

APPEAL PROCEDURES FOR FAMILY DAY CARE HOME PROVIDERS
PARTICIPATING IN
THE CHILD AND ADULT CARE FOOD PROGRAMS

In accordance with the 7 CFR Part 226.6 (L)(5)(i), _____
(Name and Address of Sponsor)
has established the following procedures which should be used by an appellant (Family Day Care Home provider)
requesting a review of administrative action taken by _____, and the same
(Name of Sponsor)
appeal procedures apply uniformly to all day care home providers. These procedures are to be provided annually to all day
care home providers, by the day care home sponsor or when the sponsor takes action subject to an administrative review, or
anytime upon request by the Day Care Home provider.

ADMINISTRATIVE ACTIONS WHICH MAY BE APPEALED

1. Notice of intent to terminate agreement for cause.
2. Suspension for (health) safety issue.

NOTICE OF ADMINISTRATIVE ACTION

1. The day care home provider will be advised in writing of the grounds upon which the sponsor based the action.
2. The notice of action, which should be sent by certified mail, return receipt requested, will include a full description of the basis for the action, and the procedures under which the sponsor and the responsible principals or individuals may request an administrative review of the action.
3. The day care home provider will be advised in writing that the request for the review must be made no later than _____ days (not to exceed 30 days) from the date of receipt of the notice of action.

PROCEDURE FOR FILING REQUEST FOR APPEAL

1. Request for an appeal by a day care home provider must be submitted in writing and received no later than _____ days (not to exceed 30 days) from the date of receipt of action. A request for an appeal shall be mailed or filed in person with hearing officer listed below:
Name and Address of Hearing Officer

2. **Contents of Written Request for an Appeal:** The day care home provider must submit a written request for an appeal that clearly identifies the administrative action or actions that are being appealed, the basis for filing an appeal, and the specific reasons why an appeal is being filed. The day care home provider must submit in writing to the Hearing Officer all documentation to support the basis for the appeal and documentation that supports the home provider's position for requesting and filing an appeal. The day care home provider may refute the findings contained in the notice of action in person at a hearing, or by submitting written documentation to the Hearing Officer, or both. If the home provider wishes to submit information and documentation that supports the request for an appeal by showing grounds on which the appeal is being sought from the administrative action, this information and documentation must be submitted to the Hearing Officer no later than _____ days from receipt of the notice of action. *Therefore, the day care home provider may not simply request a hearing and appear for the hearing with no documentation to support the basis for their appeal. The day care home provider MUST submit documentation and information in support of the*

appeal to be considered by the Hearing Officer. The documentation must be attached to the original request for a hearing or the day care home provider must state in the request that the documentation will be submitted at a later date, but not to exceed the above _____ deadline.

3. The sponsoring organization will acknowledge the receipt of the request for an appeal within ten (10) days of its receipt of the request.
4. Any information on which the sponsor's administrative action was based is available to the day care home provider for inspection from the date of receipt of the request for an appeal.
5. The Hearing Officer will review any documentation submitted and make a determination if any relief may be granted without a hearing.
6. A hearing will be held by the Hearing Officer in addition to, or in lieu of, a review of written information only if **the day care home provider requests a hearing in the written request for an appeal.**
7. If the day care home provider or their representative, fails to appear at a scheduled hearing, they waive the right to a personal appearance before the Hearing Officer unless the Hearing Officer agrees to reschedule the hearing.
8. A representative of the sponsoring organization will be allowed to attend the hearing to respond to the testimony of the day care home provider and to answer questions posed by the Hearing Officer.
9. If a hearing is scheduled, the day care home provider will be provided with at least ten (10) days advance notice of the time and place of the hearing.
10. The day care home provider may retain legal counsel, or may be represented by another person at the hearing. If so, the day care home provider must notify the Hearing Officer prior to hearing so that the Hearing Officer will know who has permission to represent the day care home provider
11. **If the day care home provider fails to submit the written request for an appeal within the time frames or fails to submit the written documentation within the time frame, the day care home provider's appeal rights will expire.**

REVIEW OFFICIAL DETERMINATION

1. The Hearing Officer shall be independent and impartial and not involved in the action that is the subject of the appeal, or have a direct personal or financial interest in the outcome of the appeal.
2. The sponsor and the day care home provider's are permitted to contact the Hearing Officer directly, if they so desire.
3. The Hearing Officer shall make a determination based on:
 - a) Federal and state laws, regulations, policies, and procedures governing the Program;
 - b) Information submitted by the sponsoring organization
 - c) Information submitted by the day care home provider in support of their position.
4. Within _____ days of the sponsor's receipt of the request for an appeal, the Hearing Officer must inform the sponsor's executive director, chairman of the board, and the day care home provider of the decision.
5. The determination made by the Hearing Officer is the final administrative determination to be afforded the day care home provider.
6. The Hearing Officer will notify the sponsor and the day care home provider of the outcome of the hearing in writing within the time frames identified above. Depending upon the outcome of the hearing and the instructions provided by the Hearing Official, the sponsor will proceed to resolve the action(s) cited against the day care home provider and/or close the file as necessary.
7. Day care home providers may continue to operate under the program during an appeal process and receive reimbursements unless the day care home provider has been suspended by due process as a result of imminent threat or dangers to the health or welfare of participants or due to the submission of a false or fraudulent claim for reimbursement.
8. Documentation must support findings and must be submitted to the State Department of Education.