

**IOWA DEPARTMENT
OF EDUCATION**
(Cite as 25 D.o.E. App. Dec. 45)

<i>In re Termination from CACFP</i>	:	
Mahaska County YMCA,	:	
Appellant,	:	DECISION
vs.	:	
Bureau of Nutrition Programs and School Transportation,	:	[Admin. Doc. 4666]
Appellee.	:	

This matter was heard on February 25, 2008, before Carol J. Greta, J.D., designated administrative law judge, presiding on behalf of Judy A. Jeffrey, Director of the Iowa Department of Education. Appearing on behalf of the Mahaska County YMCA ["YMCA"] were Executive Director Aaron Phillips, Childcare Director Holly Thomas, and Debbie Cummings, Betty Phillips, and Betty Stoddard. Appearing on behalf of the Bureau of Nutrition Programs and School Transportation ["Bureau"] were Rod Bakken, Robin Searles, and Nancy Christensen.

Hearing was held pursuant to this agency's administrative rules in 281—Iowa Administrative Code chapter 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).

**I.
FINDINGS OF FACT**

The Mahaska County YMCA runs a nonresidential child daycare program in Oskaloosa. It participates in the Child and Adult Care Food Program (CACFP), a program created by the Agricultural Risk Protection Act, 42 U.S.C. § 1766 and administered in Iowa by the Appellee Bureau. The CACFP provides reimbursement for meals and snacks provided to children in daycare homes and centers.

Daycare institutions such as the YMCA must be approved and supervised by the Bureau. All participating CACFP institutions must comply with terms and conditions set by the Agricultural Risk Protection Act and its regulations.

The YMCA's childcare program has been cited by the Bureau for serious deficiencies since 2005. The serious deficiencies that were determined by the Bureau not to have been fully and permanently corrected are in the areas of administrative capability and program accountability. The YMCA admits the serious deficiencies, which are detailed in the Notice of Proposed Termination from the Bureau dated December 20, 2007. As explained further herein, the YMCA appeals to ask that its period of disqualification from CACFP participation be less than the maximum seven years.

**II.
CONCLUSIONS OF LAW**

The CACFP regulations at 7 C.F.R. § 226.16 enumerate reasons why an institution shall be terminated from program participation. Being cited as seriously deficient and not correcting all deficiencies is cause for termination. The YMCA admits that it was seriously deficient, that it was given appropriate opportunity to take corrective action, and that it had not fully and permanently corrected the serious deficiencies as of December 20, 2007, the date of the Notice of Proposed Termination. Accordingly, the proposed termination of the Mahaska County YMCA from the CACFP must be upheld.

When an institution's participation in CACFP is terminated, both the institution and all responsible individuals must be placed on a national disqualified list. A responsible individual is any person who, whether compensated or not, is determined by the Bureau to be responsible for an institution's serious deficiency. 7 C.F.R. 226.2. The national disqualified list is maintained by the federal Department of Agriculture to ensure that those entities and persons on the list do not participate in CACFP during their periods of disqualification. The maximum period any entity or person is to be on the list is seven years, unless monies are owed to the CACFP, in which case the period of ineligibility is extended until the federal Department of Agriculture is fully reimbursed.

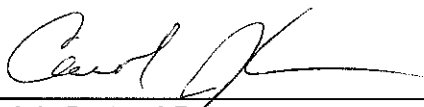
The Bureau has determined that the responsible individuals in this matter are Aaron Phillips and Holly Thomas. Neither of them dispute that their managerial positions define them as responsible individuals. As noted above, the purpose of their appeal was to ask that the YMCA and they not be disqualified for the full seven years.

The undersigned do not have the authority to determine the time periods that any entity or individual is on the national disqualified list. The Bureau makes that determination. Removal from the list is dependent on full and permanent correction of the serious deficiencies that led to placement on the list, as well as repayment in full of any debts owed under CACFP.

**III.
DECISION**

For the foregoing reasons, the proposed termination of the Mahaska County YMCA from the Child and Adult Care Food Program is hereby upheld.

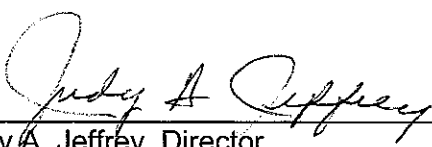
3/13/08
Date



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

It is so ordered.

3/4/08
Date



Judy A. Jeffrey, Director
Iowa Department of Education