



United States
Department of
Agriculture

Food and
Nutrition
Service

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SUBJECT: Guidance on Multiple Terminations and Disqualification of
CACFP Institutions

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum clarifies the Child and Adult Care Food Program (CACFP) termination process and provides guidance on steps that can be taken if additional information becomes available subsequent to the termination of an institution. While managing the CACFP National Disqualified List (NDL) at the Food and Nutrition Service (FNS) National Office (NO), it has been observed that some CACFP State agencies (SA) are terminating the same institution after the institution is initially placed on the NDL. After each termination, information is submitted to the NO for placement on the NDL. As a result, the NDL records contain multiple termination/disqualification entries for the same institution with different effective dates.

When a child care institution is terminated and disqualified, the serious deficiencies (SD) that caused the action are listed on the CACFP Report of Disqualification. Once an institution has been disqualified and placed on the NDL, the institution no longer has an agreement with the SA and is not subject to the requirements of the CACFP. Therefore, the institution may not be terminated and disqualified multiple times because the institution's Program agreement has already been terminated by the SA. Any SD information regarding non-compliant Program issues subsequent to the original termination does not affect the NDL status. If a SA is aware of other potential program deficiencies related to a financial audit or other program requirement, it is strongly encouraged to consolidate all deficiencies prior to implementing the SD process without significant delay.

SAs should update the SA list required by § 226.6(c)(8) to include SDs and potential debts that are identified after the original termination. This will enable the SA to ensure that the institution has implemented systems and internal controls to resolve all known SDs prior to reapplication and potential reinstatement.

To be considered for removal from the NDL prior to the seven year regulatory timeframe, an institution must repay any established debts and demonstrate, to the concurrence of the SA and FNS, that full and permanent corrective action has been implemented to resolve

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the SDs that caused the termination. Upon removal from the NDL, the institution may reapply for Program participation. In reviewing an institution's application, any SDs identified after the termination should be considered as part of the application approval process even though those SDs did not contribute to the termination since the institution must demonstrate compliance with CACFP regulations listed in 226.6(b)(1)(xvii); that is, with viability, capability, and accountability.

Before approving an application for a new and/or renewing institution, SAs must ensure that the institution is not listed on the NDL. If so, the institution must be held accountable to its NDL status even if the institution changed its name or moved to another location. Removal from the NDL is required prior to reapplying for CACFP participation; this includes for-profits that have changed ownership. In the case of a debt being identified after termination and disqualification, the SA must inform the Regional Office (RO) who will forward the information to the Child Nutrition Division (CND). Further, in the case of a new institution occupying a facility previously owned by a disqualified institution, prior to approving an application for participation, the SA should contact the RO for further guidance.

SAs should direct any questions concerning this memorandum to the appropriate FNS RO. ROs with questions should contact CND.

Original Signed

Cindy Long

Director

Child Nutrition Division