

Summer Food Service Program (SFSP)

Seriously Deficient Process

General

This purpose of this procedure is to comply with the federal regulations at 7 CFR Part 225.11(c). If any part of this procedure conflicts with the regulations or memoranda issued by the U.S. Department of Agriculture, the federal regulations and memoranda shall take precedence.

The West Virginia Department of Education (WVDE) will afford a sponsoring agency reasonable opportunity to correct program violations before terminating the sponsor for being seriously deficient. The WVDE may approve the application of a sponsoring agency which has been disapproved or terminated in prior years if the sponsoring agency demonstrates to the satisfaction of the WVDE that it has taken appropriate corrective actions to prevent recurrence of the deficiencies.

Notice of Serious Deficiency

The WVDE will issue a Notice of Serious Deficiency when serious deficiencies are identified. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

1. Noncompliance with the applicable bid procedures and contract requirements;
2. The submission of false information to the WVDE;
3. Failure to return to the WVDE any advance payments which exceeded the amount earned for serving meals, or failure to submit all claims for reimbursement in any prior year, provided that the failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph; and
4. Program violations at a significant proportion of the sponsor's sites. Such violations include, but are not limited to, the following:
 - (a) Noncompliance with the meal service time restrictions;
 - (b) Failure to maintain adequate records;
 - (c) Failure to adjust meal orders to conform to variations in the number of participating children;

- (d) The simultaneous service of more than one meal to any child;
- (e) The claiming of program payments for meals not served to participating children;
- (f) Service of a significant number of meals which did not include required quantities of all meal components;
- (g) Excessive instances of off-site meal consumption; and
- (h) Continued use of food service management companies that are in violation of health codes.

Corrective Action

Whenever the WVDE observes violations during the course of a site review, it will require the sponsoring agency to take corrective action. If high levels of meal service violations are found, the WVDE will immediately require a corrective action plan to be followed by the sponsor and will either conduct a follow-up visit or in some other manner verify that the required corrective measures have been fully implemented.

Termination Notice

If serious deficiencies are not fully and permanently corrected within the time period identified by the WVDE, a termination notice will be issued to the sponsor agency. The termination notice will specify if a feeding site or the sponsor is the subject of the action.

The WVDE will immediately issue a termination notice for a sponsor's site if it is determined that the health or safety of the participating children is imminently threatened.

Participating sponsors and sites may continue to operate the program during an appeal of termination, and if the appeal results in overturning the WVDE's action, reimbursement will be paid for the meals served during the appeal process. However, such continued program operation will not be allowed if the WVDE's action is based on imminent dangers to the health or safety of the children. The determination by the WVDE appeals official will be the final administrative determination to be afforded to the appellant.