

## **Yours for Children, Inc. Provider Appeal Procedures**

A provider's agreement will be terminated for cause when the provider has been declared seriously deficient and has not taken action to fully and permanently correct the serious deficiency within the allotted time. However, in cases in which the serious deficiency is related to health or safety issues, YFCI will initiate action to terminate the provider's agreement without first providing an opportunity for corrective action.

Examples of serious deficiencies which, if not corrected, will result in the provider's termination for cause include:

- \* threat to health of safety of participants and/or engaging in activities that threaten the public health or safety
- \* misrepresentation of information submitted on the application
- \* submission of false claims for reimbursement
- \* simultaneous participation under more than one sponsoring organization
- \* non-compliance with CACFP meal pattern
- \* failure to keep required records
- \* any other circumstance related to non-performance under the sponsor-provider agreement, as specified by YFCI or Department of Elementary and Secondary Education (ESE).

### Administrative Review (Termination Appeal Process)

All day care homes that have been given notice of intent to terminate for cause have the right to request an administrative review. An administrative review is a process by which an impartial Hearing Officer reviews information provided by the sponsor and the day care home to determine if the sponsor procedures were followed and within the Federal and State laws, regulations, policies and procedures governing the CACFP. The procedure for administrative review follows:

1. YFCI shall notify the provider in writing of its intent to terminate the provider's participation along with a summary of the basis for the action. The written notification will:
  - a. Inform the provider that she/he may request an administrative review of the proposed termination;
  - b. Give the provider the procedures for seeking an administrative review;
  - c. Inform the provider that, if terminating for cause occurs, the provider will be placed on the National Disqualified List; and
  - d. Inform the provider that she/he may continue to participate in the CACFP and receive CACFP reimbursement for eligible meals served until her/his administrative review is completed, unless CACFP participation has been suspended because the serious deficiency is related to health and safety issues.

A copy is sent to ESE. YFCI shall send termination notices to the provider by Certified Mail, Return Receipt Requested. If this notice is undeliverable, it is considered to be received by the day care home five days after being sent to the addressee's last known mailing address.

2. If the provider wishes to appeal the proposed termination, she/he shall have no more than seven (7) calendar days from receipt of the Proposed Termination and Disqualification notice to submit a written request to YFCI for an administrative review. The provider shall have the option of selecting a formal hearing or review of the record. The provider must indicate her/his choice for type of review in her/his written request for an administrative review.
  - (a) Formal hearing shall mean the opportunity to appear before the Hearing Officer in person for an administrative review of the proposed termination. *Note: during the current COVID-19 pandemic and State social distancing requirements, this hearing will be completed off-site/virtually using a ZOOM meeting format.*
  - (b) Review of the record shall mean the provider has the opportunity to refute the proposed termination in writing. The provider submits written information to the Hearing Officer. The Hearing Officer then reviews the written records.
3. Failure to submit a review request to YFCI within the allotted time or failure to respond shall result in YFCI terminating the provider. The effective date of termination would then be 7 calendar days from the notice of intent to terminate or the date of EEC suspension or termination for health or safety reasons. Any provider seeking to voluntarily terminate her/his agreement after receiving the notice of intent to terminate will still be terminated for cause and placed on the National Disqualified List.
4. If the provider makes a timely request for a hearing, YFCI shall notify the provider of the date and time for the hearing or review of the record. The formal hearing or review of the record shall be no more than twenty-eight (28) calendar days following receipt of the request unless both parties agree to an extension.
5. The provider may continue to participate and receive reimbursement for valid and eligible meals served until the administrative review is concluded, unless CACFP participation has been suspended because the serious deficiency is related to health and safety issues. If YFCI has determined that continued participation in the program would pose an imminent danger to the health or welfare of children, the provider would not be allowed to continue his/her participation and will be so notified.
6. YFCI shall appoint a person to hear the appeal or conduct the record review. This person shall be known as the Hearing Officer. The Hearing Officer shall be independent and not involved in the decision to propose to terminate the provider's agreement. The Hearing Officer must be "independent and impartial" in the sense that he or she was not involved in the proposed termination and does not have a direct personal or financial stake in the outcome of the administrative review.

The Hearing Officer for YFCI is Ms. Rosalia Flores, YFCI Board member.
7. A provider may retain legal counsel, or may be represented by another person.

8. REVIEW FORMATS:

(a) FORMAL HEARING:

At least fourteen (14) calendar days before the hearing, YFCI shall furnish the provider and the Hearing Officer a list of all exhibits and witnesses it intends to present at the hearing. At least seven (7) calendar days before the hearing the provider shall furnish to YFCI and the Hearing Officer a list of all exhibits and witnesses the provider intends to present at the hearing. The Hearing Officer has the discretion to exclude from evidence any exhibits and witnesses not disclosed before the hearing. YFCI will present all evidence, documents and witnesses first. The provider may then present whatever additional evidence he or she may have. The provider may present both documentary evidence and testimony.

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(b) REVIEW OF THE RECORD:

The provider shall furnish the Hearing Officer any written documentation they wish to have included in the review of the record at least fourteen (14) calendar days before the record review. YFCI shall furnish the Hearing Officer with all the written documentation for review at least fourteen (14) calendar days before the record review. The Hearing Officer has the discretion to exclude from evidence any documentation not submitted prior to the designated date.

9. The Hearing Officer shall make the final determination regarding the proposed termination. The Hearing Officer shall state such determination in a written report, which is mailed to the provider. This determination shall be no more than seven (7) calendar days following the hearing or record review date. The report shall contain a summary of the evidence presented at the hearing, or a summary of the review of the record. The report shall also contain a summary of the arguments made both for and against termination. If the Hearing Officer upholds the proposed termination, the effective date of the termination shall be immediate and coincide with the date of the final report.