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|  | (Institution Name) |  | (CACFP Agreement Number) |  |

**PURPOSE**

The purpose of this procedure is to outline the steps and requirements for Administrative Reviews for sponsoring organizations of day care homes. Sponsoring organizations and day care home providers must act in accordance with all policies and procedures set forth by the State of North Carolina, the Department of Health and Human Services, the Division of Public Health and CFR 226 pertaining to Serious Deficiency Notices for Sponsoring Organizations of day care homes.

**DEFINITION**

*Administrative review* means the fair hearing provided upon request to:

* An institution that has been given notice by the State agency of any action or proposed action that will affect their participations or reimbursement under the program;
* A principal or individual responsible for an institution’s serious deficiency after the responsible principal or responsible individual has been given a notice of intent to disqualify them from the program; and
* A day care home that has been given a notice of proposed termination for cause.

*Termination for Cause* means the termination of a day care home’s Program agreement by the sponsoring organization due to the day care home’s violation of the agreement.

**ACTIONS SUBJECT TO ADMINISTRATIVE REVIEW**

The sponsoring organization must initiate action to terminate the agreement of a day care home for cause if the sponsoring organization determines the day care home has committed one or more serious deficiencies listed. Serious deficiencies for day care homes are:

1. Submission of false information on the application;

2. Submission of false claims for reimbursement;

3. Simultaneous participation under more than one sponsoring organization;

4. Non-compliance with the Program meal pattern;

5. Failure to keep required records;

6. Conduct or conditions that threaten the health or safety of a child(ren) in care, or the public health or safety;

7. A determination that the day care home has been convicted of any activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by the State agency, or the concealment of such a conviction;

8. Failure to participate in training; or

9. Any other circumstance related to non-performance under the sponsoring organization-day care home agreement, as specified by the sponsoring organization or the State agency.

**ACTIONS NOT SUBJECT TO ADMINISTRATIVE REVIEW**

By federal rule, neither the State agency nor the sponsoring organization is required to offer

administrative review for reasons other than those listed:

 1. When a sponsoring organization proposes to terminate its Program agreement with a day care home for cause, the day care home is provided an opportunity for an administrative review of the proposed termination.

2. The State Agency or sponsoring organization must offer an administrative review to a day care home that appeals a notice of intent to terminate their agreement for cause or a suspension of their participation.

**PROVISION OF ADMINISTRATIVE REVIEW PROCEDURES TO DAY CARE HOMES**

The administrative review procedures must be provided:

1. Annually to all day care homes;

2. To a day care home when the sponsoring organization takes any action subject to an administrative review;

3. Any other time upon request.

**PROCEDURES**

The sponsoring organization must follow procedures when a day care home requests an administrative review of any action subject to an administrative review.

**1. Uniformity**

 The same procedures must apply to all day care homes.

**2. Representation**

The day care home may retain legal counsel or may be represented by another person.

**3. Review of record and opposition**

The day care home may review the record on which the decision was based and refute the action in writing. The administrative review official is not required to hold a hearing in person.

**4. Administrative review official**

The administrative review official must be independent and impartial. This means that, although the administrative review official may be an employee of the State agency or an employee or board member of the sponsoring organization, he/she must not have been involved in the action that is the subject of the administrative review or have a direct personal or financial interest in the outcome of the administrative review.

**5. Basis for Decision**

The administrative review official must make a determination based only on the information provided by the sponsoring organization and by the day care home and on Federal and State laws, regulations, policies, and procedures governing the Program.

**6. Time for issuing a decision**

The administrative review official must inform the sponsoring organization and the day care home of the administrative review’s outcome within the period of time specified in the sponsoring organization’s administrative review procedures. This timeframe is an administrative requirement for the sponsoring organization and may not be used as a basis for overturning the termination if a decision is not made within the specified timeframe.

**7. Final decision**

The determination made by the administrative review official is the final administrative determination to be afforded the day care home.

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| **INSTITUTION INFORMATION** |
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|  | (Print Name of Authorized Representative) |  | (Title of Authorized Representative) |  |
|  |       |  |       |  |
|  | (Signature of Authorized Representative) |  | (Date) |  |
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