



Food and Nutrition

3E'S OF HEALTHY LIVING

Education, Exercise and Eating Right

Section 10

The Serious Deficiency Process (SDP)

Section 10 – The Serious Deficiency Process

Let's
Talk.



Serious Deficiency Terms and Definitions

Before we cover the serious deficiency process, you must be familiar with several terms.

National Disqualified List (NDL)

The NDL is a list kept by USDA of CEs, responsible principals and individuals, and day care home providers disqualified from participation in the CACFP. While on this list, the aforementioned parties may not participate in the CACFP.

Persons who are on the NDL will remain on the list until USDA FNS, in consultation with TDA F&N, determines the serious deficiencies have been corrected, including repaying any debts owed, or until 7 years after the disqualification, whichever comes first.

If a CE, responsible principal or individual owes a debt to the CACFP, they will remain on the NDL until the debt is paid.

CE

Any organization that signs an agreement with TDA F&N to administer the CACFP. **In the DCH Program, this would be the day care home sponsor who is contracting directly with TDA F&N.**

Sponsor

Sponsors, referenced in the definition above, **contract with TDA F&N to administer the CACFP in day care homes operated by providers.**

Site

In the case of this program, site would be another term for a sponsored day care home and the provider who operates it.

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The Serious Deficiency Determination

There are many reasons why a CACFP DCH sponsor, or provider, might be considered "seriously deficient." Here are the most common reasons ...

- Submitting false information on applications for participation, including omission of prior conviction of any activity that occurred within the past seven years that indicated a lack of business integrity.
- Permitting a person who is already on the NDL to serve in a principal capacity in your organization.
- Failing to comply with the bid procedures and contract requirements applicable to procurement.
- Failing to operate the CACFP in conformance with VCA performance standards.
- Failing to maintain adequate records.
- Claiming reimbursement for a significant number of meals that do not meet CACFP requirements.
- Sponsor failing to disburse reimbursements to sponsored providers.
- Any other activity affecting the sponsor's ability to administer the CACFP in accordance with program requirements.

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The Serious Deficiency Process

Agreements in the CACFP DCH Program can be terminated for either:

- Cause; or
- Convenience.

“Termination for cause”

- Means the CE’s agreement has been terminated **due to the organization’s violation of the agreement.**
- **Can only be initiated by F&N, NOT the CE.**

“Termination for convenience”

- means the sponsor’s agreement has been **terminated due to considerations unrelated to either party’s performance of the CACFP.**
- Can be initiated by either F&N or the CE.
- Is **NOT cause for placing a CE on the NDL.**

The Serious Deficiency Process is a five-step process that can be applied to a sponsor – or – to a provider.

Step 1.

Either TDA F&N determines the sponsor is seriously deficient, or, the sponsor determines that a provider is seriously deficient.

Serious deficiencies on the sponsor’s part might be due to the sponsor, a responsible principal, or key organizational person seriously violating program terms of the agreement.

Serious deficiencies on the provider’s part might be due to violations of actual program operation such as falsified records of meal counts or meal services not meeting requirements.

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The Serious Deficiency Process (contd.)

Step 2.

Notice of serious deficiency is sent by F&N to the sponsor, or by the sponsor to the provider. **This notice outlines and defines the violation.** The notice also **specifies any/all corrective actions needed and a deadline** by which the violations must be corrected.

This notice also states the serious deficiency determination IS NOT subject to appeal.

Step 3.

The sponsor or the provider is given an opportunity to correct the violation within the specified period of time. If the corrective action is accomplished to F&N's (or the sponsor's) satisfaction, F&N (or the sponsor) will temporarily defer the serious deficiency determination.

Step 4.

If the sponsor or provider fails to correct or resolve the serious deficiency(ies) by the specified date, F&N (or the sponsor) will send the **Notice of Proposed Termination and Proposed Disqualification.** This notice outlines:

- Who is being disqualified;
- The basis for the proposed action;
- The effective date of the proposed action;
- Procedures for appealing the proposed action;
- Whether CACFP payments will continue during the appeal; and
- This action will continue even if the recipient voluntarily terminates the contract.

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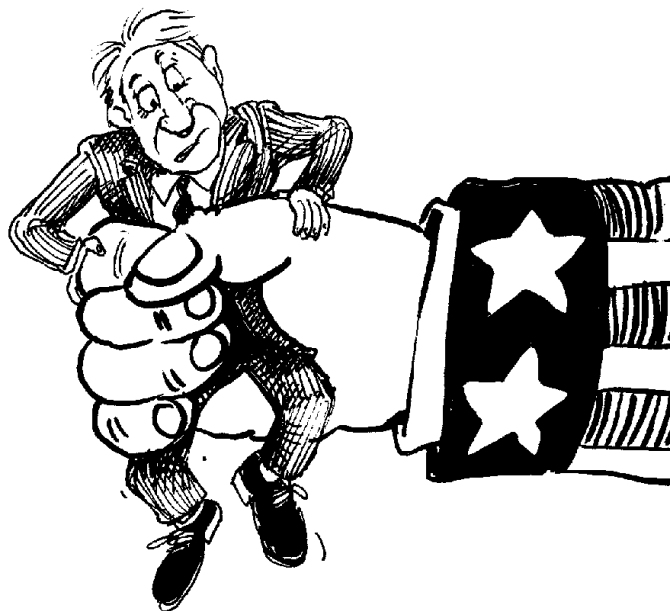
The Serious Deficiency Process (cont'd)

Step 5

If the sponsor or provider does not appeal, or if the hearing official rules in favor of the F&N or the sponsor, F&N or the sponsor will immediately issue a **Notice of Termination and Disqualification**. Remember, this Notice cannot be appealed.

A Reference For More Detailed Information

A more detailed outline of the serious deficiency process is available in the CACFP DCH Program Handbook available on the www.snptexas.org website.



Don't get squeezed in the Serious Deficiency Process!