

Prototype 15: Notice of Serious Deficiency Notice 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 [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.], the [sponsoring organization] has determined that you are seriously deficient in your operation of the CACFP. If you do not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by [date], we will propose to:

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

If you voluntarily terminate your agreement after receiving this letter, we will propose to disqualify you from future CACFP participation. If disqualified, the [provider] 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 we determine 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 has been repaid.

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

SERIOUS DEFICIENCIES AND REQUIRED CORRECTIVE ACTION

The following paragraphs detail each serious deficiency and the corrective action required. *[Insert discussion of serious deficiencies and required corrective action. 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.]*

SUMMARY

We have determined that you are seriously deficient in your operation of the CACFP. Documentation showing the corrective action for each of the serious deficiencies cited in this letter is required. The documentation must be received (not just postmarked) by *[corrective action deadline]*. *Different deadlines for different serious deficiencies may be established.*

If we do not receive the documentation of your corrective action by *[date]*, or if we determine that the actions taken do not fully and permanently correct all of the serious deficiencies, we will propose to terminate your CACFP agreement for cause and disqualify you.

You may not appeal the serious deficiency determination. However, if we propose to terminate your agreement for cause and disqualify you, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

You may continue to participate in the CACFP during the corrective action period. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

[Insert if applicable: If we receive the documentation of your corrective action by the due date and determine that it fully and permanently corrects all of the serious deficiencies, we will then conduct an unannounced follow-up review to verify the adequacy of the corrective action.]

If we find in *[insert if applicable: the follow-up review or]* any subsequent review that any of these serious deficiencies have not been fully and permanently corrected, we will immediately propose to terminate your agreement for cause and disqualify you without any further opportunity for corrective action.

Sincerely,
Sponsoring Organization Employee Name and Title
cc: State Agency