

Documenting the Provision of Administrative Review Procedures to Family Day Care Home Providers



(For Family Day Care Sponsors)

WHEN A FAMILY DAY CARE HOME SPONSOR PROPOSES TO TERMINATE A DAY CARE HOME FOR CAUSE, THE FDCH PROVIDER MUST BE AFFORDED AN OPPORTUNITY FOR AN ADMINISTRATIVE REVIEW (APPEAL) OF THE PROPOSED TERMINATION. THE ADMINISTRATIVE REVIEW PROCEDURES MUST BE PROVIDED IN EACH OF THE FOLLOWING CIRCUMSTANCES:



ANNUALLY TO ALL DAY CARE HOME PROVIDERS (IF THESE ARE IN A SPONSOR'S HANDBOOK FOR PROVIDERS OR OPERATIONAL MANUAL, THE SPONSORING ORGANIZATION WILL STILL NEED TO, ANNUALLY, PROVIDE A WRITTEN NOTICE OF WHERE TO FIND THE PROCEDURES);



TO A DAY CARE HOME WHEN THE SPONSORING ORGANIZATION TAKES ANY ACTION SUBJECT TO AN APPEAL, SUCH AS SERIOUS DEFICIENCY NOTIFICATION OR SUSPENSION OF PARTICIPATION FOR SERIOUS HEALTH OR SAFETY VIOLATIONS;



ANY OTHER TIME UPON REQUEST **[7 CFR 226.6(l)(4)]**.

WHAT IS AN ADMINISTRATIVE REVIEW?

ADMINISTRATIVE REVIEW MEANS THE FAIR HEARING PROVIDED UPON REQUEST TO A DAY CARE HOME THAT HAS BEEN GIVEN A NOTICE OF PROPOSED TERMINATION FOR CAUSE.

WHAT ARE ADMINISTRATIVE REVIEW PROCEDURES?

SPONSORING ORGANIZATIONS MUST FOLLOW THE PROCEDURES DESCRIBED BELOW WHEN A DCH REQUESTS AN APPEAL:



UNIFORMITY – THE SAME PROCEDURES MUST APPLY TO ALL DCHs.



REPRESENTATION – THE DCH MAY REPRESENT HIM OR HERSELF, RETAIN LEGAL COUNSEL, OR MAY BE REPRESENTED BY ANOTHER PERSON.



REVIEW OF RECORD AND OPPOSITION – THE DCH MAY REVIEW THE RECORD ON WHICH THE SPONSORING ORGANIZATION'S DECISION WAS BASED AND REFUTE THE ACTION IN WRITING. THE HEARING OFFICIAL IS NOT REQUIRED TO HOLD AN IN-PERSON HEARING.



ADMINISTRATIVE REVIEW OFFICIAL – THE HEARING OFFICIAL MUST BE INDEPENDENT AND IMPARTIAL. THIS MEANS THAT, ALTHOUGH THE HEARING OFFICIAL MAY BE AN EMPLOYEE OF THE STATE AGENCY OR AN EMPLOYEE OR BOARD MEMBER OF THE SPONSORING ORGANIZATION, HE OR SHE MUST NOT HAVE BEEN INVOLVED IN THE ACTION THAT IS SUBJECT TO THE APPEAL OR HAVE A DIRECT PERSONAL OR FINANCIAL INTEREST IN THE OUTCOME OF THE APPEAL.



IF THE HEARING OFFICIAL IS AN EMPLOYEE OF THE SPONSOR, HE OR SHE MAY NOT OCCUPY A POSITION IN WHICH HE OR SHE IS POTENTIALLY SUBJECT TO UNDUE INFLUENCE FROM THE INDIVIDUAL RESPONSIBLE FOR THE SPONSORING ORGANIZATION'S ACTION, NOR MAY HE OR SHE OCCUPY A POSITION IN WHICH HE OR SHE MAY EXERCISE UNDUE INFLUENCE ON THE INDIVIDUAL RESPONSIBLE FOR THE ACTION.



THE PROVIDER MUST BE PERMITTED TO CONTACT THE HEARING OFFICIAL DIRECTLY IF HE OR SHE SO DESIRES.



BASIS FOR DECISION – THE HEARING OFFICIAL MUST MAKE A DETERMINATION BASED SOLELY ON THE INFORMATION PROVIDED BY THE SPONSORING ORGANIZATION AND THE DCH, AND THE FEDERAL AND STATE LAWS, REGULATIONS, POLICIES, AND PROCEDURES GOVERNING THE PROGRAM.



TIME FOR ISSUING A DECISION – THE HEARING OFFICIAL MUST INFORM THE SPONSORING ORGANIZATION AND THE DCH OF THE APPEAL'S OUTCOME WITHIN THE PERIOD OF TIME SPECIFIED IN THE SPONSORING ORGANIZATION'S APPEALS PROCEDURES. THIS TIMEFRAME IS AN ADMINISTRATIVE REQUIREMENT FOR THE SPONSORING ORGANIZATION, AND MAY NOT BE USED AS A BASIS FOR OVERTURNING A TERMINATION IF A DECISION IS NOT MADE WITH THE SPECIFIED TIMEFRAME.



FINAL DECISION – THE DETERMINATION MADE BY THE HEARING OFFICIAL IS THE FINAL ADMINISTRATIVE DETERMINATION TO BE AFFORDED THE DCH **[7 CFR 226.6(l)]**.

I certify that I understand and will ensure compliance with the Child and Adult Care Food Program administrative review procedures requirements.

Name _____ **Date** _____

Title _____

(Signer must be Executive Director or Person with final responsibility of CACFP operations.)