

## Appeal Procedures for School Nutrition Programs

### Purpose

The purpose of this policy is to implement the School Nutrition Programs Appeal Procedures found in 7CFR 210.18(p). Included are procedures and deadlines that School Food Authorities (SFAs) must use to file appeals regarding fiscal action taken in the School Nutrition Programs. The Vermont Agency of Education has a separate document outlining procedures for appeals of decisions to withhold funds, “Child Nutrition Programs Withholding Procedure for School Nutrition Programs Administrative Reviews”.

### Legal Requirements

Laws and regulations that serve as the basis for this policy include:

- The National School Lunch Act
- The Child Nutrition Act
- 7 CFR 210, 7 CFR 215, 7 CFR 220, 7 CFR 245
- School Food Authority (SFA) appellants are assured of a fair and impartial hearing before an independent official at which they be represented by legal counsel. Decisions are rendered in a timely manner not to exceed 120 days from the date of the receipt of request for review. SFAs are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend in person, and adequate notice is given of the time, date, place, and procedures of the hearing.

### Appeal Procedures

1. Written request for review shall be filed with the State Director, Child Nutrition Programs, Vermont Agency of Education, 1 National Life Drive, Davis 5, Montpelier, VT 05620-2501, no later than 15 calendar days from the date the SFA received notice of fiscal action.
2. The State agency shall acknowledge the receipt of the request for appeal within 10 calendar days.
3. The SFA may refute the action specified in the notice in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official no more than 30 calendar days after the SFA received the notice of fiscal action.

4. The SFA may retain legal counsel or may be represented by another person.
5. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the SFA only if the SFA so specifies in the letter of request for review.
6. Failure of the SFA's representative to appear at a scheduled hearing shall constitute the SFA'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 SFA's testimony and to answer questions posed by the review official.
7. If a hearing is requested, the SFA shall be provided with at least 10 calendar days advance written notice of the time, date, and place by email.
8. Any information on which the State agency's action was based shall be available to the SFA from the date of receipt of the request for review.
9. The review official shall be an 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 in 7CFR 210.18(p).
10. Any information on which the State agency's action was based shall be available to the SFA for inspection as of the date of receipt of the request for review.
11. The review official shall make a determination based on information provided by the State agency and the SFA, and on program regulations.
12. 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 SFA of the determination of the review official, by written notice, sent by email. The final determination shall take effect upon receipt of the written notice of the final decision by the School Food Authority.
13. The State agency's action shall remain in effect during the appeal process.
14. The determination by the State review official is the final administrative determination to be afforded to the SFA.

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To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
2. **fax:**  
(833) 256-1665 or (202) 690-7442; or
3. **email:**  
[Program.Intake@usda.gov](mailto:Program.Intake@usda.gov)

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