

**IOWA DEPARTMENT  
OF EDUCATION  
(Cite as 23 D.o.E. App. Dec. 218)**

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<i>In re Termination from CACFP</i>	:	
Dale Terrell, Appellant,	:	FINAL
vs.	:	DECISION
Polk County Community, Family & Youth Services, Appellee.	:	[Admin. Doc. 4612]

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This matter was heard telephonically on July 1, 2005, before Carol J. Greta, J.D., designated administrative law judge, presiding on behalf of Judy A. Jeffrey, Director of the Iowa Department of Education. Appellant Dale Terrell took part in the hearing on his own behalf. The Appellee, Polk County Community, Family and Youth Services, was represented by Suzanne Warne, an employee of the Appellee. 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**

Dale Terrell runs a child daycare home out of his residence in Polk County. He stated that for the past five-to-six years he 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 Food and Nutrition. The CACFP is a federal program that provides reimbursement for meals and snacks provided to children (and adults, though such is not the case here) in daycare homes and centers. Daycare homes such as Mr. Terrell's must be supervised by a sponsoring organization, in this case the Polk County Community, Family and Youth Services.

A CACFP daycare home provider must sign an agreement that provides for most of the terms and conditions of program participation. The present agreement between Mr. Terrell and his sponsor was signed by Mr. Terrell on October 1, 2004. Some of the applicable provisions in the agreement are as follows:

- That the sponsor must conduct at least two unannounced visits to the home per year.
- That the home provider shall record attendance and meal participation information daily.

- That the home provider shall inform the sponsor immediately of any changes in the number of children enrolled for care.
- That the home provider shall have all records immediately accessible for review by the sponsor.
- That the home provider shall give the sponsor prior notification of plans to be out of the home during the time of meal service.

Mr. Terrell is a foster parent. His residence is licensed by the Iowa Department of Human Services [DHS] as a childcare home. Therefore, he may claim CACFP meal/snack reimbursement for eligible meals and/or snacks actually served to his foster children. Mr. Terrell also claims reimbursement for his grandchildren for whom he provides childcare.

As required by federal law, the sponsor attempted periodically over several months to verify the claimed meals and snacks. Mr. Terrell claimed reimbursement for weekend meals, but when staff from the sponsor stopped by his house over weekends, they were unable to verify attendance of the children on the claim forms. The sponsor also attempted verification by sending questionnaires to the parents of the children in Mr. Terrell's care. None of the parent audits were returned to the sponsor.<sup>1</sup>

On or about March 21, 2005, the sponsor again conducted a review of Mr. Terrell's CACFP operations at his home. No meal service could be observed. This review took place from 12:05 p.m. to 1:00 p.m. during the week; Mr. Terrell stated that he had just finished cleaning up from the noontime meal. Prior to the on-site review of this date, the sponsor documented six occasions over the 18 month period immediately preceding March 21, when it was unable to verify the accuracy of Mr. Terrell's submitted claims for reimbursement, including an incident when Mr. Terrell refused to prepare the supper meal in the presence of the sponsor.

Because of the history of failed verification attempts, the sponsor required Mr. Terrell to have parents sign the menu forms for suppers and weekend meals/snacks as a condition of remaining in the CACFP. The corrective action plan, submitted to Mr. Terrell with the notice of intent to terminate if he failed to correct the deficiencies, also required the following actions on his part:

- Submit new enrollments on forms attached by the sponsor, to be completed by the parent, signed and dated by the parent for each family in care.
- Provide a current statement of placement for foster care children from DHS.
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<sup>1</sup> The sponsor notes that most of the parents are relatives of Mr. Terrell. Mr. Terrell stated that his daughters never received the audits.

- Complete and return a change form (provided to Mr. Terrell by the sponsor) with the hours and dates meals are served.
- Have parents sign and date menu forms for supper on weekdays and all meals on weekends for meals eligible for reimbursement.

At this hearing, Mr. Terrell stated that he did not comply with the portions of the corrective action plan listed above, and that he does not believe he should have to comply. He testified that he has never had a complaint from a parent (see footnote 1). He also testified that he called one of the Polk County Supervisors about the corrective action plan, and that the Supervisor said that Mr. Terrell should not have to have parents sign and date the menu forms. He also informed the sponsor that he no longer provides childcare on weekends.

Regarding the other requirements of the corrective action plan (which may be characterized as providing current correct information to the sponsor), Mr. Terrell said that he declined to do so because “we just did a new contract [a] couple months ago” and the information has not changed. The existing contract between Mr. Terrell and his sponsor is nine months old. His own testimony provided that, as of six weeks ago, there has been a change in the status of one of his former foster children, Tim H.

Because Mr. Terrell did not take any required steps on the corrective action plan, the sponsor served him with a notice of its intent to terminate his CACFP participation. This hearing was held upon his timely appeal from that notice.

## II. CONCLUSIONS OF LAW

CACFP is a program created by the Agricultural Risk Protection Act, 42 U.S.C. § 1766. That Act, and its regulations, requires that day care homes operate under a sponsoring organization. 7 C.F.R. 226.18(b).

Federal law also dictates the minimum terms of the participation agreement between the sponsor and the home provider. Regulation 226.18(b) of Title 7 requires the home provider to maintain accurate records of the attendance of children and of the reimbursable meals served.<sup>2</sup>

The regulations state “[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). The rationale for the rule is simple. CACFP is funded by public monies; that is, by taxpayers. A home provider is

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<sup>2</sup> Home providers such as Mr. Terrell may be reimbursed for two meals and one supplement (snack) per child per day. 7 C.F.R. section 226.18(c).

required to be fiscally accountable to the public for the funds he receives through the program. The sponsor is to hold the home provider accountable on behalf of the public.

More specifically, the federal regulations give a sponsor the authority to subject a provider's participation in the Program "to more thorough review to determine if the claim is accurate." 7 C.F.R. section 226.10(c)(2). When a sponsor is unable to review records, there is no fiscal integrity. In light of prior unsuccessful attempts to verify Mr. Terrell's claims, this sponsor acted in a reasonable manner when it required Mr. Terrell to have parents of the children in his daycare to sign and date menu forms on a daily basis.

The regulations at 7 C.F.R. 226.6 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 failure to daily record required records.

After receiving his corrective action plan, Mr. Terrell did not take any required steps. His unsupported statement that he called Polk County Supervisor John Mauro and that Mr. Mauro stated that he should not have to have parents sign and date daily menu forms does not provide him with any defense. The CACFP operates on public money and public trust. Mr. Terrell's complete refusal to take the reasonable steps required of him to remain in the Program shatters the public trust necessary for his participation in the CACFP.

### III. DECISION

For the foregoing reasons, the termination of Mr. Terrell from CACFP is hereby **affirmed**.

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Date

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

It is so ordered.

\_\_\_\_\_  
Date

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Judy A. Jeffrey, Director  
Iowa Department of Education