

WYOMING DEPARTMENT OF EDUCATION-APPEAL PROCEDURE

The Wyoming Department of Education established the following appeal procedures so that an institution may request a review of a denial of an institution's application for participation, a denial of an application submitted by a sponsoring organization on behalf of a facility, a termination of the participation of an institution or facility, a suspension of an institution's agreement, a denial of an institution's application for start-up payments, a denial of all or a part of the claim for reimbursement, (except for late submission under § 226.10(e), a denial by the State agency to forward to FNS an exception request by the institution or sponsoring organization for payment of a late claim or a request for an upward adjustment to a claim, demand for the remittance of an overpayment, and any other action of the State agency affecting the participation of an institution in the Program or the institution's claim for reimbursement.

1. The institution shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the institution has the right to appeal the action.
2. The written request for review shall be filed by the appellant not later than 15 calendar days from the date the appellant received the notice of action, and the State shall acknowledge the receipt of the request for appeal within 10 calendar days.
3. The appellant may refute the charges contained in the notice of action in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice of action. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official.
4. If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.
5. Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review.
6. The review official shall be independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section.
7. The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations.

8. Within 60 calendar days of the State agency's receipt of the request for review, the review official shall inform the State agency and the appellant of the determination of the review.
9. The State agency's action shall remain in effect during the appeal process. However, participating institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent dangers to the health and welfare of children. If the institution or facility has been terminated for this reason, the State agency shall so specify in its notice of action. Institutions electing to continue operating while appealing terminations shall not be reimbursed for any meals served during the period of the appeal if the State agency's action is upheld: and
10. The determination by the State review official is the final administrative determination to be afforded to the appellant.
11. Appeals shall not be allowed on decisions made by FNS on requests for exceptions to the claims submission deadlines stated on § 226.10(e) or requests for upward adjustments to claims.
12. In cases where an appeal results in the dismissal of a claim against an institution which was asserted by the State agency based upon Federal audit findings. FNS may assert a claim against the State agency in accordance with the procedures outlined in § 226.14(c).
13. Abbreviated Appeals Procedure 7CFR226.6 (9)-The state agency must limit the appeals to a review of written submissions concerning the accuracy of the State Agency's determination if the application was denied or the State agency proposes to terminate the institution's agreement because:

The information submitted on the application was false

The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list

The institution, one of its sponsored facilities, or one of the principals 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.

The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity.

Designated Appeal Official

Director
Wyoming Department of Education
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Cheyenne, Wyoming 82002-0050