FFY 2009, but then again missed all training opportunities during FFY 2010. In *Al-Hameed*, the provider’s termination from CACFP was upheld where the provider did not attend any training during the FFY and missed the “make up” training because it was cancelled for lack of sufficient numbers of registrants. In *Wheeler*, the provider’s termination from CACFP was upheld where the provider failed to attend training during the corrective action period. The lesson in all cases is not to procrastinate in attending a training opportunity.

DECISION

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

12/10/12
Date

/s/
Nicole M. Proesch, J.D.
Administrative Law Judge

12/10/12
Date

/s/
Jason E. Glass, Direc
Iowa Department of Education