

**Prototype Letter 21: Notice of Serious Deficiency, Suspension, and Proposed Termination and Disqualification for Providers (Combined notice, health threat)**

*[Note: Send this letter by certified mail/return receipt, an equivalent private delivery service (such as FedEx), fax, or e-mail as required by 7 CFR 226.2, definition of “notice” in the regulations.]*

Date

Provider Name

Provider Street Address

Provider City, State 00000

Dear [Provider]:

This letter concerns the [brief description of the basis for the serious deficiency determination – review, audit, etc. and date] of your operation of the Child and Adult Care Food Program (CACFP).

**SERIOUS DEFICIENCY DETERMINATION**

Based on the [review/audit/etc.], [sponsoring organization] have determined that you are seriously deficient in your operation of the CACFP.

**SUSPENSION**

One of the serious deficiencies identified is the imminent threat to the health or safety of CACFP participants or the public (for details, see the description of the serious deficiencies later in this letter). Because of this imminent risk, the sponsoring organization is suspending your CACFP participation (including all Program payments).

The suspension of CACFP participation (including all Program payments) will take effect on the date of this letter. This action is being taken pursuant to 7 CFR 226.16(l)(4) of the CACFP regulations.

**PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION**

As a result, we propose to:

- Terminate your agreement to participate in the CACFP for cause effective [date], and
- Disqualify you from future CACFP participation effective [date].

*The effective date for the termination/disqualification must be after the deadline for requesting an appeal. In addition, the effective date for the disqualification should generally be the same as the agreement termination date, and not earlier; otherwise, the provider could be disqualified and ineligible to participate before the agreement is terminated.*

If you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, you will be placed on the National Disqualified List (NDL). While on the list, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility.

You will remain on the list until the until USDA's Food and Nutrition Service, in consultation with the [State agency] and [Sponsoring Organization] determines that the serious deficiencies have been corrected or until seven years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt is repaid.

These actions are being taken pursuant to 7 CFR 226.16(l) of the CACFP regulations.

### **SERIOUS DEFICIENCIES**

The following paragraphs detail each serious deficiency. *[Insert discussion of serious deficiencies. Each serious deficiency discussed must include a citation for the relevant serious deficiency in the regulations at 7 CFR 226.16(l)(2). If the serious deficiency is not specifically listed, cite: 7 CFR 226.16(l)(2)(ix), any other circumstance related to non-performance under the sponsoring organization-day care home agreement.]*

### **APPEAL OF SUSPENSION, PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION**

You may appeal the suspension, the proposed termination of your Program agreement for cause, and your proposed disqualification. A copy of the appeal procedures is enclosed. If you choose to appeal the proposed actions, follow the appeal procedures exactly as failure to do so may result in the denial of your request for an appeal.

### **SUMMARY**

The sponsoring organization is suspending your CACFP participation (including all Program payments). In addition, the sponsoring organization is proposing to terminate your agreement for cause and to disqualify you.

The suspension will remain in effect during the period of any appeal. However, if you request an appeal and the hearing official overturns the suspension all valid claims for

reimbursement submitted by you for the period of the suspension will be paid. As always, the sponsoring organization will deny any portion of a claim that is determined to be invalid.

If you appeal the proposed termination and disqualification, these actions will not take effect until the hearing official issues a decision. If you do not make a timely request for an appeal, your agreement will be terminated for cause on *[date]*. You will be disqualified from future CACFP participation and your name placed on the NDL.

Sincerely,  
Sponsoring Organization Employee Name and Title

Enclosure: Appeal Procedures

cc: State Agency