

**Division of Child Care and Early Childhood Education Health and Nutrition Unit Procedure**

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| **Procedure Name:** | Suspension of Family Day Care Homes for Health and Safety Violation | | | | | |
| **Section #:** |  | **Section Title:** | Review/Monitoring Procedures | | **Formerly Book:** | N/A |
| **Approval Authority:** | HNU Director | | **Adopted:** | 03/06/2019 | **Reviewed:** | 03/06/2019 |
| **Responsible Executive:** | HNU Administrator | | **Revised:** | 6/26/2019 | **Forms:** | N/A |
| **Responsible Office:** | DCCECE-HNU | | **Contact:** | Review Team Program Managers | | |

# Procedural Statement

This procedure has been developed to ensure the Sponsoring Organizations (SO) initiate prompt action to suspend any family day care home (FDCH) agreement to operate the Child and Adult Care Food Program (CACFP) which have been cited for health or safety violations. The SO must initiate prompt action to disqualify the FDCH and the responsible individuals based on the reports from the health department, licensing officials, law enforcement, and/or other compliance agencies.

# Reason for Procedure

To provide DCCECE-HNU and SO staff with the process to handle health or safety cited violations for FDCHs.

# Who Should Read this Procedure

All DCCECE-HNU staff.

Sponsoring Organizations

# Resources/Forms

* + 7 CFR § 226.16 (l)(4)(iv)
  + 7 CFR § 226.18(b)(15)
  + CACFP 13-2013, Health and Safety USDA MEMO- Child and Adult Care Food Program

<https://fns-prod.azureedge.net/sites/default/files/cacfp/CACFP13-2013os.pdf>

# Definitions

**CACFP**

Child and Adult Care Food Program

**DCCECE**

Division of Childcare and Early Childhood Education

**FDCH**

Family Day Care Home provider

**HNU**

Health and Nutrition Unit

# SO

Sponsoring Organization

**SA**

State Agency

# Procedures

If State or local health or licensing officials cite a FDCH for serious health or safety violations, the sponsoring organization must take action when it learns of the concerns, even though the licensing agency has not yet taken formal action to revoke the FDCH’s licensure or approval.

Even if the proper authorities indicate that it is safe for the monitor to leave a FDCH while they conduct further investigation or inquiry, the monitor and sponsoring organization should still initiate a suspension and the serious deficiency process. Sponsoring organizations are expected to take immediate action to stop payments and suspend the FDCH’s CACFP participation and declare the FDCH seriously deficient, regardless of any formal procedures pending or underway by the licensing authorities to revoke the FDCH’s license or approval [CACFP 13-2013, Health and Safety in the Child and Adult Care Food Program, July 26, 2013].

# If the sponsoring organization determines that there is an imminent threat to the health or safety of participants at a FDCH, or that the FDCH has engaged in activities that threaten public health or safety, the sponsoring organization must immediately notify the appropriate State or local licensing and health authorities. If the licensing agency cannot make an immediate onsite visit, the sponsoring organization will take action that is consistent with the recommendations and requirements of the licensing agency.

1. Once a health or safety threat has been established, a combined Notice of Action for Serious Deficiency/Suspension/Proposed Termination and Disqualification is sent by the SO to the FDCH provider and any other Responsible Individuals. The Notice of Action includes the suspension of all CACFP program payments. The notice will communicate the seriously deficient findings and the proposal to terminate and to disqualify the facility or FDCH. An Institution’s participation must be suspended if it poses an imminent threat to the health or safety of program participants or the public. The combined Notice of Action of Serious Deficiency/Suspension/Proposed Termination and Disqualification letter is sent to AR DHS DCCECE and the FDCH provider and must specify:
   1. The serious deficiency(ies) found;
   2. The Imminent health and safety citation information;
   3. The SO is suspending the facility or FDCH’s participation (including program payments), proposing to terminate the FDCH’s agreement to operate the CACFP, and proposing to disqualify the FDHC and the responsible individuals;
   4. The FDCH has an opportunity to appeal the proposed termination by the SO.
   5. The serious deficiency is not subject to an appeal;
   6. Participation, including all program payments, is suspended until the appeal is concluded;
   7. That, if the appeal official overturns the proposed termination and disqualification suspension, the FDCH may claim reimbursement for eligible meals served during the suspension period;
   8. Termination from the program will result in the facility or FDCH being placed on NDL;
   9. The voluntary termination disclaimer will be included on the Notice of Action. That, if the FDCH voluntarily terminates its agreement with the SO after having been notified of the proposed termination, the FDCH and responsible individuals will still be disqualified and placed on the NDL.
2. The sponsoring organizations are required to immediately suspend the FDCH’s participation and payments and propose to terminate its participation if the license is revoked for imminent threat or safety reasons. There is no opportunity to correct a serious deficiency on imminent threat or safety reasons.
3. Program payments are suspended until the appeal is completed. A sponsoring organization is prohibited from making any Program payments to a DCH that has been suspended until any appeal of the proposed termination is completed. If the suspended DCH prevails in the appeal of the proposed termination, the sponsoring organization must reimburse the DCH for all eligible meals served during the suspension period that are properly documented [7 CFR 226.16(l)(4)(iv)]. If the provider loses the appeal, payments are not to be made to the provider.
4. The sponsoring organization immediately informs the State agency and forwards all letters and all steps taken by the SO through the process of suspension for health and safety violation to the AR DHS DCCECE.
5. After the notice is finalized and received. The appeal procedures can be implemented. The serious deficiency is not subject to administrative review.
6. If the FDCH provider requests and appeal and subsequently loses that appeal, the sponsoring organization will immediately terminate the FDCH agreement and disqualify the FDCH when the hearing official upholds the sponsoring organization’s suspension, proposed termination, and proposed disqualification. During this time, the notice of termination and disqualification will be issued to the FDCH to confirm termination from the program, and National Disqualification confirmation. The notice must be sent to the SA at the same time it is sent to the FDCH provider.
7. If a request for an appeal is not submitted by the FDCH provider, the SO will immediately terminate the FDCH provider’s agreement and disqualify the FDCH provider when the opportunity to request an appeal expires. During this time, the notice of termination and disqualification will be issued to confirm termination from the program and National Disqualification confirmation. A notice should be sent to the SA at the same time it is sent to the provider.
8. If the FDCH requests an appeal and the hearing official overturns the sponsoring organization’s action to suspend the FDCH, the SO must temporarily defer the serious deficiency and withdraw the suspension. The SO must reimburse the FDCH provider for all eligible meals served during the suspension period based on proper documentation. A notice must be sent to the SA at the same time it is sent to the provider.
9. The SA tracking log will be updated during each stage of the SD/suspension. The SA will report the name of the terminated and disqualified FDCH provider to FNS Regional Office within 10 days of receipt from the sponsoring organization after the FDCH provider has been terminated for cause, placing his or her name on the National Disqualified List.