

**APPEAL PROCEDURE FOR  
SUMMER FOOD SERVICE PROGRAM FOR CHILDREN**

In accordance with the Federal Regulation, 225.13, the Alabama Department of Education, Child Nutrition Programs, has established the following procedure which should be used by an appellant (sponsor or food service management company) requesting a review of administrative action taken by the Alabama Department of Education.

**225.13 (a) ADMINISTRATIVE ACTION WHICH MAY BE APPEALED**

- A review of a denial of application for participation
- A denial of a request by a sponsor for an advance payment
- A denial of a sponsor's claim for reimbursement (except for late submission under 225.9(d)(6))
- A denial by the Alabama Department of Education to forward to USDA, FNS, an exception request by the sponsor for payment of a late claim or a request for upward adjustment to a claim
- A claim against the sponsor for remittance of a payment
- The termination of the sponsor or a site
- A denial of a sponsor's application for a site
- A denial of a food service management company's registration
- Revocation of a food service management company's registration

**225.13 (b) NOTICE OF ADMINISTRATIVE ACTION**

(1) The appellant will be advised in writing of the grounds upon which the Alabama Department of Education based the action.

(1) The notice of action, which shall be sent by certified mail, return receipt requested, will include a full description of the appellant rights to appeal the action of the State.

(2) The appellant will be advised in writing that the request for the review must be made within **fourteen (14) calendar days** from the date of receipt of the notice of action.

(3) The appellant will be afforded the opportunity to review any information upon which the action is based.

**225.13 (b) PROCEDURE FOR FILING REQUEST FOR APPEAL**

Request for an appeal by the appellant shall be mailed or filed with the Hearing Officer no longer than **fourteen (14) calendar days** from date of receipt of the notice of action. A request for an appeal shall be mailed or filed in person with:

CNP Hearing Officer  
Alabama Department of Education  
Room 5103 - Gordon Persons Building  
P.O. Box 302101  
50 North Ripley Street  
Montgomery, AL 36130-2101

(4) The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the Hearing Officer.

(S) For a hearing to be considered:

1. Written documentation must be submitted by the appellant within seven (7) days of submitting the appeal.
2. Supporting documents must be postmarked (or noted with an equivalent designation, if filed by means other than mail), by midnight of the seventh day after submission of the request to appeal, in order to be considered timely. If the seventh day of the period for submitting written documentation falls on Saturday, Sunday, or a legal holiday, the appeal will be timely, if it is postmarked the next day which is not Saturday, Sunday, or a legal holiday.
3. The request must state the name and address of the appellant involved, and the name and title of the person who signed the request.
4. The request must be signed by a responsible representative.
5. The request must clearly identify the Alabama Department of Education's action being appealed.
6. The request must include a photocopy of the notice of action issued by the state.

#### CONTENTS OF APPELLANT'S REQUEST FOR APPEAL

1. The appellant must submit a written request for an appeal that clearly identifies the administrative action or actions that are being appealed and the specific reasons why an appeal is being filed. **The appellant must submit in writing to the Hearing Officer all documentation to support the appeal and documentation that supports the appellant position for requesting and filing an appeal.**
2. Should the appellant choose to submit information and documentation that support 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 **seven (7) days from submission** of the request to appeal. Therefore, **the appellant may not simply request a hearing and appear before the Hearing Officer with no documentation to support the appeal. The appellant MUST submit all documentation and information in support of the appeal to be considered by the Hearing Officer. The documentation may be attached to the original request for an appeal or the sponsor must state in the request that the documentation will be submitted at a later date, but not to exceed the above mentioned seven (7) day deadline.**
3. The organization requesting an appeal may ask for an opportunity to be heard in person before the Hearing Officer.
4. **If the appellant fails to submit the written request for an appeal within the time frames or fails to submit all written documentation within the time frame, the appellant's appeal rights will expire.**

**225.13 (b)**

**ADMINISTRATIVE ACTION REVIEW PROCEDURES**

(5) A hearing shall be held by the Hearing Officer 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.

(5) 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 Hearing Officer, unless the Hearing Officer agrees to reschedule the hearing.

(5) A representative of the Alabama Department of Education shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the Hearing Officer.

(6) If the appellant has requested a hearing, the appellant and the State Agency shall be provided with at least five (5) **days** advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.

(7) The hearing shall be held within **fourteen (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 procedures for filing an appeal.

**225.13 (b)**

**REVIEW OF OFFICIAL DETERMINATION**

(8) The Hearing Officer shall be independent of the original decision-making process.

(9) The Hearing Officer shall make a determination based on:

- o Federal regulations for the program,
- o Information submitted by the state agency
- o Information submitted by the appellant in support of its position.

(10) Within five (5) working days after the appellant's hearing, or within five (5) working days after receipt of written documentation if no hearing is held, the Hearing Officer must make a determination of the review and inform the appellant of the determination of the review by certified mail, return receipt requested.

(11) The Alabama Department of Education's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the program during an appeal of termination, and if the appeal results in overturning the Alabama Department of Education's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued operation under the program shall not be allowed if the state's action is based on imminent dangers to the health or safety of children. If the sponsor or site has been terminated for this reason, the Alabama Department of Education shall so specify in its notice of administrative action.

(12) The determination of the Hearing Officer is the final administrative determination to be afforded to the appellant.

**225.13 (c) ALABAMA DEPARTMENT OF EDUCATION RESPONSIBILITIES**

The Alabama Department of Education shall send written notification of the complete appeal procedures and of the actions which are appealable as specified in 225.13 (a) to each

- a. Potential sponsor upon application
- b. Food service management company upon application for registration.

**225.13 (d) RETENTION OF REVIEW RECORDS**

- A record regarding each review shall be kept by the Alabama Department of Education as required under 225.8 (a). A complete record of each review or appeal conducted must be retained for a period of three (3) years plus the current year following the date of the final determination on the review or appeal.
- Records may be kept in their original form or on microfilm.
- The record shall document the Alabama Department of Education's compliance with the program regulations and shall include the basis for the decision.

## Receipt of Appeal Procedures for SFSP

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Name of Organization or Business: \_\_\_\_\_

Agreement Number: \_\_\_\_\_

Sign this form to indicate that you have received the appeals procedure process in the event ALSDE takes an "adverse action" against you during your operation of the Summer Food Service Program (SFSP).

By signing this form you have received and understand the following topics in the appeal process:

- What you can appeal
- Deadlines for appeal submission
- Instructions for appeal
- Consequences for missing a hearing
- Mailing Address must be kept current

Signature of highest ranking official \_\_\_\_\_

Date \_\_\_\_\_

### State Agency Use Only:

_____	Initials
_____	Date