

**IOWA STATE BOARD
OF EDUCATION**
(Cite as 21 D.o.E. App. Dec. 194)

<i>In re CACFP Termination for Cause</i>	:	
	:	
Roberta Klaahsen, Appellant,	:	
	:	
v.	:	DECISION
	:	
West Central Development Corp,	:	
Appellee.	:	[Adm. Doc. # 4513]

This matter was heard in person on September 11, 2002, in the State Board Room of the Grimes State Office Building in Des Moines, Iowa, before Carol J. Greta, J.D., designated administrative law judge, presiding on behalf of Ted Stilwill, Director of the Iowa Department of Education.

Appellant Roberta Klaahsen (hereinafter called, “Ms. Klaahsen”) took part in the hearing on her own behalf as owner/operator of Bizzy Boddies Daycare, without representation by counsel. The Appellee, West Central Development Corporation (hereinafter, “West Central”), was represented by the following laypersons: Tom Lawlor, Glenna Thompsen, Eula Green, and Nancy Pash. Also present in the board room for the hearing, to be available as witnesses if called, were Rodney Bakken and Suzanne Secor Parker of the Bureau of Food and Nutrition of the Iowa Department of Education. 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).

Ms. Klaahsen seeks reversal of a decision of West Central to terminate her participation in the Child and Adult Care Food Program (hereinafter, “CACFP”), as well as West Central’s determination that Ms. Klaahsen reimburse the Appellee the amount of \$8,478.48. Ms. Klaahsen received notice of termination from West Central and a separate notice from West Central of the demand for reimbursement on or about July 31, 2002. She filed a timely appeal to this agency from both decisions.

The undersigned administrative law judge finds that she and the Director of the Department of Education have jurisdiction over the parties and the subject matter of this appeal.

**I.
FINDINGS OF FACT**

At all times pertinent hereto, Ms. Klaahsen owned and operated a child daycare home in Woodbine, Iowa, known as Bizzy Boddies Daycare. From February 23, 2000 to the date of this decision, she was a participant in the CACFP, which is administered by the United States Department of Agriculture through the Iowa Department of Education’s

Bureau of Food and Nutrition. [Prior to February 23, 2000, Ms. Klaahsen was also a participant in CACFP; however, her participation prior to February 23, 2000 is not at issue in this appeal.] 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 Bizzy Boddies must be supervised by a sponsoring organization, in this case the Appellee, West Central, which is located in Harlan, Iowa.

A CACFP daycare home provider must sign an agreement that provides for most of the terms and conditions of program participation. On or about February 23, 2000, Ms. Klaahsen signed the required "Agreement between Child Care Home Provider and Sponsor." On page two thereof, Ms. Klaahsen agreed, as a condition of CACFP participation, to have a current certificate of registration from the Iowa Department of Human Services (herein "DHS") and to let the sponsor know of any change in the certificate of registration status. This initial agreement expired on September 30, 2000, and Ms. Klaahsen signed an identical agreement with West Central on August 18, 2000, which was good through September 30, 2001.

Contrary to her representation in the agreements with West Central, Ms. Klaahsen did not have a certificate of registration of her daycare home with DHS. Ms. Klaahsen does not dispute that she lacked the required registration, and she admits knowing that the certificate of registration was a requirement. She also admits knowingly providing false information on the two signed agreements with West Central.

In her defense, Ms. Klaahsen maintains that all of the money she received from CACFP went to her daycare, and was not used for personal or other purposes. Referring to the reason why she was not registered with DHS as a daycare home during the months in question, Ms. Klaahsen stated that she was falsely accused of improper supervision of a child, and that she took the CACFP reimbursement because "I was just trying to live, put food on the table. I'm sorry for what I did. I had to do it."

The \$8,478.48 represents the amount in total that Ms. Klaahsen received from CACFP in meal claims for the months from February 2000 through April 2001. She does not dispute the amount in question, but asks that she not be required to repay the monies because "so much has been taken from me." Rodney Bakken testified that, even if West Central or the Bureau of Food and Nutrition desired to forgive the indebtedness, the United States Department of Agriculture rules do not permit the state agency or a sponsoring organization to waive the repayment obligation.

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, require proper licensure or certification from a State in order for a daycare home to participate in the program, which provides reimbursement to the home for meals fed to children in the home's care. 7 C.F.R. 226.18(a). In the State of Iowa, the Department of Human Services is the agency authorized to license daycare homes. Iowa Code chapter 237A.

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 submitting false information to a sponsoring organization and/or to the state agency (in this case, the Iowa Department of Education). 7 C.F.R. 226.6(c)(2). After receiving her notice of termination, Ms. Klaahsen admitted that she could not correct the serious deficiency because she could not produce a valid certificate of registration for Bizzy Boddies for the time frame in question.

The regulations further state that "[e]ach sponsoring organization shall accept final administration and financial responsibility for food service operations in all child ... daycare 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. When a home provided such as Ms. Klaahsen obtains public funds by knowingly giving false information to make it appear that she was qualified to receive the funds, her sponsoring organization cannot forgive the debt as if it were the sponsor's money. The \$8,478.48 belongs to the people of the United States; it must be repaid to the public coffers.

Roberta Klaahsen knowingly provided false information to West Central Development Corporation for a period of several months, during which time she was paid public funds by West Central, which relied on her false representations that she was duly registered by DHS as a daycare home. Ms. Klaahsen thus violated the terms and conditions of CACFP participation.

III. DECISION

For the foregoing reasons, the termination of Ms. Klaahsen from CACFP by West Central is hereby **affirmed**. West Central's demand for repayment of \$8,478.48 from Ms. Klaahsen is likewise **affirmed**. There are no costs of this appeal to be assigned.

Date

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

It is so ordered.

Date

Ted Stilwill, Director
Iowa Department of Education