



DATE: May 2023

TO: School Food Authority Administrators

FROM: Christine Emerson, Director
School Nutrition Programs

RE: School Nutrition Programs Appeal Procedures

A School Food Authority (SFA) participating in School Nutrition Programs administered by the Office of Public Instruction has the right to appeal the denial of all or part of a Claim for Reimbursement or the withholding of payments arising from administrative or follow-up review activity conducted by the Office of Public Instruction (OPI). The appeal process is outlined in 7 CFR Section 210.18(q).

The appeal procedure is as follows:

1. **Notice of Adverse Action:** The SFA shall be notified in writing by certified mail, facsimile, or e-mail of the denial of all or part of a Claim for Reimbursement or the withholding of payments and the right to appeal. If a notice is undeliverable, it is considered received by the institution five days after being sent to the last known mailing address, facsimile number, or e-mail address.
2. **SFA Request for Review:** The SFA may file a written request for review of the record no later than 15 calendar days from the date the SFA received the notice of adverse action. If a hearing is desired, it must be specified in this letter.
3. **Appointment of OPI Review Official:** An impartial review official shall be appointed by the OPI Deputy Superintendent.
4. **Acknowledgement of Request for Review by OPI:** The review official shall send a notice to the SFA acknowledging the request within 10 calendar days of receipt of the review request. The SFA will be advised of the option of either a hearing or a review of records in the letter of acknowledgement from the review official.
5. **Submission of Written Documentation by SFA:** The SFA shall submit written documentation to the review official no later than 30 calendar days after the SFA receives the notice of adverse action. The SFA may request either a hearing and/or review of records. The SFA may retain legal counsel, or may be represented by another person. 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 of request for review. Failure of the appellant SFA's representative to appear at a scheduled hearing shall constitute the appellant SFA'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 to answer questions posed by the review official.
6. **Submission of Written Documentation by OPI:** OPI Deputy Superintendent, and Director, School Nutrition Programs, shall submit documentation to the review official outlining the basis for action taken.

7. **Determination by Review Official:** If no hearing is requested, the review shall be completed within 60 calendar days from the date OPI received the request for review. If a hearing is requested, the SFA shall be provided at least 10 calendar days advance written notice of the time, date, and place of hearing by certified mail, facsimile, or e-mail. The hearing shall be conducted within 60 days of the State agency's receipt of the request for review.
8. **Notice of Determination:** The review official shall make a determination of the validity of the appeal based on the review of written documentation submitted by the SFA and/or the hearing conducted by the review official. The review official shall notify the SFA and the OPI Deputy Superintendent, and Director, School Nutrition Programs of his/her determination within 60 calendar days of the request for review. The determination by the OPI review official is the final administrative determination to be afforded to the SFA.
9. The OPI Deputy Superintendent shall appoint a review official for the appeal at the time the written request for appeal is received from the SFA. The review official will be selected from the OPI management personnel who meet the requirements of being an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of Section 210.18(q). The review official shall make a determination based on information provided by the OPI and the SFA, and on program regulations. Any information on which the OPI's action was based shall be available to the SFA for inspection from the date of receipt of the receipt of the request for review. Upon appointment to hear an appeal, the review official will be provided a copy of the OPI appeal procedure and be briefed on the procedure by the OPI Deputy Superintendent, and Director, School Nutrition Programs. The OPI's action shall remain in effect during the appeal process.

The Office of Public Instruction will not hear appeals of denials of all or a part of a Claim for Reimbursement or the withholding of payments arising from administrative or follow-up review activity conducted by the United States Department of Agriculture, Food and Nutrition Service (USDA/FNS). Appeals of these actions must be reported directly to USDA/FNS.

Nondiscrimination Statement:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online

at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
program.intake@usda.gov.