

Iowa Department of Education Summer Food Service Program Appeal Procedures

The appeal process is outlined in 7 CFR 225.13(b).

Summer Food Service Program (SFSP) sponsors and food service management companies may appeal any of the following adverse decisions by the State Agency (SA):

1. a denial of an application for participation;
2. a denial of a sponsor's request for an advance payment;
3. a denial of a sponsor's claim for reimbursement (except for late submissions under 225.9(d)(6));
4. a State agency's refusal to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;
5. a claim against the sponsor for remittance of a payment;
6. the termination of the sponsor or a site;
7. a denial of a sponsor's application for a site;

Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR 225.9(d)(6).

Procedure:

- The State agency shall notify the sponsor or food service management company in writing of the grounds upon which the State agency based the action. The notice of action shall also state that the sponsor or food service management company has the right to appeal the State's action. The notice is considered to be received by the sponsor or food service management company when it is delivered by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email. If the notice is undeliverable, it is considered to be received by the sponsor or food service management company five days after being sent to the addressee's last known mailing address, facsimile number, or email address
- The written appeal request shall be postmarked within 14 calendar days from the date the appellant received the notice of action by the State agency, and the State agency shall acknowledge the receipt of the request for appeal within 5 calendar days;
- The appellant shall be allowed the opportunity to review any information upon which the action was based;
- The appellant shall be allowed to refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within 7 days of submitting the appeal, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency.
- A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official;
- If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time, date and place of the hearing;
- The hearing will be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraphs (b) (4) and (5) of section 7 CFR 225.13;
- The review official shall be independent of the original decision-making process;
- The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;
- Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official shall make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;
- The State agency's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued

Program operation shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action

- The determination by the State review official is the final administrative determination to be afforded to the appellant.

Appeals must be directed to:

Director
Iowa Department of Education
Grimes State Office Building
400 E 14th Street
Des Moines, Iowa 50319-0146
Fax: 515-242-5988

Questions about the appeal process may be directed to:

Administrative Assistant to the Hearing Officer
Iowa Department of Education
Grimes State Office Building
400 E 14th Street
Des Moines, Iowa 50319-0146
Fax: 515-242-5988