



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1403

TELEPHONE: 615-313-4700 FAX: 615-741-4165
TTY: 1-800-270-1349
www.tn.gov/humanserv/

BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

CERTIFIED MAIL RECEIPT # 70153010000175365941

May 3, 2017

Donlad Tyndall, Executive Director
Wayne Martin, Board Chair
TNG Prep Academy
2420 Breckenridge Street
Athens, Tennessee 37303

**RE: Notice of Serious Deficiency for the Child and Adult Care Food Program (CACFP)
Agreement Number 00-585 and Demand for Overpayment.**

Dear Mr. Martin & Mr Tyndall:

The Department of Human Services (DHS) Audit Services staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at TNG Prep Academy (Sponsor), Application Agreement 00-585, on January 18, 2017. Additional information was requested January 18, 2017, and received on January 20, 2017 to complete the review. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

Our review of the Sponsor's records for October 2016 disclosed the following: the Sponsor claimed supplement meals and supper meals at an unapproved site location.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that TNG Prep Academy is seriously deficient in its operation of the CACFP. In addition, the Department has identified Donlad Tyndall, Executive Director and Wayne Martin, Board Chair as responsible for the serious deficiencies in light of their responsibility for the overall management of TNG Prep Academy's CACFP.

If TNG Prep Academy does not fully and permanently correct all of the serious deficiencies and submit documentation of the corrective action by the due date, the Department will:

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- Propose to terminate TNG Prep Academy's, agreement to participate in the CACFP;
- Propose to disqualify TNG Prep Academy from future CACFP participation; and
- Propose to disqualify Donlad Tyndall, Executive Director and Wayne Martin, Board Chair from future CACFP participation.

In addition, if TNG Prep Academy voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify TNG Prep Academy and Donlad Tyndall, Executive Director and Wayne Martin, Board Chair from future CACFP participation. If disqualified, TNG Prep Academy and Donlad Tyndall, Executive Director and Wayne Martin, Board Chair will be placed on the National Disqualified List ("NDL"). While on the NDL, TNG Prep Academy will not be able to participate in the CACFP as an institution or facility. Donlad Tyndall, Executive Director and Wayne Martin, Board Chair will not be able to serve as a principal in any institution or facility or as a day care home provider in the CACFP.

Institutions and individuals remain on the NDL until the United States Department of Agriculture's Food and Nutrition Service, in consultation with the Department, determines that the serious deficiencies have been corrected, or until seven years after their disqualification. However, if any debt relating to the serious deficiencies has not been repaid, they will remain on the list until the debt has been repaid.

The authorization for this action is found in Paragraph 1.e. of your FY 2016 CACFP Provider Agreement and in the CACFP regulations at 7 C.F.R. § 226.6(c)(3). You may not appeal a finding of serious deficiency.

SERIOUS DEFICIENCIES, ADDITIONAL FINDINGS AND REQUIRED CORRECTIVE ACTION

The following paragraphs detail each serious deficiency and additional finding.

The Sponsor claimed supplement meals and supper meals at an unapproved site location.

This is a Serious Deficiency:

Condition

The Sponsor reported 352 supplements and 352 suppers at the TNG Prep Academy gym. However, meals were served at two apartments located at Lennox Place Apartments where the participants in the TNG Prep Academy reside, and at Tennessee Wesleyan College cafeteria.

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During the exit conference on January 24, 2017, Chief Financial Officer told us that some meals were served at the approved feeding site, but there were no records provided to support this statement.

Based on our review, we determined that reimbursement for the supplement and supper meals cost claimed for the review month are disallowed cost. Therefore, the cost for 352 supplements and 352 suppers are disallowed. (See Exhibit)

This resulted in disallowed meals cost of \$1,496.00.

Criteria

Title 7 of the Code of Federal Regulations Section 226.2 defines at-risk afterschool care center as “a public or private nonprofit organization participating or is eligible to participate in the CACFP as an institution or as a sponsored facility and that provides nonresidential child care to children after school through an approved afterschool care program located in an eligible area.” Also, an at-risk meal is defined as, “a meal that meets the requirements described in 226.20(b)(6) and/or (c)(1), (c)(2), or (c)(3), that is reimbursed at the appropriate free rate and is served by an At-risk afterschool care center as defined in this section, which is located in a State designated by law or selected by the Secretary as directed by law.”

In addition, the Tennessee Department of Human Services Child and Adult Care Food Program (CACFP)/ Summer Food Service Program (SFSP) Agreement Between The State and Sponsor, sections A and A.6. states, “As a condition of participation in CACFP, the Sponsor shall: Obtain approval from the Department for any new center or site before claiming CACFP reimbursement;”

Recommendation

The Sponsor should ensure that meals are served at an approved site location and records are kept that verify the number of meals served.

TNG Prep Academy must submit a Corrective Action Plan (“CAP”), which details how the Institution will ensure the correction of the serious deficiencies and additional findings described above. The CAP must include information regarding what procedures were implemented to address the serious deficiencies, who is responsible for addressing the serious deficiencies, when was the procedure implemented to address the serious deficiencies, and how the institution will ensure the continued implementation of the corrective action. A blank CAP is enclosed for your use.

OVERPAYMENT-RIGHT TO APPEAL

Disallowed Meals Cost

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Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$1,496.00.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$1,496.00, which the institution owes the Department. **The procedures for submitting an appeal regarding the amount of overpayment are enclosed. Please note that the appeal must be in writing and must be received by our Department no later than fifteen (15) calendar days from your receipt of this letter.** 7 C.F.R. § 226.6(k). The appeal must be submitted to:

Tennessee Department of Human Services
Appeals and Hearings Division, Clerk's Office
P.O. Box 198996
Nashville, TN 37219

If the Institution decides to appeal the amount of overpayment, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

In accordance with the CACFP regulations at 7 C.F.R. § 226.14(a), in part, the State agency must assess interest 30 days from the initial request for repayment. For information about applied interest rates please visit the following website:

http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/historical_rates.htm

SUMMARY

The Department has determined that TNG Prep Academy is seriously deficient in its operation of the CACFP and that Donlad Tyndall, Executive Director and Wayne Martin, Board Chair are responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate TNG Prep Academy's CACFP agreement, or propose to disqualify TNG Prep Academy and the responsible individuals, you will be able to appeal those actions and you will be advised of your appeal rights and the appeal procedures at that time.

TNG Prep Academy may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by TNG Prep Academy for the corrective action period. As always, you must submit claims within sixty (60) calendar days of the last day of the month covered by the claim. The Department will deny any portion of a claim we determine is invalid. If the Department denies payment of any portion of a claim submitted for the corrective action period, that action would be appealable.

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To provide for the full and permanent correction of the serious deficiencies and findings, please complete the following actions within fifteen (15) days of your receipt of this notice:

1. Login to (TIPS) the Tennessee Information Payment System and submit a revised claim for October 2016.
2. Remit a check payable to the Department in the amount of \$1,496.00.
3. Complete and return the enclosed corrective action plan to address in full the monitoring review to:

**Tennessee Department of Human Services
Allette Vayda-CACFP/SFSP Unit
Citizens Plaza – 8th Floor
400 Deaderick Street
Nashville, Tennessee 37243-1403.**

If the Department does not receive the corrective action plan by the deadline date, or the Department determines that the corrective action plan does not provide for the full and permanent correction of the serious deficiencies and findings, the Department will propose to terminate the Institution's CACFP Provider Agreement and to disqualify you and the Institution from future CACFP participation by issuing a Notice of Proposed Termination and Disqualification.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or Jackie.D.Yokley@tn.gov.

Sincerely,



Allette Vayda
Director, CACFP & SFSP

AV/ba

Enclosures

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EXHIBIT

Verification of CACFP Sponsor of At Risk Afterschool Meals Program

Sponsor: TNG Prep Academy

Review Month/Year: October 2016

Total Reimbursement: \$1,496.00

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled Meals to Meal Count Sheets
Number of Days that CACFP Food Service was operated	22	22
Number of Sites	1	1
Total Attendance	352	352
Number of Supplements Served	352	0*
Number of Suppers Served	352	0*
Total Amount of Food Costs	XXXXXXXXXX	NA
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXXXX	NA

*352 supplements and suppers served were disallowed due to serving at an unapproved site location.

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Wayne Martin, Board Chair
TNG Prep Academy
2420 Breckenridge Street
Athens, Tennessee 37303

Notice of payment due to findings disclosed in the monitoring report dated May 3, 2017, for Child and Adult Care Food Program (CACFP).

Institution Name:	TNG Prep Academy
Institution Address:	2420 Breckenridge Street Athens, Tennessee 37303
Agreement Numbers:	00-585
Amount Due:	\$1,496.00
Due Date:	June 3, 2017

Based on the monitoring report issued on May 3, 2017, by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which require your institution to reimburse the Department of Human Services the disallowed meals cost.

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount of \$1,496.00 by the due date to:

Tennessee Department of Human Services

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**Fiscal Services 11th Floor
Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243-1403**

Please note that the unallowed cost / overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services- Food Programs- CACFP & SFSP at (615) 313-3769 or Allette.Vayda@tn.gov

Thank you for your attention

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

Appeal Procedures for Child and Adult Care Food Program-Institutions
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- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.
4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.
6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.
7. To be considered for a fair hearing or for a review of written information in lieu of a fair

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:
 - (i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.
 - (ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.
 - (iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.
9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.
10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.
11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.
12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.
13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.
14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.
15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.

**CORRECTIVE ACTION PLAN FOR
MONITORING FINDINGS FOR
CHILD AND ADULT CARE FOOD PROGRAM (CACFP)
TENNESSEE DEPARTMENT OF HUMAN SERVICES (TDHS)**

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your Date of Birth on the first page; enter your name, title and date of signature on the last page. Sign your name in ink. **Please return ALL pages of the completed Corrective Action Plan form.**

Section A. Institution Information

Name of Institution TNG Prep Academy	CACFP Agreement No. 00-585
Mailing Address:	

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Donlad Tyndall, Executive Director Wayne Martin, Board Chair	Date of Birth (s):
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

SD Report: May 3, 2017	Corrective Action Plan: May 3, 2017
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Section D. Findings

Findings: The Sponsor claimed supplement meals and supper meals at an unapproved site location.

The following measures will be completed within **30 business days** of my institution's receipt of this corrective action plan:

Measure No. 1: The Sponsor claimed supplement meals and supper meals at an unapproved site location.

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: _____ Position Title: _____

Name: _____ Position Title: _____

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame.

Printed Name of Authorized Institution Official

Position

Signature of Authorized Institution Official

Date

Signature of Authorized TDHS Official

Date