

Prototype Letter 17: Notice of Proposed Termination and Proposed Disqualification for Providers

[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 [date] Notice that you are seriously deficient in your operation of the Child and Adult Care Food Program (CACFP).

On [date], we received the documentation detailing the actions taken to correct these serious deficiencies *[Insert if applicable: We conducted a follow-up review on [date] to verify the adequacy of the corrective actions.]*

Based on our review of the documentation *[insert if applicable: and the follow-up review]*, we have determined that you have not fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice.

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 NDL, 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 NDL until USDA's Food and Nutrition Service, in consultation with the [State agency], 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.

STATUS OF SERIOUS DEFICIENCIES

The following paragraphs detail each serious deficiency and its status based on our review of the corrective action documentation [*insert if applicable: and the [date] followup review*].

Insert discussion of each serious deficiency and the reasons why corrective action was inadequate (the corrective action may be adequate for some items and not for others; make sure you specify the status of the corrective action for each serious deficiency). 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 nonperformance under the sponsoring organization-day care home agreement.]

APPEAL OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATIONS

The proposed termination of your agreement for cause and your disqualification may be appealed. 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

You have not fully and permanently corrected the serious deficiencies identified in the Serious Deficiency Notice. For this reason, the [sponsoring organization] is proposing to terminate your CACFP agreement for cause and to disqualify you.

If you appeal the proposed termination and disqualification, the 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 effective [date] and placed on the NDL. You may continue to participate in the CACFP until [termination/disqualification effective date] or, if you appeal the proposed actions, until the hearing official issues a decision on the appeal. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

Sincerely,
Sponsoring Organization Employee Name and Title
Enclosure: Appeal Procedures

cc: State Agency