

**Oklahoma State Department of Education (OSDE) Child Nutrition Programs (CNP)  
Child and Adult Care Food Program (CACFP) State Agency (SA)  
Agreement & Procedures**

**Definitions & Acronyms**

The following words and terms when used shall have the following meaning unless the context clearly indicates otherwise.

**"Administrative Review (AR)"** means a program compliance evaluation process using forms provided by the State Agency.

**"Agreement Number"** means the number, identified by county, assigned to each institution once approved to operate the CACFP.

**"Application"** means the State Department of Education Child Nutrition Programs' established procedure for determining eligibility of institutions, facilities, and Sponsoring Organizations in the Child and Adult Care Food Program (CACFP)

**"Approval Visit"** means the technical assistance visit used by the State Agency to complete the approval process for participation in the CACFP.

**"CACFP"** means Child and Adult Care Food Program.

**"Claim Validation"** means submitting records for a claim that was flagged for being high risk.

**"CNP"** means Child Nutrition Programs.

**"Compliance"** means having met the contractual requirements of the CACFP.

**"Component"** means a required food group as specified by the USDA. The five food components are milk, meat/meat alternates, fruits, vegetables, and grains.

**"Corrective Action Plan (CAP)"** means a written plan to address deficiencies and identify actions and time frames to be taken for the deficiencies found in an administrative review or audit.

**"Cycle Menus"** means a set of carefully planned menus that will be rotated according to a definite pattern. Cycle menus contain all required food components.

**"DHS"** refers to the Oklahoma Human Services, formerly known as Department of Human Services.

**"EFT"** means electronic funds transfer.

**"FDCHs"** means Family Day Care Homes.

**"Family Size and Income Application (FSIA)"** means the document used to determine the eligibility status of an enrolled child obtained each fiscal year.

**“Fiscal Year (FY)”** means October 1 to September 30 of each year

**“FSMC”** means Food Service Management Company

**"Inventory"** means a visual counting and recording of all unopened food, milk and food-related supplies on hand for use in the CACFP.

**"Meal limit"** means the maximum number of meals a child/adult can be claimed for per day, which is 2 main meals and 1 snack or 1 main meal and 2 snacks, except for At-Risk where the limit is 1 main meal and 1 snack per child, per day.

**"Minimum Meal Patterns Requirements"** means the required food components and quantities as set forth by USDA for the CACFP in 7 CFR 226.20 of CACFP regulations.

**"Multi-sited Institution"** means an institution which has more than one childcare facility under an agreement number. Also referred to as a Sponsoring Organization (SO).

**“National Disqualified List (NDL)”** means the USDA list that institutions/sponsors/ responsible principals and individuals are placed on when terminated from the CACFP.

**“Nonclaimable”** means meals that cannot be claimed for reimbursement.

**“OMES”** means Office of Management and Enterprise Services

**"OSDE"** means the Oklahoma State Department of Education.

**"Organization-wide Audit"** means an independent audit of all funds received by an organization, inclusive of federal, state, local, and private funds. The audit requirement applies to CACFP institutions receiving total federal financial assistance that is equal to, or in excess of, \$750,000 and is designed to satisfy the needs of all funding sources. The audit must include a random sampling of all federal funds the institution receives and must also be conducted by an independent auditor.

**“Permanent Agreement”** means the written consent of obligations between the State Department of Education (SDE) Child Nutrition Programs (CNP) and the Child and Adult Care Food Program applicant.

**"Point of Service Count"** means the point in the food service operation where a determination can accurately be made that a reimbursable meal has been served. This must be done as a meal is served.

**“Proposed Termination and Proposed Disqualification (PTPD)”** means to be proposed to be terminated and disqualified from the CACFP.

**"Quantity"** means the amount of any food item served. Quantities are specified by USDA in CACFP minimum meal pattern requirements.

**"Regional Child Nutrition Program Specialist"** means an official employee of the OSDE that provides consultative, technical, and managerial assistance to CACFP programs. These employees also conduct approval visits and administrative reviews of program participants. Referred to as Specialist in this document.

**"RPI"** means responsible principal and/or individual.

**"Review Month"** means the most recent month for which a claim for reimbursement was submitted, provided that such claim covers at least 10 operating days. The review month is examined during an administrative review and other months may be reviewed as well.

**"Shift"** means an approved time for any approved meal.

**"Seriously Deficient (SD)"** means any area of noncompliance which is found to be in violation of the 25 percent error threshold in the review month or an area in the review that has an asterisk ( \* ) by the question that could be determined SD.

**"SFSP"** means Summer Food Service Program.

**"SO"** means Sponsoring Organization, sometimes referred to as "Multisited".

**"SA"** means State Agency

**"TA"** means technical assistance. TA is provided to an institution either upon request or when the need is seen.

**"USDA"** means the United States Department of Agriculture.

**"VCA"** means Financial Viability, Administrative Capability, and Program Accountability per regulation 7 CFR 226.6(b)(1)(xviii) and 7 CFR 226.6(b)(2)(vii). We are required to ensure programs are VCA.

## Agreement

The State Agency agrees that it shall:

- (a) Reimburse the institution in connection with meals served to enrollees at the facilities listed on the application during the period hereinafter stated. Reimbursement is paid for valid claims only. Edit checks are performed on all claims submitted. During any fiscal year, total payments to an institution, including any cash payments in lieu of commodities, shall not exceed allowable Program operating and administrative costs, less income to the Program.
- (b) Automatically place the institution claiming lunch and/or supper meals on cash-in-lieu of commodities.
- (c) Per USDA, disallow payment to the institution submitting a claim or an amended upward adjusted (reimbursement owed to the institution) amended claim 60 days after the month which is being covered by the claim.
- (d) Always process downward adjusted (reimbursement owed to the State Agency) amended claims.
- (e) Have the right, along with USDA and other state and federal officials, to make unannounced reviews of any institution's operation during the institution's normal hours of child and adult care operations. Anyone making such reviews must show photo identification that demonstrates that they are employees of one of these entities (226.6[b][4][v]). All reviews must include the required review elements.
- (f) Annually, provide the *Building for the Future* fact sheet to the institutions for distribution to the parents of children enrolled.
- (g) Annually, provide information concerning the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to the institutions.
- (h) Propose termination and disqualification of an institution and any responsible principals and individuals for serious deficiencies when corrective action is not implemented. Any institution's agreement that is terminated shall be done so in accordance with USDA regulations 7 CFR 226.6(c)(1)(iii) and 7 CFR 226.6(c)(2)(ii)(I) as referenced in CACFP regulations.
- (i) Conduct a first claim visit of a newly approved institution to give on-site technical assistance to complete its first claim for reimbursement. If records have not been maintained correctly for the institution to file a claim, a second claim visit will be scheduled. If the second claim visit reveals the institution continues to maintain inadequate records, the institution will be declared seriously deficient, and a corrective action plan (CAP) must be submitted to and approved by the State Agency. A third visit will be scheduled. If the third visit reveals the CAP implemented has not fully and permanently corrected the inadequate records, the institution will be proposed for termination and disqualification of the CACFP based on the failure to perform administrative responsibilities per 7 CFR §226.6(b)(1)(xvii).
- (j) Implement household contacts of institution participants if severe irregularities are detected during a review (not applicable to At-Risk Programs, emergency shelters, outside-school-hours care centers, and adult day care centers).

- (k) Assess interest on any overclaim not paid in full within 30 days established against the institution during a review or audit according to the repayment schedule set by the State Agency.
- (l) Conduct an administrative review of a new institution within one year (365 days) of the effective approval date. If for any unforeseen reason an institution is unable to begin claiming on the effective approval date, one year (365 days) will be counted from the first day of the first claim month submitted by the institution.
- (m) Conduct a follow-up review of institutions found seriously deficient in the prior fiscal year. The follow-up review will evaluate only the areas of serious deficiency to determine if they were fully and permanently corrected.
- (n) Require all public and private non-profit institutions expending \$750,000 or more in total federal funds in the previous fiscal year submit to the State Agency an organization-wide audit by September 30 each year for the previous fiscal year. Audits are due within nine (9) months of the end of the institution's fiscal year.
- (o) Conduct a Program Specific Audit on any for-profit institution/sponsor receiving \$750,000 or more in total federal funds in the previous fiscal year if an Administrative Review is not already being conducted.
- (p) Limit meal services to a maximum of two shifts.
- (q) Require that for the purpose of this agreement, the minimum meal patterns as set forth in 7 CFR 226.20 must be followed.
- (r) Require institutions to maintain production records, otherwise called Menus as Served, to ensure meal pattern requirements have been met.
- (s) Require a beginning and an ending time of meal service. Meals claimed for reimbursement must be served during that meal service time.
- (t) Require a health inspection for food and milk stored off premises.
- (u) Require that when an ownership change occurs, the current CACFP Agreement becomes null and void. Notification of such occurrence must be reported immediately to the State Agency. If the new owner chooses to participate in the CACFP, he/she must submit a new application and agreement for participation.
- (v) Require that in the operation of the Child and Adult Care Food Program, the institution designates an authorized representative who may act for the governing body/institution in preparing and signing documents, reports and claims for reimbursement pertaining to the installation and operation of the Program. The authorized representative accepts responsibility for the monthly claim for reimbursement and will receive all correspondence from the State Agency (Examples: owner, superintendent, executive director). Institutions shall not delegate this authority to a contracted individual or business.
- (w) Require that a meal analysis be conducted to fulfill the review regulations for Sponsoring Organizations (SO).
- (x) Require that Sponsoring Organizations (SO) include the following when fulfilling their monitoring responsibilities:

- (1) Each childcare and adult care facility must be reviewed at least three times (or an average of three reviews per facility) each year with not more than six (6) months elapsing between reviews.
  - (2) New childcare and adult care facilities must have a review conducted during the first four weeks (28 days) of Program operations.
  - (3) Each new outside-school-hours care center and At-Risk Program must have a review conducted during the first four weeks of Program operations.
  - (4) All other outside-school-hours care centers must be reviewed three times each year (or an average of three reviews per facility) with not more than six months elapsing between reviews.
- (y) Require that each institution/sponsor designate a trainer. All key CACFP personnel must receive training prior to performing Program duties. Documentation must be maintained on all training conducted. Documentation must include topics covered personnel in attendance, dates, and locations. Topics that key CACFP staff are required to be trained on annually include: CACFP meal patterns, Reimbursement process, Accurate meal counts, Claim submission, and Claim review procedures, Record keeping requirements, and Civil Rights.
  - (z) Require that no Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of the agreement or to any benefit that may arise therefrom: But this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.
  - (aa) Mail all correspondence regarding reviews and appeals certified mail, return receipt requested.
  - (ab) Obtain a criminal background report of RPI(s) of private non-profit institutions. The report will be at the expense of the institution.
  - (ac) Obtain a color copy of government issued identification, such as a driver's license for all RPI(s).
  - (ad) Require all applicants (new and renewing) demonstrate VCA and compliance with performance standards as set forth in 7 CFR 226.6(b)(1)(xviii) and 7 CFR 226.6(b)(2)(vii).
  - (ae) May propose termination and disqualification of any institution who has an unpaid debt from fiscal action assessed during an administrative review after the fiscal year has ended.
  - (af) Not allow an owner of more than one FDCH home to operate the CACFP in more than one home
  - (ag) Require institutions which charge separately for meals develop a policy statement for determining eligibility for free and reduced-price meals.

## **Specification of Mealtimes**

- (a) The SA shall require the following time sequence for meals: at least three (3) hours between main meals (from beginning time to beginning time), two (2) hours between a main meal and a supplement (from beginning time to beginning time).
- (b) The institution may be allowed two (2) shifts of any meal service.
- (c) The meal time length is determined by the institution, however, it must be reasonable. The institution must provide a beginning and ending time on the application.
- (d) FDCH SO should not approve meal service times for more than 5 days a week unless the SO is provided adequate justification for the need of the additional days, prior to approval.

## **Cycle Menus**

- (a) The SA does not require cycle menus to be used. However, at the discretion of the SA, institutions may be required to develop and follow a thirty (30) day cycle menu for each main meal and supplement served if a need is seen.

## **Recordkeeping**

- (a) The SA shall require daily food production records be maintained as well as daily meal counts and menus. These production records (otherwise known as Menus as Served) must reflect actual quantities served, detailing the following: date; total number served; total served by age group, including adults; menu; components served for each meal, including crediting information. While FDCH providers are required to record components for each meal, quantities are not required.
- (b) The SA shall require that an accurate physical count at the point of service (at the time the meal is served) be made of all meals and supplements served to participants. A record of meal counts must be posted after each meal service on the meal count worksheet to support claims for reimbursement.
- (c) The SA shall require that an inventory of unopened CACFP-purchased foods and milk be maintained monthly.
- (d) All records to support the claim shall be retained for a period of three (3) years after the date of submission of the final claim for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the end of the three-year period or as long as may be required for the resolution of the issues raised by the audit. All accounts and records pertaining to the Program shall be made available, upon request, to representatives of the SA. CACFP records which support claims for reimbursement include the following documents:
  - (1) Institution Application for Participation and Management Plan, Budget, and Policies and Procedures
  - (2) Civil Rights Data Collection
  - (3) Procurement Documentation
  - (4) Agreement with School to Furnish Food Service, if applicable

- (5) Policy Statement/Public Release
- (6) Family-Size and Income Application for Child Care/Enrollment Form
- (7) Family-Size and Income Application for Adult Care, if applicable
- (8) Household Size and Income Scales for Child Care
- (9) Household Size and Income Scales for Adult Care, if applicable
- (10) Letter to Household for Child Care
- (11) Letter to Household for Adult Care, if applicable
- (12) Electronic Funds Transfer Authorization Form, if applicable
- (13) DHS License for Child Care Centers and Health Department for Adult Day Cares, if applicable
- (14) Free, Reduced and Not Eligible Participation Data/Roster
- (15) Daily Attendance Records Arrival and Departure, if applicable
- (16) Meal Count Worksheet for Child Care
- (17) Meal Count Worksheet for Adult Care, if applicable
- (18) Daily Record of Meals Served, if applicable
- (19) Itemized Receipts/Food Purchasing Form
- (20) Expenditure Worksheet
- (21) Documentation of required CACFP training
- (22) Civil Rights Complaint Filing Form
- (23) Print out from EPICC System of the monthly Title XX/XIX records by child, when applicable
- (24) Building for the Future
- (25) Preapproval Visit Form, if applicable
- (26) Monitor Review Form, if applicable
- (27) WIC Brochure
- (28) Attendance Records (must reflect participants and non-participants, including first and last name)
- (29) Menus as Served
- (30) Record of Infant Meals and Quantities Served, if applicable
- (31) Record of Monthly Inventory for food and milk
- (32) Canceled Checks/Payroll (Documentation for CACFP Expenditures)
- (33) Receipts for Food, bank statements, credit card statements to verify CACFP purchases
- (34) Labels for Whole Grain, Cereal, Lunch Meat, and Yogurt
- (35) Title XX/XIX Documentation, if applicable to verify 25 % requirement
- (36) Copy of Contract for Meals, Contract Meal Delivery Receipts, if applicable
- (37) CN Labels/Product Analysis Statements of On-Site Preparation, if applicable



(38) Tiering determination documentation (for FDCH SO only)

Note: (A systems or forms equal to or better than forms provided by the SA may be utilized if approved by the SA).

- (e) The SA shall require that all Program records be maintained at the address of “where records will be maintained” in the CACFP system at all times.
- (f) The SA shall require that records be maintained and immediately available at all times. Records not produced within one hour of Regional Child Nutrition Program Specialist arrival will result in fiscal action for all months claimed that records cannot be produced.
- (g) The SA shall require that the institution have thoroughly itemized receipts (name of food item, number of units purchased, unit size, unit cost, total cost, correct date, and place of purchase) which is signed by the purchaser, the cash register receipt, and the food purchasing form grand total must agree. One receipt per Food Purchasing Form.
- (h) The SA shall require that a properly approved Family-size and Income Application must be categorized according to free, reduced, or not eligible, and be dated and signed by the approving official. Failure to properly approve this application will result in it being classified as "not eligible" (Family-size and Income Applications must be obtained each fiscal year regardless of previous enrollment). The fiscal year begins October 1 each year and ends September 30.
- (i) Obtain the annual CACFP enrollment forms on every child enrolled. The enrollment form must include normal days in care and normal meals received (not applicable to At-Risk Programs, outside-school-hours care programs, emergency shelters, and adult day care centers). For SOs, copies of the enrollment forms must be maintained in the SOs office, as well as at the facility.
- (j) The SA shall require that a monthly record of participation by free, reduced, or not eligible be maintained for each month claiming for reimbursement on the CACFP. The CACFP Attendance Roster must reflect which children are included in the institution's participation data.
- (k) The SA shall require that all children receiving care must be included on child care center attendance records and are considered to be enrolled in the childcare center. An enrolled child means a child whose parents or guardians have submitted to an institution a signed document which indicates that the child is enrolled for care and/or instruction.
- (l) The SA shall require that all children participating in at least one meal per month must be reported in participation data as free, reduced, or not eligible. For a child to be categorized free or reduced, a fiscal year Family-size and Income Application must be properly completed and approved and kept on file. If a drop-in child is in care during a meal and an FSIA isn't available, they should be included on the Not Eligible roster.

- (m) The SA shall require that documentation to ensure that no meals are claimed over the three (3)-meal limit per child be maintained and must reflect arrival and departure times. The arrival and departure times must be kept on all children. The Daily Record of Meals Served form or equal record system must reflect the meal service participation for each child for each day that he/she is in attendance.
- (n) The SA shall require that all meals served to children be reported on the claim for reimbursement as either Program meals or nonclaimable meals. Nonclaimable meals are those served over capacity, meals that are missing components, contract meals served to children enrolled at another center, etc. Income must be reported for nonclaimable children's meals. The price charged for each meal must reflect the free reimbursement rate for breakfast and lunch, including the value of commodities (the current value of commodities is the current cash-in-lieu of commodities rate).
- (o) The SA shall require that all meals served to adults be reported on the Menu as Served and the Meal Count Worksheet as Program meals or nonprogram meals. Income from nonprogram adult meals must be reported. The price charged for the meal must reflect the free reimbursement rate for breakfast and lunch, including the value of commodities. Program adults are those involved in the preparation, service, and/or supervision of the participants during the meal service. Supervision means sitting with and eating the same meal, including milk served to the participants.
- (p) The SA can ask for any records needed to validate a claim submitted and paid with Federal Funds including Title XX (Child Care Subsidy) records and financial documentation such as bank statements.
- (q) The SA shall ensure that the food recorded in the Menu as Served pages is the food that was purchased.
- (r) The SA shall require that all facilities participating, have federal, state, or local governmental licensing or approval or exemption from licensing requirements
- (s) The SA shall require FDCH SOs, must submit annually the total number of Tier I, Tier II-All Higher, Tier II-All Lower, and Tier II-Mixed FDCHs and a breakdown showing the total number of children enrolled in Tier I FDCHs, total number of children enrolled in all types of Tier II FDCHs, and the number of identified income-eligible children enrolled in Tier II-Mixed FDCH
  - (1) Tier I FDCH determinations based on elementary school, middle school, or high school eligibility data. If school data does not qualify the provider, then census data can be used for providers who cannot demonstrate that their household incomes meet the free or reduced-price eligibility standards. Maintain documentation to support the determinations made. Providers must be informed of the tiering status determination.

- (2) FDCH SOs must Verify and document a provider's household income or categorical eligibility when the provider is not area-eligible before approving his or her as Tier I home.
- (3) FDCH SOs must use the most current available data in making the determination of an FDCH's eligibility as a Tier I FDCH. The determination is valid for one year if based on a provider's household income or five years if based on school data or until more current data is available if based on census data. Maintain documentation to support the determination made.
- (4) FDCH SOs must change the determination of Tier I FDCH if information becomes available indicating that a home is no longer in a qualified area.
- (5) FDCH SOs must have the responsibility of informing providers of their reimbursement options under the law. For providers not meeting the Tier I criteria, inform them of the other reimbursement options available to Tier II homes. Be responsible, when requested by a provider qualifying as a Tier II home, to collect or provide the Tier II FDCH income applications, to determine the eligibility of children, and to maintain the confidentiality of the information collected.
- (6) The SA shall require FDCH SOs to submit to the state agency a list of providers qualifying for Tier I reimbursement based on SNAP eligibility by March 15 of each year. The list must include the provider's name and SNAP case number

### **Financial Viability, Administrative Capability, Program Accountability (VCA)**

As stated in the United States Department of Agriculture (USDA) regulation 7 CFR §226.6(b)(1)(xviii) for new institutions and 7 CFR §226.6(b)(2)(vii) for renewing institutions, to be approved for program participation, an institution is required to comply with three Performance Standards:

- (a) Financial Viability and Financial Management – An institution must demonstrate that it has adequate financial resources to operate the CACFP on a daily basis. The institution can demonstrate financial viability through:
  - (1) A budget or management plan in compliance with program regulations and that is reasonable, necessary, and allowable.
  - (2) Adequate resources for daily operations—able to pay employees and suppliers during periods of program payment interruptions and when fiscal claims have been assessed, if applicable.
  - (3) Audits or financial statements.
  - (4) Operate a nonprofit food service account.
- (b) Administrative Capability – An institution must demonstrate the ability to manage operations in compliance with the program regulations by ensuring:
  - (1) The number of staff and type of qualified staff are adequate.
  - (2) The number of monitoring staff in relation to the number of facilities is adequate.

- (3) Written policies and procedures fulfill program responsibilities and civil rights requirements.
- (c) Program Accountability – An institution must demonstrate the ability to ensure program accountability through:
- (1) Oversight through an operating governing board.
  - (2) Written fiscal accountability systems to assure integrity for all funds, property, expenses, and revenues (i.e. accurate processing of claims), and that all expenses are from program-authorized purposes.
  - (3) Record keeping – maintaining records of operations in compliance with program regulations.
  - (4) Operations including training, monitoring, classifying, and ensuring administrative costs are within regulatory limits.
  - (5) Meal pattern and meal service requirements, licensure, health inspections, record keeping, and claiming only for eligible meals served.

### **Implementation of the VCA process**

Beginning FY 2021, OKSDE began a “phased-in” approach to implement the VCA requirements set forth in the United States Department of Agriculture (USDA) regulation 7 CFR §226.6(b)(1)(xviii) for new institutions and 7 CFR §226.6(b)(2)(vii) for renewing institutions.

- (a) Phase 1- Beginning FY 2021, all new institutions will be required to complete the VCA checklist.
- (b) Phase 2- All institutions declared Seriously Deficient in FY 20 were required to complete the VCA checklist prior to approval of the FY 2021 CACFP application.
- (c) Phase 3- As part of the Risk Based Reviews that will be conducted beginning in FY 2021, all institutions that were deemed “high risk” and declared SD as a result of the claim validation process will be required to complete the VCA checklist upon application renewal.
- (d) Phase 4- In FY 2021, a new budget within the CACFP application renewal was implemented and required more detailed financial information to be entered. Approval of the budget may require supporting documentation to substantiate the projected budget request. Applications for new fiscal year will not be approved if VCA cannot be determined. Additionally, a new VCA questionnaire was created in the CACFP application that requires applicants to explain procedures to demonstrate capability and accountability.
- (e) Final and current VCA implementation-
  - (1) All new applicants will be required to complete the VCA process and successfully demonstrate viability, capability, and accountability before gaining access to the CACFP application system.
  - (2) All renewing institutions who were declared SD in the prior FY (whether as a result of an AR, claim validation, or any other reason) will be required to complete the VCA process.

- (3) All renewing institutions must update the VCA Questionnaire in the online CACFP application as needed to ensure VCA requirements are met.

### **Determination of Viability, Capability, and Accountability**

- (a) Public School Districts- District audits are collected and reviewed annually. All public schools that currently participate in any other Child Nutrition Program (CNP) and are in a good standing will not be required to provide any additional financial information for VCA. However, upon review of the district audit, if any areas of noncompliance are found that concern the operation of any Child Nutrition Program (CNP), a follow-up review is conducted by CNP staff for further investigation. However, the VCA checklist must still be completed.
- (b) For profit institutions- Institutions will be required to complete the VCA checklist and submit supporting documentation to substantiate the information provided in the checklist. When applicable, a financial audit can be submitted in lieu of other supporting documentation. The audit must be of the institution's prior fiscal year. When an audit is not available, 12 months' worth of financial records must be submitted, including bank statements.
- (c) Non-profit and public institutions- Institutions will be required to complete the VCA checklist and submit supporting documentation to substantiate the information provided in the checklist. When applicable, an organizational or financial audit can be submitted in lieu of other supporting documentation. The audit must be of the institution's prior fiscal year.

### **New CACFP Application Approval Procedures**

- (a) Initial application inquiry:
  - (1) The institution applies for the CACFP through web-based system and an alert is sent to the Director of CACFP.
  - (2) Applicant is contacted by the Director of CACFP to request documentation from the applicant so that the type of entity can be identified and verified. These documents may include:
    - (i) Preliminary Application Questionnaire
    - (ii) Proof of ownership or non-profit status (W9, SS-4, 501c3)
    - (iii) Certificate of Authority
    - (iv) Color copy of driver's license, or other government issued identification for all responsible principals and individuals
    - (v) UEI registration documentation
    - (vi) Proof of good standing with the Oklahoma Secretary of State
    - (vii) Child or adult care license/permit
    - (viii) DHS (Title XX) contract
    - (ix) OMES vendor form (for People Soft payment system)

- (3) Once the documentation is received and has been verified, accounts will be updated in the CACFP application system, however user account information is not given until VCA has been approved later in the application process.
  - (4) Vendor approval is completed by OMES. Once approved, OMES will assign a supplier ID and location number.
- (b) Training:
- (1) In person orientation must be attended at the CNP office at the OSDE (the institution RPI(s) must attend, otherwise a virtual option will be offered if there is a circumstance that could prohibit attendance.) This orientation class will go over the CACFP in detail, including the application and VCA process.
  - (2) Once orientation is completed, additional training is required. The required training topics vary based on the type of institution. Training is available online and are self-paced courses that require a short quiz to successfully complete. If the applicant is unable to pass the required course within five (5) attempts, in-person training will be required for that course. The potential training courses are below but may change as the need arises:
    - (i) Administration and Purchasing
    - (ii) Meal Pattern Requirements
    - (iii) Application training (this is a virtual class required after approval of VCA)
    - (iv) Procurement 101
    - (v) Food Buying Guide
    - (vi) Ounce Equivalent
    - (vii) Infant Meal Pattern Requirements
    - (viii) Civil Rights
    - (ix) Multisited/Sponsoring Organization
    - (x) At-Risk
  - (3) When required training has been successfully complete, certificates or transcript must be submitted to proceed to the next step.
- (c) VCA:
- (1) VCA checklist and other related documents are given to the applicant along with instructions on how to complete. The VCA must be submitted (along with all required documentation) to the Director of CACFP. Examples of required documents:
    - (i) Organizational chart
    - (ii) List of personnel who will have CACFP responsibilities
    - (iii) Board minutes (if applicable)
    - (iv) Financial documentation (such as audit or bank statements)

- (v) Procurement plan
  - (vi) Criminal background report (if required)
- (2) Once the VCA has been approved, the Director of CACFP will grant access of the CACFP application to the institution RPI(s). If the VCA is denied, a letter of denial and appeal rights will be sent certified mail, return receipt requested.
- (d) Online CACFP Application:
- (1) Application training and completion of online CACFP application- A virtual, hands-on training is conducted to walk applicants through the online application and assist with any questions. Once a complete and correct Application and Agreement to participate in the CACFP is received from the Institution by the State Agency the final application approval process begins. The submission many times includes additional documentation to be submitted and reviewed such as:
    - (i) Agreement for furnish foods
    - (ii) Contract with FSMC
    - (iii) Site add forms (and supporting documents) for SO only
    - (iv) Sponsor policy and procedures and other forms for SO only
    - (v) Eligibility documentation, as needed
    - (vi) Public Release
  - (2) Once the SA receives a complete and correct Application, the assigned office staff have 30 days to review and approve the application. A checklist will be completed on the Application, outlining what items are complete or incomplete. If there are corrections needed, the applicant is emailed or called for needed corrections, the steps above are repeated until the State Agency determines that the Application is complete and correct. This could take longer than 30 days if corrections continue to be needed by the institution, however, the application will be reviewed within 30 days of each re-submission.
  - (3) When the Application is determined to be complete and correct, an approval packet is sent to the assigned Specialist for that Institution. The memo instructs the coordinator as to the date the Institution had a completed Application on file. The Specialist is then given a thirty (30) calendar timeframe from the point the Application was completed to conduct an approval visit. The Specialist is also mailed the Institution's recordkeeping forms and a copy of the Institution's Application and Facility Application along with other supplies such as a training manual, WIC brochure, Food Buying Guide, etc.
  - (4) While awaiting the approval, the Director of CACFP must request EFT and supporting banking information from the institution. Once received, it must be faxed to OMES for the payment account to be updated and approved.

- (5) Applications are reviewed within 30 days of submission. Once the application has been reviewed and ready for approval, a box of approval materials are then mailed to the consultant and the approval visit will be conducted within 30 days of the box being mailed.
- (e) On-site approval:
- (1) The Specialist then conducts an approval visit and instructs the Institution on the requirements of the CACFP. All forms and requirements are discussed. The Specialist then approves the Institution to begin participating that day or a future date; there will be no backdating of the approval (prior to the month in which the visit was conducted). However, there may be specific circumstances that an institution will be approved to a prior date, such as it was an already existing applicant who decided to become an SO, or if there was some unforeseen circumstance that delayed the SA in conducting the on-site visit. However, an approval date will never be given if the documentation is not readily available and accurate.
  - (2) The Specialist must complete an Approval Visit Form after determining the effective approval date, which is signed by a representative of the Institution indicating that the Institution understands the CACFP and will begin claiming meals for reimbursement on the specified date. A copy of the Approval Visit Form is left with the Institution. The form is then submitted to the State Agency by the Specialist.
  - (3) When the SA receives the Approval Visit Form from the Specialist, final approval is completed the CACFP system and the effective date is entered, a file is created to maintain documentation, the Institution is assigned an Agreement Number and an approval letter is sent to the institution/sponsor.
  - (4) For institutions approved as proprietary Title XX/XIX (DHS subsidy), the application must be denied for approval when documentation is not provided to verify that the Title XX/XIX facility received compensation under Title XX/XIX for at least twenty-five percent (25%) of its enrolled participants or twenty-five percent (25%) of its licensed capacity. This information is taken from only the month before when the application was received in the SA. In a case such as this, the Specialist would deny the application effective the approval visit date. The Specialist would then submit the report to the SA which in turn would notify the institution by letter, including the right to appeal the decision. The applicant must reapply if they wish to participate in the CACFP.
    - (i) Any applicant who is denied will be given the right to appeal. The appeal procedures will be enclosed with a letter from the SA outlining the reasons the Application was denied. This letter will be sent to the Institution certified mail, return receipt requested.
- (f) OSDE staff will utilize application approval procedures (which will be updated annually) for guidance during the approval process.



- (g) The process will be tracked using a log and a checklist to ensure all the required steps have been completed in a timely manner.

### **First Claim Visit**

- (a) A first claim visit is conducted after the approval visit to ensure the sponsor/institution is knowledgeable of how to file a valid claim. All paperwork is reviewed, and the claim documentation is reviewed, and the claim is validated.
  - (1) If a claim can be filed, the Specialist will teach the institution representative how to complete a claim in the CACFP claim system. The first claim visit form is also completed based on this visit and nothing further will be required until technical assistance is requested/offered, or an administrative review is conducted.
  - (2) If records have not been maintained correctly for the institution to file a claim, per the State Agency/Institution Agreement in the CACFP application system, a second claim visit will be scheduled. If the second claim visit reveals the institution continues to maintain inadequate records, the institution will be declared seriously deficient, and a corrective action plan (CAP) must be submitted to and approved by the State Agency. A third visit will be scheduled.
  - (3) If the third visit reveals the CAP implemented has not fully and permanently corrected the inadequate records, the institution will be proposed for termination and disqualification of the CACFP based on the failure to perform administrative responsibilities per 7 CFR §226.6(b)(1)(xvii).

### **Adding an Additional Site of a Sponsoring Organization (not FDCH)**

- (a) SO must conduct a pre-approval visit and complete a “Multi-sited Pre-approval Visit” to ensure the site meets all requirements. Note: if the site is applying for the At-Risk program, eligibility must first be determined by verifying that the site is located within the boundaries of an eligible area (50% free/reduced).
- (b) SO must conduct a search on the National Disqualified List (NDL) to ensure that none of the principals or responsible persons associated with the site have been convicted of any activity that indicates a lack of business integrity within the last seven (7) years.
- (c) SO must update the “Sponsoring Organization Application for Participation- CACFP/FDCH-1” to increase any applicable budget items and required monitoring hours. If the sponsor falls below its approve monitor staff ratio, additional sites will not be added until the monitor staff ratio meets the requirements.
- (d) After completing the previous steps, the SO must complete the “Add Site Form” and submit to OSDE along with the supporting documentation. Examples of documentation- DHS license, Title XX contract, UEI expiration documentation, copy of NDL search results, completed Multi-site Pre-approval Visit, and eligibility documentation if At-Risk site.

- (e) Once OSDE has received the documentation, the site will be entered into “Site Maintenance” section in the CACFP website and notify SO.
- (f) The SO must then complete the “Application for Participation-CACFP-1”.
- (g) Once the application is ready for approval, the Specialist will be notified that an approval visit is required within 30 days. The approval visit form and other required documentation will be mailed to the Specialist.
- (h) On-site approval:
  - (1) The Specialist then conducts an approval visit and instructs the site representative on the requirements of the CACFP. All forms and requirements are discussed. The Specialist then approves the site to begin participating that day or a future date; there will be no backdating of the approval (prior to the month in which the visit was conducted).
  - (2) The Specialist must complete an Approval Visit Form after determining the effective approval date, which is signed by a representative of the site indicating that they understand the CACFP and will begin claiming meals for reimbursement on the specified date. A copy of the Approval Visit Form is left with the site representative. The form is then submitted to the State Agency by the Specialist.
  - (3) When the SA receives the Approval Visit Form from the Specialist, final approval is completed the CACFP system and the effective date is entered, a file is created to maintain documentation.
- (i) Additional sites cannot be added when an SO is in an SD status. The SD must be temporarily deferred, then the SO may resume adding new sites.

### **Adding Providers of a FDCH Sponsoring Organization**

- (a) SO must conduct a pre-approval visit and complete a “Pre-approval Visit Form” to ensure the provider meets all requirements.
- (b) SO must conduct a search on the National Disqualified List (NDL) to ensure the providers has not been convicted of any activity that indicates a lack of business integrity within the last seven (7) years.
- (c) SO must update the “Sponsoring Organization Application for Participation- CACFP/FDCH-1” to increase any applicable budget items and required monitoring hours. If the sponsor falls below its approved monitor staff ratio, additional FDCHs/sites will not be added until the monitor staff ratio meets the requirements.
- (d) After completing the previous steps, the SO must complete the “Provider Form” and submit to OSDE along with the supporting documentation. Examples of documentation- DHS license, copy of NDL search results and completed Pre-approval Visit.
- (e) Once OSDE has received the documentation, the site will be entered into “Site Maintenance” section in the CACFP website and notify SO.

- (f) The SO must then complete the “Provider Application-FDCH-1A and Provider Agreement-FDCH-1B” and submit for approval.
- (g) Once submitted, OSDE will approve the provider application and agreement and the provider.
- (h) Additional providers cannot be added when an SO is in an SD status. The SD must be temporarily deferred, then the SO may resume adding new providers.

### **CACFP Application Renewal Approval Procedures**

- (a) Renewal applications will be made available as early as August 1, but no later than September 30, of each fiscal year. Depending on the quantity and difficulty of updates required each fiscal year, the application may be released on various dates from year to year.
- (b) Applications are approved in the order in which they are received. Applications approvals will not be backdated to prior months, therefore, to claim the month of October, the application must be submitted by October 31. Applications can be approved beginning the month in which it was originally submitted.
- (c) Once the SA receives an application submission, the assigned office staff have 30 days to review and approve the application or send back for corrections. A checklist or log, which will be updated yearly, will be completed during the approval process. Additionally, notes may also be added within the application, where possible, that outlines what items are complete or incomplete.
- (d) The application and supporting documentation are carefully reviewed by assigned OSDE staff. Additional required documentation must be submitted (or made available) at the same time the renewal application is submitted for OSDE approval. If not, the application cannot be approved at that time and the institution will be notified of the missing documentation. Examples of this documentation are:
  - (1) Organizational chart
  - (2) End of Year report
  - (3) Proof of good standing with the Oklahoma Secretary of State
  - (4) Current child or adult care license, if applicable
  - (5) Proof of current Title XX/XIX (subsidy) contract
  - (6) Criminal background check, if applicable
  - (7) Proof of ownership/non-profit status (W9, SS-4, 501c3)
  - (8) Agreement to furnish food/FSMC Contract
  - (9) Current UEI documentation
  - (10) Current Certificate of Authority and color driver’s license or other government issued identification

- (11) Most recent board meeting minutes, if applicable
- (e) The approved budget amounts will be based on the projected amounts requested by the institution. Staff will compare the end of year report to the projected amounts. If the requested projections appear reasonable and comparable (but allowing for inflation) to the prior year, the projected amounts will be approved. If not, staff will request additional documentation to support the projected amounts or request the institution to adjust the amount.
  - (f) SO must update the number of facilities and monitors on the Sponsoring Organization Application for Participation. If the sponsor falls below its approved monitor staff ratio, additional FDCHs/sites will not be added until the monitor staff ratio meets the requirements.
  - (g) If there are corrections needed, the institution is emailed or called for needed corrections. The SA can request additional documentation to support any portion of the application if needed (i.e., justification for shift meal times, banking or financial information to support projected budget).
  - (h) The steps above are repeated until the SA determines that the application is complete and correct. This could take longer than 30 days if corrections continue to be needed by the institution, however, the application will be reviewed within 30 days of each re-submission.
  - (i) When the Application is determined to be complete and correct, the application will be approved, and the institution is notified.
  - (j) OSDE staff will utilize application approval procedures (which will be updated annually) for guidance during the approval process.
  - (k) This process shall be tracked using a log and a checklist to ensure all the required steps have been completed in a timely manner

### **Approving application updates after approval**

- (a) Application checklist forms must be re-approved anytime an update is made and the form is re-submitted. When an institution re-submits a form, the assigned OSDE staff receives an alert.
- (b) After review of the re-submitted form if clarification is needed, the institution will be contacted, and further information will be requested.
- (c) Certain updates or changes may require supporting documentation before approval can be given.
  - (1) Meal Time Change Form- required anytime a change to the meal service is made, i.e. meal time, maximum capacity, days operating.
  - (2) Budget Revision Justification Form- required anytime projected budget is adjusted. Additional supporting documentation may be requested if clarification is needed.

- (d) Changes to the application, budget, or management plan will be processed in 30 days or less. Approval will be given if no further corrections or documentation is needed, or once additional documentation or clarification is received. If the changes are not approved, or denied, the application cannot be re-approved and appeal rights will be given.

### **Contracting with outside entities**

- (a) If contracting with an outside entity to provide meals for the child care or adult day care institutions, the institution must have a completed and approved Agreement to Furnish Food Service or a food service management company (FSMC) contract on file with the State Agency between the CACFP institution and outside entity providing the meals. The procedure used by the CACFP institution to document meals delivered and the procedure used to claim meals for CACFP reimbursement will vary, depending on the type of outside entity providing the meal
- (b) If contracting with an outside entity to provide CACFP managerial services to child care or adult care institutions, the institution must have a state-agency approved contract written by the institution, not the contractor. This contract must be procured according to Federal Regulations per FNS 792-2 Rev. 4
- (c) Institutions must Accept responsibility for the fulfillment of the terms of the Agreement and enter into a written contract in accordance with the Federal Regulations if the institution contracts with a food service management company for the preparation of unitized meals (with or without milk), and if total reimbursement under this Agreement exceeds \$150,000, follow the bid procedures specified in the Federal Regulations.
- (d) Institutions are required to use the prototype agreement or contract created by the SA.
  - (1) Agreements/contracts must be submitted to the SA prior to going into effect.
  - (2) Once received, OSDE staff assigned to the institution will review the contract for accuracy, using checklists and instructions that are updated annually, to ensure they are approved correctly and contain all the requirements set forth in USDA regulations.
- (e) Applications will only be approved for the months that the current contract covers.

### **Criminal Background Checks**

All private, nonprofit institutional applicants in the CACFP and SFSP programs must undergo a criminal background check as a part of the preliminary application approval process. This policy was developed to eliminate the potential of approving institutions to participate in CACFP or SFSP who have a criminal history indicating a lack of business integrity, and to ensure all applicants are eligible to participate in the food program based on the results of a criminal background check. This policy is implemented under the authority given to the states in its implementation of CACFP and SFSP by 7 C.F.R. §§ 225 and 226.6(b)(1)(xiv)(A) and 226.6(b)(2)(iv)(a). This policy has been reviewed and approved by the USDA Food and Nutrition Service (FNS) Southwest Regional Office, as required by 7 C.F.R. §§ 225.18(f) and 226.25(b).

- (a) Background Check Requirement

- (1) Every private nonprofit CACFP and SFSP applicant (new or renewing) must consent to and pass a background check as part of the application process. This includes all institution principals.
- (2) The background check will occur upon initial application for new applicants and for all existing applicants at the time of application renewal. Any new responsible principal/individual would also need one prior to program participation.
- (3) Criminal convictions that occurred within seven (7) years preceding the date of the background check will be considered in the application review.

(b) Offenses That Will Result in Denial of the Application

Any applicant found to have a criminal conviction in the seven (7) years preceding the date of the background check that indicate a lack of business integrity is not eligible to participate in the food programs and their application will be denied. Such convictions include, but are not limited to:

- (1) Fraud
- (2) Anti-trust violations
- (3) Embezzlement
- (4) Theft
- (5) Forgery
- (6) Bribery
- (7) Falsification or destruction of records
- (8) Making false statements
- (9) Receiving stolen property
- (10) Making false claims
- (11) Obstruction of justice

Any applicant found to have a criminal conviction in the seven (7) years preceding the date of the background check for a violent crime as defined by 57 O.S. § 571(2) is not eligible to participate in the food programs and their application will be denied. Such convictions include, but are not limited to:

- (1) Child abuse
- (2) Child pornography
- (3) Lewd or indecent proposition or acts with a child
- (4) Abuse of a vulnerable adult
- (5) Assault
- (6) Battery
- (7) Domestic abuse

(c) Applicant Responsibilities

- (1) Applicants must provide color copies of government-issued identification for all institution principals.

- (2) The criminal background check required will be paid for at the applicant's expense. The cost is \$16 per individual, payable by cashier's check or money order made out to Oklahoma State Department of Education Office of Child Nutrition Programs.
- (d) CNP Responsibilities
- (1) CNP will determine if the criminal background check results permit applicants to participate or be excluded during the application approval process.
  - (2) If an application is denied based on the results of the background check, CNP will inform the applicant in writing that they may remove that person as a responsible principal/individual and/or be provided with details of any appeal rights.

### **Budgeting and tracking CACFP expenditures**

- (a) Approved budget amounts will be based on the projected amounts requested by the institution. Staff will compare the end of year report to the projected amounts. If the requested projections appear reasonable and comparable (but allowing for inflation) to the prior year, the projected amounts will be approved. If not, staff will request additional documentation to support the projected amounts or request the institution to adjust the amount.
- (b) Institutions are required to track all CACFP expenditures (including administrative expenses) monthly, using the SA supplied form. Alternate forms may be used; however, they must be equal to or better than the SA form and must be approved prior to use.
  - (1) SOs of centers must ensure that no more than 15% of the monthly reimbursement is used to pay for administrative expenses (i.e., administrative labor, utilities, etc.) Each monthly claim will automatically calculate and display 15% of the calculated reimbursement. The SO must monitor their expenditures and ensure that no more than the amount (15% of reimbursement) displayed on the claim is used to cover administrative expenses.
  - (2) FDCH SOs must enter their actual administrative costs on the monthly claim. This is to help the SO track their actual costs versus the calculated (paid) administrative fee. At the end of each fiscal year, FDCH SOs must reconcile all administrative costs and determine if they have any unused administrative funds. That reconciliation, along with the supporting documentation, must be submitted and approved before the renewal application can be approved each year. FDCH SOs are allowed to carry-over up to 10% of total administrative funds to the next fiscal year, which must be the first funds used. If the FDCH SO declines to carry-over any unused funds, those funds must be returned to the SA. Payment must be made with cashiers' check or money order.
- (c) All institutions are required to submit an annual end of year report. This report should reflect the institutions most recently completed fiscal year and is a reconciliation of all CACFP related expenditures and revenue. The purpose of this report is to ensure that CACFP funds are

expended on only allowable costs and that the institution is in a non-profit status as required by USDA regulations.

- (1) The SA considers the institution in a “for profit” status if the CACFP operating balance exceeds a 3-month average of expenditures. In the event an institutions operating balance reflects a profit a spend down plan must be implemented or fiscal action may be assessed.

### **Verification of Title XX/XIX (DHS subsidy) and Child/Adult Care Licensing**

- (a) Upon initial application, applicants are required to submit proof of current child or adult care license and subsidy funding, when applicable.
  - (1) OSDE staff will verify documentation to ensure they are still current and active. This can be done using online databases or calling the appropriate agencies.
  - (2) In the event either are not active or valid, the applicant will be notified and if not resolved, approval of the application may be denied.
- (b) During the annual renewal application approval process will again verify that all required licensing and subsidy contracts are active and valid. If not, the institution will be notified and if not resolved, approval of the renewal application may be denied.
- (c) The SA receives monthly status reports from DHS. These reports list new applicants for child care licenses, those who have been permitted or licensed for child care, changes in facility information, and also list licensed facilities that have closed.
  - (1) OSDE reviews the report to ensure any necessary updates are made for active CACFP institutions, including closing the agreement for any child care facilities that have closed.
  - (2) If closed, the institution is contacted to verify closure and will be allowed to submit a reimbursement for days up until the closure date.
- (d) The SA receives weekly status reports from DHS Subsidy (Title XX). These reports list child care facilities that have either closed their contract or the contract has been terminated.
  - (1) OSDE reviews the report to ensure any necessary updates are made for active CACFP institutions.
    - (2) If an institution who is approved for CACFP based on DHS Subsidy (Title XX) enrollment appears on this list, OSDE will contact the RPI(s) and inform them further steps must be taken to continue participating in the CACFP. Claims access will be restricted until further action can be taken.
      - (i) The Specialist will be notified that a visit to facility is required to verify that at least twenty-five percent (25%) of its enrolled participants are eligible for free or reduced priced meals.
      - (ii) If the is found to have at least 25% of its enrolled participants eligible for free or reduced priced meals, they will be approved to continue participating in the CACFP. The Specialist will report the number of free and reduced eligible



participants were verified and the SA will update the institutions application for participation.

- (iii) If the institution is found to have less than 25% of its enrolled participants eligible for free or reduced priced meals, they will be notified that they are no longer eligible to participate in the CACFP.

### **Assessing Linguistic Needs**

Upon initial application and annual renewal, the SA will evaluate the need for resources and materials to be made available in other languages each fiscal year. Institutions are encouraged to reach out to the SA if a need for resources in other languages arise at any time throughout the year.

- (a) Institutions must respond to two questions concerning linguistic needs on the Civil Rights Assurance/Compliance form in the online application.
  - (1) "Please indicate the language(s) spoken by CACFP program participants or potentially eligible participants in your institution."
  - (2) "Are you or anyone who participates in the CACFP in need of any form of linguistic resources in order to successfully gain a better, more in depth understanding of the CACFP? Examples of such resources would be (but are not limited to) material being made available in other languages or interpreters being provided when necessary."
- (b) Once renewal application approvals have been completed each year, the SA will generate a list of all responses to the questions above. If any needs are identified, the SA will contact the institution and provide the necessary resources or materials.

### **Claiming and Payments**

- (a) Institutions must submit claims for reimbursement by the 10th day of the month following the month covered by the claim.
- (b) Obtain approval from the SA for claims and/or revised claims with upward adjustments submitted 60 days after the claiming month(s) (claims will not be processed without SA approval).
  - (1) Institutions may request a one-time exception for a late claim. Approval of the request is at the discretion of the SA.
  - (2) OSDE will follow the USDA Guidance for Local and State Agencies on 60-Day Claim Submission. This can be found in the CACFP Resource Library and on the USDA website policy memo CACFP 14-2018 with attached guidance.
- (c) SO must disburse reimbursement payments to centers/homes within five (5) working days of receipt of payments from the SA.
- (d) Meals should not be claimed:
  - (1) If meals do not meet minimum meal pattern requirements.
  - (2) For more than the meal limit per child daily.

- (3) For meals served over license capacity.
- (4) For FDCH providers own child if provider is not income eligible.
- (5) By a FDCH for a child is another FDCH providers own child.
- (e) Claims are processed every full week, except for the last full week of the month. If at any time the schedule payment will not be made or is delayed, the SA will make every effort to notify the institutions.
- (f) Institutions are required to have payments made by electronic transfer, unless there is a reasonable explanation for why a paper warrant is needed instead.
- (g) Institutions may make any revisions to claims that are not yet passed the 60-day deadline.
  - (1) To request a claim revision, the institution must complete and submit a claim revision form to the SA
  - (2) OSDE staff will insert the adjusted claim and advise the institution the claim is available for the revision to be made.
  - (3) After the revision has been submitted by the institution, the OSDE CACFP Claims Supervisor must create a claim tracking worksheet to properly document the revision.

### **Updating banking information**

- (a) Banking information is no longer collected or maintained at the OSDE.
- (b) If an institution needs to update or change banking information, the OMES EFT form must be completed and faxed to the Office of State Treasurer.

### **Administrative Reviews (AR)**

- (a) The State Agency shall require that the Oklahoma State Department of Education (OSDE) Child Nutrition Programs (CNP) use the administrative review instrument to assess compliance with USDA Regulations and the OSDE/CNP Policies. An exit conference is always conducted, and a copy of the review is left with the institution/sponsor.
- (b) At a minimum a review of any current CACFP program must be conducted once every three years more often if problems are identified. These reviews are conducted unannounced. The Specialist goes to the location of where records are maintained per the CACFP Application and Agreement between the institution/sponsor and the OSDE/CNP. A meal service must be observed during this review. If a new sponsor has five (5) or more sites, a review is required to be conducted within 90 days of operation. A new CACFP institution will be reviewed within one year of program operation.
- (c) The review is conducted, and the institution/sponsor is found compliant, noncompliant, seriously deficient, or proposed for termination and disqualification of the CACFP.
  - (1) Compliant – No areas of the administrative review were found to be deficient, and the review is closed.
  - (2) Non-compliant – There were areas found to be noncompliant but did not rise to the level of being seriously deficient. These areas are noted in the review and documentation/corrective action may be requested to ensure items were corrected and/or they will be reviewed during the next review. An overclaim could result from

a non-compliant review. Any amount owed is deducted from future claims. Any unpaid amount must be paid in full by the end of that FY. Interest is assessed on any balance not paid in full within 30 days of notification of an overclaim. A follow-up may be conducted. If a corrective action plan is required, the review will not be closed until the required documentation has been submitted within the required time.

- (3) Seriously Deficient – When one or more areas of the administrative review exceed the 25% error rate or an area that USDA deems SD the institution/sponsor is found seriously deficient (SD). A Corrective Action Plan (CAP) must be submitted addressing each SD area individually answering the following questions: What, Who, When, Where, and How. Part of being declared SD during a review, the owner (at a minimum) must attend the SD Training at the OSDE. The training must be attended within 60 days of the exit conference of the review. An overclaim could result from an SD review. Any amount owed is deducted from future claims. Any unpaid overclaim must be paid in full by the end of the FY. Interest is assessed on any balance not paid in full within 30 days of notification of an overclaim.
  - (4) Proposed Termination and Proposed Disqualification (PTPD) - When a review is conducted in another FY after an SD from a prior SD review and the same areas are still out of compliance the SA will conduct a full review, assess an overclaim, if applicable, and PTPD, appeal rights will be given. Once terminated the Responsible Principals/Individuals (RPI's) are placed on the USDA National Disqualified List (NDL).
  - (5) Per USDA regulation, 7 CFR 226.14(a), interest will be assessed on balances not paid within 30 days of the original notice (demand letter). Interest rates are determined by the US Department of Treasury, Bureau of Fiscal Services and generally calculated on an annual, calendar year basis, however, quarterly adjustments are made to the rate if needed.
- (d) The CNP Regional Specialist must submit the completed AR, along with all supporting documentation to the SA office within two (2) weeks of the exit conference.
- (1) The AR and documentation may be submitted by:
    - (i) Mail
    - (ii) Email
    - (iii) Secure file upload
- (e) Once the SA office has received the completed, signed AR and documentation, a desk review is completed by office staff. This process is done to ensure that the review is fully completed and consistent with the AR procedures. If any found, the Specialist will be notified that corrections are needed.
- (f) When the desk review is complete and all required documentation has been submitted, a letter will be sent with the results of the AR. Any correspondence that contains appealable actions will be mailed certified with return receipt requested.
- (g) The AR and documentation will be placed in a secure file on the SA's network.
- (h) The AR will be logged on the tracking spreadsheet.

- (i) SA staff will assist with collection of any follow-up documentation or repayment of overclaim assessed.

### **Corrective Action Plans (CAP)**

- (a) A corrective action plan may be required by the SA any time areas of noncompliance (NC) or serious deficient (SD) have been identified and needs further action.
- (b) An acceptable CAP must address each NC or SD area individually answering the following questions:
  - (1) What are the serious deficiency(ies) AND the procedures that will be implemented to address the serious deficiency(ies)?
  - (2) Who will address the serious deficiency(ies)? List the personnel responsible for this task.
  - (3) When will the procedure for addressing the serious deficiency be implemented? Provide a timeline for implementing the procedure (i.e., will the procedure be done daily, weekly, monthly, or annually, and when will it begin, an actual date?)?
  - (4) Where will the CAP documentation be retained? They must state the actual location at the center where this documentation will be maintained.
  - (5) How will the staff and facilities or providers be informed of the new policies and procedures (e.g., Handbook, training, website, etc.
- (c) A CAP must be submitted on the form provided by the Specialist at the exit conference.
- (d) A CAP must be submitted within 65 days of an exit conference, or otherwise determined required.
- (e) An acceptable CAP must fully and permanently correct the areas of NC or SD, if it does not, an opportunity to make further corrections may be given.
- (f) A copy of an approved CAP will be placed in the institutions file and will be referred to during future reviews.

### **\$600 Disregard**

- (a) Per 7 CFR 226.8(f) the State agency may disregard an overclaim if the overclaim does not exceed \$600. OSDE will disregard any overclaim from a review if it is \$600 or less.
- (b) This does not mean that if the overclaim is over \$600 we subtract the \$600 from the overclaim, once the overclaim amount reaches or exceeds \$600, the amount is due in full.

### **Unrecovered funds/ Overclaims assessed from an Administrative Review**

- (a) The OSDE does not allow payment plans for any funds owed back to the Agency. If an institution terminates the CACFP and owes the SA funds due to an overclaim, the institution must submit the balance in full in the form of a cashier's check or money order.
- (b) If the overclaim is based on a review, funds may be taken back from future reimbursements.
- (c) If a balance remains at the end of the FY, the full amount is due by October 15 of that FY.. If the balance of the overclaim is not paid by October 15 of the FY it pertains to, the institution/sponsor will be PTPD.

- (d) Per USDA regulation, 7 CFR 226.14(a), interest will be assessed on balances not paid within 30 days of the original notice (demand letter). Interest rates are determined by the US Department of Treasury, Bureau of Fiscal Services and generally calculated on an annual, calendar year basis, however, quarterly adjustments are made to the rate if needed.

### **Collection Procedures for Unpaid Overclaims**

- (a) After the required demand letters are issued, if the institution has an unpaid debt owed to the CACFP, the file will be copied by the Child Nutrition office and mailed to the Attorney General's office. A cover memo will explain that this file is an uncollected debt for the Child and Adult Care Food Program.
- (b) The Attorney General's office will follow its procedures for collecting the outstanding debt.
- (c) When a payment is made to the Attorney General's office for any outstanding balance, the information will be forwarded to the SA. The outstanding amount will be adjusted and when paid in full, the debt will be reported on the NDL as paid in full.

### **Serious Deficiency Procedures**

- (a) When an institution/sponsor is declared SD during an administrative review, a certified letter will be mailed, return receipt requested, from the SA to the institution/sponsor that a review was conducted, concurring with the findings of the review. The letter will require the institution/sponsor to submit a Corrective Action Plan (CAP). The letter will specifically reiterate the SD finding(s) and will also state the amount of any overclaim. The SD status cannot be appealed only any overclaim assessed during the review is appealable. Appeal rights will be sent with the SD letter. All letters are sent certified mail, return receipt requested.
- (b) A CAP must be submitted to the Regional Child Nutrition Program Specialist within 65 days of the exit conference. This CAP must address each SD area individually answering the following questions:
  - (6) What are the serious deficiency(ies) AND the procedures that will be implemented to address the serious deficiency(ies)?
  - (7) Who will address the serious deficiency(ies)? List the personnel responsible for this task.
  - (8) When will the procedure for addressing the serious deficiency be implemented? Provide a timeline for implementing the procedure (i.e., will the procedure be done daily, weekly, monthly, or annually, and when will it begin, an actual date?)?
  - (9) Where will the CAP documentation be retained? They must state the actual location at the center where this documentation will be maintained.
  - (10) How will the staff and facilities or providers be informed of the new policies and procedures (e.g., Handbook, training, website, etc.
- (c) The CAP must be submitted on the form provided by the Specialist at the exit conference.
- (d) The SA requires that RPI(s) of SD institutions must also attend training as part of the CAP. The training must be attended within 60 days of the exit conference.

- (e) Once received and reviewed, the Regional Child Nutrition Program Specialist will either approve or deny the CAP, however the Specialist may request corrections be made and give an extended deadline.
  - (1) If approved, the SA will send a Temporarily Deferred Letter letting the institution RPI(s) know the SD has been deferred and if any future reviews have the same areas of SD or the overclaim isn't paid back in full the SA will propose to terminate and disqualify the institution without any further opportunity for corrective action.
  - (2) If denied, the denial of the CAP is not an appealable action.
    - (i) If the CAP or training requirement is not fulfilled, the institution and RPI(s) may be proposed for termination and disqualification of the CACFP.

### **Prior Year Review and Serious Deficiencies**

- (a) If a sponsor/institution is SD during a review, they will receive a follow up review during the next FY. This review will focus on only the areas of serious deficiency found in the prior FY AR.
- (b) If during that review the areas of serious deficiency are found to remain fully and permanently corrected, the review will be closed and the institution will be considered to be in compliance. This review does not count as regular administrative review and the institution must be reviewed within three (3) years of the last regular administrative review (which was likely conducted in the prior FY).
- (c) If during that review the same areas are found to be deficient, then the review will be completed, an overclaim assessed, if needed, and the sponsor/institution may be Proposed for Termination and Proposed for Disqualification (PTPD). This action is appealable.

### **Training**

- (a) New institutions must complete training. The training will consist of at least the topics required by USDA regulations. Additional training may be required, this could vary depending on the type of institution that is applying to participate. (i.e., At-Risk, SO training, etc). Failure to comply may result in the denial of the application.
- (b) Annual training is required for all renewing institutions. The training will consist of topics required by USDA regulations. Additional training may be required, this may vary depending on the type of institution. (i.e., At-Risk, SO training, etc). Failure to comply may result in the denial of the renewal application.
- (c) As part of the corrective action, institutions who have been declared SD must complete required training. The training will consist of the topics required by USDA regulations. Additional training may be required, (i.e. At-Risk, SO training, Food Buying Guide, Infant Meals, etc). Failure to comply may result in the denial of CAP.
- (d) The RPI must complete any required training. Examples of an RPI is the owner, executive director, superintendent, board president. Additional personnel who have CACFP responsibilities may also be required to complete training when necessary.

- (e) All key staff must have training on the required topics each year. Examples of key staff are the cook, individuals who serve plan or serve meals, or individuals who are responsible for administrative duties.
- (f) Training topics and efficacy will be evaluated periodically through surveys and discussions with participants after trainings have concluded. Areas of noncompliance observed throughout the fiscal year will be tracked to aid in determining future training topics the SA will develop or enhance.

### **Delinquent Organization-Wide Audits**

An Institution will be declared seriously deficient if the required audit is not received by the due date. (The due date is nine (9) months after the end of each institution's fiscal year)

- (a) An initial letter will be mailed to the institutions advising of their obligation to comply with the audit requirements and will be reminded of the deadline for which the audit must be submitted to the SA.
- (b) If the audit has not been received by the deadline, a Notice of Serious Deficiency will be mailed, certified return receipt requested, stating the audit must be received within fifteen (15) days of receipt of the letter or the institution and all responsible primary and/or individuals (RPI) will be declared seriously deficient in the operation of the CACFP. The letter will state that both the audit and an acceptable corrective action plan (CAP), which must address how the serious deficiency will be fully and permanently corrected, must be submitted to the SA within the normal timeframe. A copy of this letter will be forwarded to OSDE legal and USDA.
- (c) If the audit or the CAP is not submitted by the deadline, a second letter will be mailed, certified with return receipt requested, proposing the institution and RPI for termination and disqualification of the CACFP. Appeal rights will be provided with the letter. A copy of this letter will be forwarded to OSDE legal and USDA.

Note: With adequate justification, the SA may consider extending CAP or audit deadlines, on a case-by-case situation.

- (d) If an appeal is not requested by the institution before the deadline, a Notice of Termination and Disqualification will be mailed, certified with return receipt requested, to the institution stating that institution and all responsible principals and individuals have been terminated and disqualified from the CACFP. The letter will further explain that the institution and RPI will be placed on the NDL and will be excluded from future participation in CACFP or the Summer Food Service Program (SFSP) until the SD has been fully and permanently corrected and the institution and RPI are no longer listed on the NDL. A copy of this letter will be forwarded to OSDE legal and USDA.

### **Suspension Process**

- (e) Suspension refers to a period of time (prior to the termination of an institution's Program agreement) when an institution's Program participation, including Program payments, is suspended. The regulations outline two circumstances under which State agencies must or may suspend an institution [7 CFR 226.6(c)(5)(i)-(ii)]:

- (1) An institution's participation must be suspended if it poses an imminent threat to the health or safety of Program participants or the public; and
    - (i) The State agency must withhold Program reimbursement as of the beginning of the serious deficiency process and to release payment for valid claims during the suspension period if the institution requests a suspension review and is upheld.
  - (2) An institution's participation may be suspended if it submits a false or fraudulent claim for reimbursement;
    - (i) If the State agency determines that an institution has knowingly submitted a false or fraudulent claim, the State agency may initiate action to suspend the institution's participation and must initiate action to terminate the institution's agreement and initiate action to disqualify the institution and the responsible principals and responsible individuals.
- (f) When the State agency suspends an institution because its operation poses an imminent threat to the health and safety of Program participants or the public or due to the filing of a false or fraudulent claim, the institution and all RPI(s) will be notified in writing of the suspension and the basis for it. In both circumstances, the institution and RPI(s) must also be issued the notice of serious deficiency.
- (1) A suspension related to an imminent threat to health and safety is immediate and may not be appealed prior to the suspension.
  - (2) The suspension of an institution's participation related to filing a false or fraudulent claim must be done as a proposed suspension which is appealable prior to the suspension starting [7 CFR 226.6(c)(5)(i)].

### **Imminent Threat to Health and Safety**

- (a) When an institution's conduct poses an imminent threat to the health or safety of children or the public, the State agency must suspend the institution's participation in CACFP. Some examples of imminent threat to health and safety include but are not limited to:
- (1) Failure of a facility's fire detection or prevention system;
  - (2) Inadequate or incompetent supervision;
  - (3) Providing care for more children than the licensed capacity allows;
  - (4) Unsanitary conditions for food service or unsanitary water;
  - (5) Inadequate light, ventilation, sanitation, or heating;
  - (6) Lost or missing child;
  - (7) Suspected maltreatment of a child;
  - (8) Suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while they are on the premises of the childcare facility;
  - (9) Injuries to children requiring medical or dental care;
  - (10) Illness or injuries requiring hospitalization or emergency treatment;
  - (11) Mental health emergencies;



- (12) Health and safety emergencies involving parents or guardians and visitors to the childcare facility;
  - (13) Death of a child or staff member (including a death that occurred outside of childcare hours that had resulted from serious illness or injury at the child care facility); or
  - (14) The presence of a threatening individual who attempts or succeeds in gaining entrance to the facility.
- (b) If the institution is cited by State or local health or licensing officials for an offense that constitutes serious health and safety violations, the State agency must immediately declare the institution seriously deficient in addition to suspending its participation in CACFP. The State agency will also notify the institution that it is proposing to terminate the institution's agreement and to disqualify the institution and the RPI(s) [CACFP 13-2013, *Health and Safety in the Child and Adult Care Food Program*, July 26, 2013].
  - (c) If the State agency, rather than the health or licensing officials, discovers conditions that might constitute an imminent threat to public health or safety, the State agency is required to notify the appropriate State or local licensing or health authorities and to take action based on those recommendations.

## **Suspension**

- (a) Once it has been determined that an imminent health or safety violation has occurred, the State agency must notify the institution and all RPI(s) that the institution's participation, including Program payments has been suspended [7 CFR 226.6(c)(5)(i)]. The notice must state:
  - (1) The serious deficiencies found;
  - (2) That the institution can appeal the suspension and the proposed termination and disqualification;
  - (3) That the institution's Program participation including all Program payments are suspended with a specific start date until an appeal is concluded;
  - (4) That the State agency is prohibited from offering a review (appeal) of the suspension prior to the suspension being effective;
  - (5) That, unless overturned by a review official, the suspension will remain in effective throughout the serious deficiency process;
  - (6) That if the hearing official overturns the suspension, the institution may claim reimbursement for eligible meals served during the suspension;
  - (7) That termination from the Program will result in placement of the institution and RPI(s) on the NDL; and
  - (8) That the institution's voluntary termination of its agreement with the State agency after having been notified that it is seriously deficient and suspended from the Program will still result in the institution and RPI(s) formal termination by the State agency and placement on the NDL.
  - (9) The State agency's appeals procedures.

## Submission of False or Fraudulent Claims

- (a) The submission of a false or fraudulent claim constitutes a serious deficiency for participating institutions. If an institution knowingly files a false or fraudulent claim for reimbursement, the State agency must declare the institution and RPI(s) seriously deficient; for example, an institution filing a claim for meals that it did not serve, an institution that claims more than two meals and a snack per child, or reporting children as eligible for free meals on the claim without supporting income eligibility applications.
- (b) Fraud is defined as *a willful act commenced with the Specific Intent to deceive or cheat, in order to cause some financial detriment to another and to engender personal financial gain.*
- (c) A misrepresentation is fraudulent if the maker:
  - (1) knows or believes that the matter is not as he represents it to be,
  - (2) does not have the confidence in the accuracy of his representation that he states or implies, or
  - (3) knows that he does not have the basis for his representation that he states or implies.
- (d) If the State agency or sponsoring organization cannot prove these conditions without any doubt, FNS advises that a charge of knowingly filing a fraudulent claim not be used.
- (e) As part of the adverse action, the State agency has the option to suspend the institution and RPI(s) from Program participation, including Program payments, until the serious deficiency has been resolved [7 CFR 226.6(c)(5)(ii)].

## Proposed Suspension

- (a) When the State agency proposes to suspend an institution's participation, including Program payments for the submission of a false or fraudulent claim, the State agency must issue a combined notice of serious deficiency and proposed suspension. The institution and RPI(s) must be notified in writing that the State agency intends to suspend the institution's participation (including all Program payments) unless the institution requests a review of the proposed suspension. The notice must state:
  - (1) The serious deficiencies found;
  - (2) That the State agency is proposing to suspend the institution's and RPI(s) Program participation, including the payment of claims;
  - (3) The effective date of the suspension (this cannot be earlier than 10 days after the institution receives the notice);
  - (4) That the institution can appeal the proposed suspension;
  - (5) The contact information for the suspension review official;
  - (6) That a suspension review must be requested within 10 days of receipt of the notice;
  - (7) That if the hearing official overturns the proposed suspension, the institution may claim reimbursement for eligible meals served during the proposed suspension; and
  - (8) That the institution's voluntary termination of its agreement with the State agency after having received the notice will still result in the institution and RPI(s) formal termination by the State agency and placement on the NDL.

- (9) The State agency's appeal procedures for suspensions and terminations.
- (b) The notice should also state that, if the suspension review official overturns the proposed suspension, the institution is still required to submit corrective action to fully and permanently correct the serious deficiency(ies).
- (c) If the State agency chooses not to suspend an institution's participation for submitting a false or fraudulent claim, it must immediately initiate action to terminate and disqualify the institution and the RPI(s) per 7 CFR 226.6(c)(3).

### **Suspension Review – Suspension Appeal**

- (a) A suspension review is an abbreviated appeal that is available to institutions before a suspension for submission of false or fraudulent claims takes effect. It consists of a review of written documents, instead of an in-person hearing, to determine whether Program payments will continue. It does not resolve any appeal option that the institution may request of the State agency's proposed termination and disqualification of the institution; the institution may request a regular appeal if they are dissatisfied with the result of the suspension appeal.
- (b) An abbreviated appeal also involves a review of documentation instead of an in-person hearing and the decision of this review is final. This is held when one of the following occurs:
  - (1) The information submitted on the application was false;
  - (2) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the NDL;
  - (3) The institution, one of its sponsored facilities, or one of the RPI(s) of the institution or its facilities is ineligible to participate in any other publicly funded Program by reason of violation of the requirements of the Program; or
  - (4) The institution, one of its sponsored facilities, or one of the RPI(s) of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity [7 CFR 226.6(k)(9)].

### **Suspension Review**

- (a) If an institution wants a suspension review, it must send a request to the suspension review official within 10 days of receipt of the notice of proposed suspension. The appeal request should include the reasons the institution disagrees with the suspension. The institution may submit documentation to support its appeal.
- (b) The suspension review official must be an individual who is independent and impartial. The State agency must be notified immediately of the institution's request. The State agency must provide the suspension review official with the original proposed suspension and any other supporting documentation. The suspension review official must render a decision within 10 days of the deadline for receiving the institution's documentation opposing the suspension [7 CFR 226.6(c)(5)(ii)(C)].

### **Suspension Appeal**

- (a) The institution also has the right to appeal the suspension through the regular appeal process (regardless of whether it requests a suspension review). The maximum time for suspension of participation is 120 days following the suspension review decision. Within the 120 days, the institution's appeal should be heard, and a decision rendered either overturning the serious deficiency, suspension and proposed termination and disqualification or the institution and RPI(s) should be terminated. If a suspension appeal lasts more than 120 days, the State agency must pay any valid claims received by the institution starting on day 121 [7 CFR 226.6(c)(5)(ii)(F)].
- (b) If the hearing official overturns the State agency's proposed suspension, the State agency cannot suspend the institution's participation or withhold reimbursement payments for the suspension period. The State agency must still proceed with the proposed termination and proposed disqualification [7 CFR 226.6(c)(5)(ii)(A)].
- (c) Corrective Action- Whether or not the institution is successful in its suspension appeal, the institution has the opportunity to submit corrective action to address the serious deficiency determination, such as submitting revised claiming procedures. If the institution's corrective action is accepted by the State agency, the serious deficiency is temporarily deferred, the suspension is removed, and the institution is able to continue participation in CACFP. If the corrective action is not accepted, the State agency must continue with the proposed termination and disqualification of the institution and the RPI(s) and begin the regular appeal process.

### **Proposed Termination and Disqualification Procedures**

- (a) When the time for requesting an appeal expires or the hearing official upholds the proposed termination or disqualification, the State agency must:
  - (1) Notify the institution's executive director and chairman of the board of directors, and the RPI(s) that the institution's agreement has been terminated and that the institution and RPI(s) have been disqualified;
  - (2) Update the State agency list at the time such notice is issued; and
  - (3) Provide a copy of the notice and the mailing address and date of birth for each RPI with the full amount of any determined debt associated with the institution and/or the RPI(s) to the appropriate FNS Regional Office for inclusion on the NDL [7 CFR 226.6(c)(3)(iii)(E)].
- (b) If the institution and RPI(s) request an appeal and the hearing official overturns the State agency's suspension, the State agency must temporarily defer the serious deficiency and withdraw the suspension [7 CFR 226.6(c)(3)(iii)(B)(1)(i)].
- (c) The State agency will report the name of the terminated and disqualified institution and RPI(s) to the FNS Regional Office at the same time the institution and RP/Is are notified.. The FNS Regional Office will request that the FNS National Office add the names of the institution and the RP/Is to the NDL.

### **Program Payments during a Suspension**

- (a) The State agency is not allowed to pay claims to a suspended institution. Payments for valid claims may only be paid if a suspension review official or hearing official overturns the suspension.
- (b) When a sponsoring organization is suspended for the submission of a false or fraudulent claim, the State agency is required to make sure that payments to the sponsored DCHs for eligible meals served are still made. The State agency may work with another sponsoring organization to process the claims during the suspension process or the State agency may temporarily make meal payments directly to the sponsored facilities during the period of the sponsoring organization's suspension. The State agency should contact the FNS Regional Office for additional guidance with this emergency and temporary procedure.
- (c) If there is no other way to provide the sponsored facilities with earned meal reimbursements other than by passing payments through the suspended sponsoring organization, then the law requires these payments to continue. The sponsoring organization would be liable for continuing to pay all valid claims and any claims not paid would be added to the debt owed by the institution.
- (d) If the suspended sponsoring organization appeals the proposed termination and disqualification and is upheld, it could submit claims for allowable Program administrative costs incurred during the period of suspension that are properly documented.

### **Placement on the USDA National Disqualified List - (NDL)**

- (a) Program regulations require that disqualified and terminated institutions, RPI(s), and be placed on the NDL. Whenever a State agency determines that an institution is seriously deficient, the State agency must also determine who is responsible for the serious deficiency. These individuals may be principals of the institution, or they may have some other relationship to the institution.
- (b) Program regulations define a "principal" as anyone in the institution who is: A manager, officer, or board member. Principals could also include the owner of a for-profit organization or the supervisor of the director of an institution operated by a public entity. Not all principals are considered to be "responsible principals". A responsible individual is any non-principal associated with the institution's operation of the Program who bears responsibility for a serious deficiency per 7 CFR 226.6(c)(7), including volunteers and consultants. NDL submission requests sent from an FNS Regional Office to the FNS National Office must contain all required information as indicated in the "Institutions/ RPI(s)."
- (c) If a State agency does not submit all of the required information with its notification of a disqualification, the FNS Regional Office will contact the State agency to obtain the missing information before forwarding the submission to the FNS National Office. If a required piece of information is not available, the State agency should include an explanation of why the missing information is unobtainable. Incomplete information that does not have an explanation for the missing data will be returned to the State agency for completion.
- (d) The following information is required when submitting information to FNS for inclusion on the NDL.
  - (1) Name and address of the institution (including city, State, and zip code)
  - (2) Any known aliases

- (3) Termination date
  - (4) Amount of debt owed, if any, noting the RPI(s)
  - (5) Reason(s) for the disqualification (if other is checked, an explanation must be included)
  - (6) RPI(s) full name
  - (7) Any know aliases
  - (8) RPI(s) address (with city, State, and zip code)
  - (9) RPI(s) date of birth; and
  - (10) RPI(s) position in the institution.
- (e) If the overclaim is not paid in full by the required timeframe the case is turned over to the Attorney General's office for collections. OSDE does not accept payment plans.
  - (f) All correspondence with the institution/sponsor will be documented and sent to USDA. Once terminated from the program, the institution/sponsor is placed on the USDA National Disqualified List (NDL). Once placed on the NDL the institution and all responsible principals/individuals remain on the NDL for seven years or until all debt to the program is repaid to USDA.

### **Early Removal from National Disqualified List (NDL) Procedures**

- (a) The Oklahoma State Department of Education will review all requests for Early Removal from the NDL the first month of each quarter (January, April, July, and October), any requests received after the first month of each quarter will be held until the first month of the next quarter.
- (b) If all debt, including interest, has been repaid, a detailed corrective action plan (CAP) must be submitted and approved, that addresses all the serious deficient areas, the Responsible Principal/Individual(s) (RPI) and the Institution may request Early Removal from the NDL.
- (c) The State Agency (SA) will review the request. Once reviewed, the approval or denial of the request will be sent to the USDA SW Regional Office.
- (d) Once the SW Regional Office has the request they will review and determine if the request should be forwarded to the FNS National Office. The FNS National Office has the final say as to whether or not the RPI(s) and the Institution can be removed from the NDL. The State Agencies or FNS' decision to deny a request for removal from the NDL is not subject to appeal.
- (e) There is no regulatory timeframe as to how long this process can take.

### **Contingency Plan for Sites under a Sponsoring Organization that Closes or is Terminated from the Program**

- (a) Sponsors indicate on their Sponsoring Organization Application for Participation the areas in the state in which they operate. This information will be used to coordinate where facilities can find new sponsorship.
- (b) The SA will provide a list of sponsors contact information to the facilities, to look for possible sponsorship, should they wish to continue operating.
- (c) The SA may also reach out to sponsors to facilitate in finding sites a new sponsorship.

## **Cessation of Participation in CACFP**

- (a) Institutions either closing their facility or choosing to no longer participate in the CACFP must notify OSDE, in writing, of their intent to terminate their agreement and supply a closure date.
- (b) SOs may be required to provide documentation to the SA before they closeout their application and agreement.

## **Cessation of Participation in CACFP for FDCH provider**

- (a) If a claim has been paid for a least one month, a provider will not be permitted to transfer from one SO to another within the same fiscal year.

## **Records Retention**

- (a) All records are maintained/stored for the current year plus three (3) prior fiscal years. These records contain the following information, but are not limited to:
  - (1) Original program approval information
  - (2) VCA documentation
  - (3) Additional site approval information, if applicable
  - (4) Meal time change forms
  - (5) Budget revision forms
  - (6) Claim revision forms
  - (7) Administrative reviews for the last 3 years, unless the review was SD, which it is retained as long as the institution is participating in CACFP
  - (8) SD follow-up and CAP information from SD AR
  - (9) Supporting documentation for administrative reviews
- (b) Per the state auditors, the SA is required to obtain copies of all documentation that is reviewed during an administrative review. This information is collected at the time of the review and placed in a secure file on the SA's network at the conclusion of the review.
  - (1) Institutions are offered the following ways to submit documentation:
    - (i) Paper copies (hand delivery)
    - (ii) Scanned/electronic
    - (iii) Secure file upload
- (c) Beginning FY 2022, records are stored electronically in a secure file in the SA's network. Only authorized OSDE staff are granted access to the file.

## **Complaints**

- (a) All complaints that are submitted, whether by email, phone, or through the online complaint system, Awarity, are first reviewed by the Executive Director.
- (b) The Executive Director will assign the appropriate CNP staff member to conduct necessary investigation of the complaint.
- (c) CNP staff will assess the situation to determine if further action is needed. If necessary, an administrative review will be conducted.

- (d) If necessary, the SA will follow-up with the complainant.

### Claim Validations

- (a) To evaluate claims that appear to be high risk and help mitigate claiming error or fraudulent activity, OSDE will conduct the claim validation process throughout the fiscal year.
- (b) Claim data will be pulled 3 times each fiscal year by the Director of CACFP/SFSP. Data can be pulled by SDE staff in the CACFP claims system.
- (1) Population defined: The total population subject to the claim validation process is the CACFP claims that were processed during the four-month reference period being analyzed (see schedule below). All CACFP programs (Child Care, At-Risk, Family Day Care Home, Adult Care) will be selected as the population and will be subject to the selection process.

- (2) Claim validation schedule:

|                       | Month data pulled | Months analyzed                      |
|-----------------------|-------------------|--------------------------------------|
| 1 <sup>st</sup> Batch | February          | October, November, December, January |
| 2 <sup>nd</sup> Batch | June              | February, March, April, May          |
| 3 <sup>rd</sup> Batch | October           | June, July, August, September        |

- (c) Scoring of claims: The Director of CACFP/SFSP will score each claim based on certain criteria. That score will then be compared to the highest score possible to determine which claims are highest risk.
- (1) Each risk indicator will result in a score of 1 or 2. After all claims for the four-month reference period have been scored, the scores will be totaled for each institution. (Note: if an institution has more than one site, scores for each site will be combined for a grand total)

| Risk Indicator  | Score |
|---|-------|
| Claiming all meal types   | 2     |
| Block claiming (same number of meals claimed for each meal type)                | 1     |
| Breakfast max claimed (claiming max number allowed (days x enrollment))         | 1     |
| Lunch max claimed (claiming max number allowed (days x enrollment))             | 1     |
| Supper max claimed (claiming max number allowed (days x enrollment))            | 1     |
| Snack max claimed (claiming max number allowed (days x enrollment))             | 1     |
| At-Risk Breakfast max claimed (claiming max number allowed (days x enrollment)) | 1     |
| At-Risk Lunch max claimed (claiming max number allowed (days x enrollment))     | 1     |
| At-Risk Supper max claimed (claiming max number allowed (days x enrollment))    | 1     |
| At-Risk Snack max claimed (claiming max number allowed (days x enrollment))     | 1     |
| Claiming At-Risk Lunch (uncommon)   | 1     |
| Claiming At-Risk Breakfast (uncommon)   | 1     |
| Claiming every day of the month   | 2     |
| Revisions of claims   | 1     |

- (d) Certain risk indicators apply to only certain types of institutions, therefore, the highest score possible is different for each program type.



| <b>Program Type</b> | <b>Highest Score Possible</b> |
|---------------------|-------------------------------|
| CACFP               | 10                            |
| CACFP & At-Risk     | 18                            |
| At-Risk Only        | 14                            |
| FDCH                | 10                            |

- (e) Calculate percentage of risk.
- (1) By dividing the total score by the highest score possible, then multiplying by 100, you can determine the risk percentage.
  - (2) Example- CACFP center with four claims  
Total score – 16  
Highest score possible – 40 (10 highest per month x four months)  
 $16/40 = 0.40 \times 100 = 40\%$
- (f) Make final selections of the highest risk claims.
- (1) Sort list of highest percentage to lowest
  - (2) Select a variation of different institutions (that are not up for review in the current fiscal year)
  - (3) Select a variation of different program types:
    - (i) Day care in a public/education institution
    - (ii) Day care and At-Risk- For profit Sponsor
    - (iii) Day care and At-Risk- Gov/State entity
    - (iv) Day care and At-Risk- For Profit Independent
    - (v) Day care- For Profit
    - (vi) Day care- Non-Profit
    - (vii) At-Risk- School District
    - (viii) At-Risk- Non-Profit
    - (ix) Family Day Care Home Sponsor
- (g) Once the highest risk claims have been selected, the Director of CACFP/SFSP will notify each institution that they have been selected for a claim validation.
- (h) The list of claims/institutions will be forwarded to the CACFP staff who/ will assist in the collection of documentation and claims validation process. The Director of CACFP will assign CACFP Staff to conduct certain claim validations.
- (i) Institutions must be notified- the Director of CACFP and assigned CACFP Staff is responsible for contacting the institutions and tracking when documentation is received and filing accordingly.
- (1) Notification will be sent to institution in the form of an email, as well as a certified letter. Each institution will be given 3 business days to submit all requested documentation for the most recent claim in which they have submitted for reimbursement.

- (2) Alternative methods of submission will be offered if requested by the institution. SDE has multiple ways to receive secure files electronically, which will be offered as the need arises or if requested by the institution.
- (j) Collection and Receipt of Documentation- the Director of CACFP or assigned CACFP Staff is responsible for this process unless otherwise indicated. A Claim Validation Checklist will be used to record the status of documentation submission.
  - (1) The Director of CACFP or assigned CACFP Staff is responsible for collecting, tracking, and placing received documentation in the appropriate folders.
  - (2) Upon receipt, documentation is to be date stamped with the date received. If documents are received via email or by other electronic methods, all documents must be printed or saved in a secure file, along with a copy of the email in which the documents were sent.
  - (3) Compare the documents received to the documents requested to ensure all required documentation was received.
  - (4) Review records to ensure they are legible. For receipts, make sure that the entire receipt is intact and legible. If any of the documentation received are not legible or complete, contact the institutions to request that a complete and legible copy of the documentation be provided.
  - (5) Once a complete set of documents is received, place the documentation in a file and prepare for the claim validation process.
  - (6) If documentation was not received by the deadline, claims access for the institution will be removed and notice will be sent. Claims access will not be restored until the documentation has been received.
- (k) Claim Testing:
  - (1) Once an institution has submitted all required documentation and the file is ready for validation, locate and use the Claim Validation Checklist and Claim Validation Testing Instructions to test and verify the accuracy of the claim.
    - (i) If deemed necessary at any time during the claim testing, claims access will be removed.
  - (2) If CACFP staff other than the Director of CACFP/SFSP has completed the claim testing/verification, the folder is given to the Director of CACFP/SFSP for review.
    - (i) Note: If any errors found upon review, the file will be returned to the CACFP staff so that necessary changes can be made
- (l) Once complete, the institution and findings must be logged in the Claim Validation spreadsheet.
- (m) Findings:
  - (1) Claim Passed Validation-
    - (i) If applicable, claims access will be restored.
    - (ii) Notice will be sent to the institution that the claim has passed the validation process.
    - (iii) Notes will be made on the Business Maintenance Page.

(iv) Institution will not be selected for another validation for the remainder of the fiscal year.

(n) Overclaim:

- (1) If the invoices and other supporting documentation provided do not support the purchase of sufficient quantities of food and/or milk, or other paperwork is insufficient and does not support claim, an adjusted claim is required.
- (2) The Director of CACFP/SFSP will manually adjust the claim according to the correct numbers determined during the claim validation process.
- (3) In the event the error rate is 25% or more, the institution will be found Seriously Deficient (SD) and provided with opportunity to submit a Corrective Action Plan (CAP).
- (4) Formal notice of the overclaim will be sent to the institution via email and certified mail.
- (5) If applicable, a Notice of Serious Deficiency Letter will be sent to the institution, along with a request for a CAP. Requirements and deadline for the CAP will be detailed in the letter.
- (6) Submission of supporting documentation for future claims is required until SDE has determined the SD has been fully and permanently corrected.
- (7) Supporting documentation for the claims resulting from the CAP will be mailed or emailed to SDE for testing prior to claim submission.
- (8) Appeal rights will be included in the letter.
- (9) Letter will be sent via email and certified mail.
- (10) A copy of the letter will be placed in the institution file and a copy will be sent to SDE Legal as well as USDA.

(o) False or Altered Documents:

- (1) If false or altered documents are found during the claim validation process, the institution will be declared Seriously Deficient, provided with an opportunity to submit a CAP, and SDE will propose to suspend the institution.
- (2) When false or altered documents are submitted to support a claim, the entire claim will be considered an invalid claim. Invalid claims will be reclaimed.
- (3) A letter will be sent to the institution notifying them of the claim validation findings, the SD, and the proposed suspension. Requirements and deadline for the CAP will be detailed in the letter.
- (4) Submission of supporting documentation for future claims until SDE has determined the SD has been fully and permanently corrected.
- (5) Supporting documentation for the claims resulting from the CAP will be mailed or emailed to SDE for testing prior to claim submission.
- (6) Appeal rights will be included in the letter.
- (7) Letter will be sent via email and certified mail.

- (8) A copy of the letter will be placed in the institution file and a copy will be sent to SDE Legal as well as USDA.