



School Food Authority Appeal Procedure for the Administrative Review

The following NSLP Administrative Review procedures include notification, request, and procedure for a hearing in accordance with Federal regulation.

A. PURPOSE

Sponsors of the NSLP may request a review of Administrative Review findings that result in:

- The denial of all or part of a claim for reimbursement; or
- Withholding of reimbursement payments arising from initial or follow-up Administrative Review activity.

B. PROCEDURE

Notification, request, and procedure for hearing:

1. Whenever the Arizona Department of Education (ADE) takes action that is subject to review as described in (A) above, ADE will provide the sponsor a written notice that details the action and the basis for the action, and advise the sponsor of its right to an appeal.
2. A written request for review must be submitted to ADE no later than 15 calendar days from the date the sponsor return receipt requested.

Deputy Associate Superintendent, Health and Nutrition Services
Arizona Department of Education
1535 West Jefferson Street, Bin #7
Phoenix, Arizona 85007

The Deputy Associate Superintendent will forward the request to the review official.

3. ADE shall acknowledge receipt of the request for an appeal within ten calendar days after receipt.
4. The sponsor may refute the action specified in the notice, described in Section (B)(1), in person and by written documentation. In order to be considered, written documentation must be filed by the sponsor and ADE with the review official and must be exchanged between ADE and the sponsor no later than 30 calendar days after the sponsor receives the notice. Written documentation must clearly identify the ADE action being reviewed and must include a photocopy of the notice of action issued by ADE.

5. The sponsor may retain legal counsel or may be represented by another person. A representative of ADE and legal counsel, if desired, must be allowed to attend the hearing to respond to the testimony presented by the sponsor and to answer questions posed by the review official.
6. The review official will hold a hearing in addition to, or instead of, a review of written information submitted by the sponsor only if the sponsor requests a hearing in the written request for review. Failure to appear at a scheduled hearing will constitute the sponsor's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing.
7. If a hearing is requested, the sponsor and ADE must be provided with at least 10 calendar days advance written notice of the time, date, and place of the hearing. The notice to the sponsor must be sent by certified mail, return receipt requested.
8. Any information on which ADE's action was based will be available to the sponsor for inspection from the date of receipt of the request for review.
9. The review official shall be independent and impartial, but may be an employee of ADE, although he/she must not have been involved in the action that is the subject of the appeal or be accountable to any person authorized to make decisions that are subject to review as described in Section (A). The sponsor is permitted to contact the review official directly if so desired.
10. The review official must make a determination based solely on information provided by ADE, the sponsor, and based on Federal and State laws, regulations, policies, and procedures governing the program. The review official will not base the decision on arguments made by legal counsel or the sponsor's representative, nor may legal counsel offer testimony on behalf of the sponsor or ADE.
11. Within 60 calendar days from the date ADE receives a request for review, the review official must inform ADE and the sponsor of the review determination. The final decision shall be sent to the sponsor by certified mail, return receipt requested. The final determination shall take effect upon the sponsor's receipt of the written notice of the final decision. The 60 day deadline may be extended for good cause at the discretion of the review official, but the final decision must be made within 120 calendar days from the date ADE receives a request for review.
12. ADE's action will remain in effect during the review process. The determination by the state review official is the final administrative determination to be afforded to the sponsor.

Appeal procedures are included in 7 CFR 210.18(p). The Code of Federal Regulations should be consulted for additional rules regarding the Administrative Review process. If you have questions regarding these procedures, please contact Health and Nutrition Services at (602) 542-8700.

7. Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the review official will make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;

8. ADE's action remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning ADE's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if ADE's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, ADE shall so specify in its notice of action.

9. The determination by the State review official is the final administrative determination to be afforded to the appellant.

10. ADE shall send written notification of the complete appeal procedures and of the actions which are appealable, as specified in paragraph (a) of this section, to each potential sponsor applying to participate and to each food service management company applying to register in accordance with § 225.6(g).

11. A record regarding each review shall be kept by ADE, as required under § 225.8(a). The record shall document ADE's compliance with these regulations and shall include the basis for its decision. Appeal procedures are included in 7 CFR § 225.13(a). The Code of Federal Regulations should be consulted for additional rules regarding the administrative review process.

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If you have questions regarding these procedures, please contact Health and Nutrition Services at (602) 542-8700.

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1. **Mail:** U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410;
2. **Fax:** (202) 690-7442; or
3. **Email:** program.intake@usda.gov.

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