



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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

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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

CERTIFIED MAIL RECEIPT #70163010000073326234

May 2, 2018

Jamese Couch, Owner
Fundamentals 1st Learning Academy
2904 Lamar Avenue
Memphis, Tennessee 38114

Dear Ms. Couch,

The Department of Human Services Audit Services staff conducted an unannounced on-site review of the Child and Adult Care Food Program (CACFP) at Fundamentals 1st Learning Academy (Sponsor) Agreement 00-281 on March 22, 2018. We reviewed the Sponsor's records of reimbursement and expenditures for the period of February 2018. 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.

SERIOUS DEFICIENCY DETERMINATION

Based on the monitoring review, the Department has determined that Fundamentals 1st Learning Academy is seriously deficient in its operation of the CACFP. In addition, the Department has identified Jamese Couch, Owner as responsible for the serious deficiencies in light of their responsibility for the overall management of Fundamentals 1st Learning Academy's CACFP.

If Fundamentals 1st Learning 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:

- Propose to terminate Fundamentals 1st Learning Academy's agreement to participate in the CACFP;
- Propose to disqualify Fundamentals 1st Learning Academy from future CACFP participation; and
- Propose to disqualify Jamese Couch, Owner, from future CACFP participation.

In addition, if Fundamentals 1st Learning Academy voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Fundamentals 1st Learning Academy and Jamese Couch, Owner from future CACFP participation. If disqualified, Fundamentals 1st Learning Academy, and Jamese Couch, Owner will be placed on the National Disqualified List (“NDL”). While on the NDL, Fundamentals 1st Learning Academy will not be able to participate in the CACFP as an institution or facility. Jamese Couch, Owner 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:

Background

CACFP Sponsors utilize meal count sheets to record the number of for breakfast, lunch, supper and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement. We inspected meal count sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a meal service on February 5, 2018.

Our review of the Sponsor’s records for February 2018 disclosed the following:

1. The Sponsor provided menus that did not meet USDA meal requirements

Condition

A reimbursable lunch meal and supper meal consists of milk, a grain/grain alternative, a meat or meat alternate, a vegetable, and a fruit or vegetable component. We asked the Sponsor to provide Child Nutrition labels for the processed chicken nuggets. The labeled provided at the Sponsor review was not creditable. The Sponsor provided a creditable CN label later but the label provided was not listed as a purchased product on the invoices provided by the Sponsor dated January 2018 and February 2018.

The menus had deficiencies and listed the following:

Date	Deficient or Missing Component	Disallowed Meals
02/08/18	Deficient component: 2 nd creditable component Menu Listed: Veggie Chips & Diced Peaches	94 Supplement meals

02/14/1 8	Deficient component: Chicken Nuggets Menu Listed: Chicken nuggets, mashed potatoes, celery sticks, peaches, wg wheat bread	66 Lunches meals 28 Suppers meals
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As a result, the cost reimbursement for 94 supplement meals, 66 lunch meals, and 28 supper meals were disallowed.

Criteria

Title 7 of the Code of Federal Regulations Section 226.17(b)(4) states. “Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ...”

The USDA Crediting Foods in the Child and Adult Care Food Program, page 62, states, “When crediting such products as chili-macs, pizzas, pot pies, sloppy Joes, and raviolis toward the meat/meat alternate component, the amount of meat/meat alternate per serving (not the total portion size) is the determining factor for crediting purposes. Because of the uncertainty of the actual amount of meat/meat alternate contained in these products, they should not be used unless (1) they are CN-labeled; or (2) you obtain a Product Formulation Statement signed by an official of the manufacturer (not a salesperson) that shows how the crediting has been determined. Remember that only a CN-labeled product carries a warranty that protects against financial audit claims. See the sample formulation statement on page 73 with required information and documentation.”

The USDA Crediting Foods in Child and Adult Care Food Program, page 33, states, “Snack chips such as banana, fruit, vegetable, and potato chips may not be credited as a fruit or vegetable. However, 100% dried fruits or vegetables are creditable based on the volume served. See page 2-4 of the Food Buying Guide. “

Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

2. The Sponsor claimed the incorrect number of meals

This is a Serious Deficiency:

Condition

The claim for reimbursement for the test month reported 1,927 breakfast meals, 1,460 lunch meals, 560 supper meals and 2,020 supplement meals. However, our review of the Sponsor’s records verified 1,927 breakfast meals, 1,460 lunch meals, 560 supper meals and 2,020 supplement meals prior to any meal disallowances. The Sponsor over claimed the number of supper meals by 1,460 and under claimed the number of supplement meals by 1,460. The review was expanded to verify the meal count claim for the entire fiscal year. The review was therefore expanded to include the remaining 2018 federal year period. The following differences were observed:

October 2017

The Sponsor reported 2,052 breakfast meals, 1,550 lunch meals, 502 supplement meals and 2,052 supper meals. However, our review of the Sponsor’s records verified 2,052 breakfast meals, 1,550 lunch meals, 502 supper meals and 2,052 supplement meals prior to any meal disallowances. The

Sponsor over claimed the number of supper meals by 1,550 and under claimed the number of supplement meals by 1,550.

November 2017

The Sponsor reported 1,947 breakfast meals, 1,473 lunch meals, 474 supplement meals and 1,947 supper meals. However, our review of the Sponsor's records verified 1,947 breakfast meals, 1,473 lunch meals, 474 supper meals and 1,947 supplement meals prior to any meal disallowances. The Sponsor over claimed the number of supper meals by 1,473 and under claimed the number of supplement meals by 1,473.

December 2017

The Sponsor reported 1,950 breakfast meals, 1,476 lunch meals, 474 supplement meals and 1,950 supper meals. However, our review of the Sponsor's records verified 1,950 breakfast meals, 1,476 lunch meals, 474 supper meals and 1,950 supplement meals prior to any meal disallowances. The Sponsor over claimed the number of supper meals by 1,476 and under claimed the number of supplement meals by 1,476.

January 2018

The Sponsor reported 1,939 breakfast meals, 1,421 lunch meals, 1,939 supplement meals and 518 supper meals. However, our review of the Sponsor's records verified 1,939 breakfast meals, 1,421 lunch meals, 518 supper meals and 1,939 supplement meals prior to any meal disallowances.

March 2018

The Sponsor reported 2,035 breakfast meals, 1,532 lunch meals, 2,119 supplement meals and 587 supper meals. However, our review of the Sponsor's records verified 2,035 breakfast meals, 1,532 lunch meals, 587 supper meals and 2,119 supplement meals prior to any meal disallowances.

Criteria

Title 7 of the Code of Federal Regulations Section 226.15(e)(4) states, "Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency... At a minimum, the following records shall be collected and maintained: (4) Daily records indicating the number of participants in attendance and the daily meal counts, by type (breakfast, lunch, supper, and snacks), served to family day care home participants, or the time of service meal counts, by type (breakfast, lunch, supper, and snacks), served to center participants...."

Title 7 of the Code of Federal Regulations Section 226.10 (c) states "...In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim..."

Recommendation

The Sponsor should ensure the meal count claimed agrees with the actual meal count documentation and meals served.

3. The Sponsor provided infant menus that did not meet the new CACFP meal pattern

Condition

In accordance with the revised meal pattern requirements effective October 1, 2017; when the child is developmentally ready, an infant aged 6-11 months must be served a fruit/vegetable component with the supplement meal. In addition, no grain based desserts or juice are allowable. The menus provided for infants had deficiencies and listed the following:

Infant: AS, 7 Months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component, required after it has been introduced into the infant's diet	20 Supplement Meals

Infant: JS, 7 Months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component, required after it has been introduced into the infant's diet	20 Supplement Meals

Infant: WR, 7 Months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component, required after it has been introduced into the infant's diet	20 Supplement Meals

Infant: OS, 9 Months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component Menu listed 100% juice	18 Supplement Meals
02/05/18	Missing Components: creditable components Menu listed: 100% fruit punch and butter bisquit cookies	1 Supplement Meal
02/20/18	Missing Components: creditable components Menu listed: 100% grape juice and vanilla wafers	1 Supplement Meal

Infant: KN, 8 months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component	18 Supplement Meals

	Menu listed 100% juice	
02/05/18	Missing Components: creditable components Menu listed: 100% fruit punch and butter bisquit cookies	1 Supplement Meal
02/20/18	Missing Components: creditable components Menu listed: 100% grape juice and vanilla wafers	1 Supplement Meal

Infant: CH, 8 months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component Menu listed 100% juice	18 Supplement Meals
02/05/18	Missing Components: creditable components Menu listed: 100% fruit punch and butter bisquit cookies	1 Supplement Meal
02/20/18	Missing Components: creditable components Menu listed: 100% grape juice and vanilla wafers	1 Supplement Meal

Infant: RD, 10 months

Dates	Deficiencies	Deficient Meal
2/1/18 thru 2/28/18	Missing Component: fruit or vegetable component Menu listed 100% juice	18 Supplement Meals
02/05/18	Missing Components: creditable components Menu listed: 100% fruit punch and butter bisquit cookies	1 Supplement Meal
02/20/18	Missing Components: creditable components Menu listed: 100% grape juice and vanilla wafers	1 Supplement Meal

There were no meals disallowed due to the one year grace period given to Sponsors to conform to the revised CACFP meal patterns.

Criteria

Title 7 of the Code of Federal Regulations Section 226.20 (4)(2)(b) states, "...Infant meals must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age..... Snack. Two to 4 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to ½ slice bread; or 0-2 crackers; or 0-4 tablespoons infant cereal or ready-to-eat cereals; and 0 to 2 tablespoons of vegetable or fruit, or portions of both. Fruit juices and vegetable juices must not be served. A serving of grains must be whole grain-rich, enriched meal, or enriched flour.

Title 7 of the code of Federal Regulations Section 226.20 (a)(4)(iii) states, "Grain based desserts do not count towards meeting the grains requirement."

Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

4. The training provided by Sponsor did not discuss topics according to the Management Plan

Condition

According to the training roster provided, only two topics were discussed which were CACFP meal pattern requirements and New Eligibility. The management plan in TIPS stated that topics discussed in Annual CACFP training should include: CACFP meal pattern requirements, reimbursement processes, accurate meal counting, claim submission, record keeping, and Civil Rights compliance.

Criteria

Title 7 of the Code of Federal Regulations Section 226.15(e)(14), states, "For sponsoring organizations, records documenting the attendance at annual training of each staff member with monitoring responsibilities. Training must include instruction, appropriate to the level of staff experience and duties, on the Program's meal patterns, meal counts, claims submission and claim review procedures, recordkeeping requirements, and an explanation of the Program's reimbursement system."

Recommendation

The Sponsor should ensure all staff is trained on the topics that are discussed in the management plan listed in TIPS.

5. The Sponsor reported the number of attendance days incorrectly

Condition

The Claim for Reimbursement for the test month reported 2,020 attendance days. However, our review verified 2,040 attendance days.

Criteria

Title 7 of the Code of Federal Regulations, *Section 226.10 (c)* states that "institutions shall certify that the claim submitted for reimbursement is correct that "each institution must maintain documentation of individual children's attendance on a daily basis."

Recommendation

The Sponsor should ensure the attendance is recorded and reported correctly. Appropriate supporting documentation should be maintained and available.

Observation

The breakfast observed on February 5, 2018, by DHS monitor, consisting of French toast sticks, diced pineapples, and milk. The menu reflected the substitutions on the day the monitor observed the meal, but the menu provided at the Sponsor review did not reflect the same substitutions.

Technical Assistance Provided

Technical assistance provided on whole grain requirements and keeping CN labels on file.

OVERPAYMENT-RIGHT TO APPEAL

Disallowed Meals Cost

Based on the 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 \$15,401.88.

Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$15,401.88, 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 Fundamentals 1st Learning Academy is seriously deficient in its operation of the CACFP and that James Couch, Owner is responsible for the serious deficiencies.

You may not appeal the serious deficiency determination itself. If the Department proposes to terminate Fundamentals 1st Learning Academy's CACFP agreement, or propose to disqualify Fundamentals 1st Learning 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.

Fundamentals 1st Learning Academy may continue to participate in the CACFP during the corrective action period. The Department will pay any valid claims for reimbursement submitted by Fundamentals 1st Learning 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.

To provide for the full and permanent correction of the serious deficiencies and findings Fundamentals 1st Learning Academy must complete the following actions within 30 days from the date of this report:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for October 2017, November 2017, December 2017, and February 2018 which contains the verified claim data from the enclosed exhibits.
- Remit a check payable to the *Tennessee Department of Human Services* in the amount of \$15,401.88 for recovery of the amounts disallowed in this report. ***Please return the attached billing notice with your check;*** and
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

AuditServices.CAPS.DHS@tn.gov

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 Sean Baker, Audit Director 2, at 615-313-4727 or sean.baker@tn.gov.

Sincerely,



Allette Vayda
Director of Operations- Food Programs

Exhibits

EXHIBIT A

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Fundamental 1st Learning Academy
Review Month/Year: February 2018
Total Meal Reimbursement Received: \$15,489.45

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Days that CACFP Food Service was operated	20	20
Total Attendance	2,020	2,040
Percentage of Participants in the Free or Reduced-price Category (For Proprietary Center Only)	XXXXXX	97%
Number of Breakfasts Served	1,927	1,927
Number of Lunches Served	1,460	1,394
Number of Supplements Served	560	1,926
Number of Suppers Served	2,020	532
Number of Participants in Free Category	98	98
Number of Participants in Reduced-Price Category	1	1
Number of Participants in Paid Category	3	3
Total Number of Participants	102	102
Total Amount of Eligible Food Costs	XXXXXXXX	\$3,781.12
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$7,365.86

Exhibit B

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Fundamental 1st Learning Academy

Review Month/Year: October 2017

Total Meal Reimbursement Received: \$ 15,904.44

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Breakfasts Served	2,052	2,052
Number of Lunches Served	1,550	1,550
Number of Supplements Served	502	2,052
Number of Suppers Served	2,052	502

Exhibit C

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Fundamental 1st Learning Academy

Review Month/Year: November 2017

Total Meal Reimbursement Received: \$15,096.17

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Breakfasts Served	1,947	1,947
Number of Lunches Served	1,473	1,473
Number of Supplements Served	474	1,947
Number of Suppers Served	1,947	474

Exhibit D

Verification of CACFP Independent Center Claim (Claiming Percentages)**Name of Agency: Fundamental 1st Learning Academy****Review Month/Year: December 2017****Total Meal Reimbursement Received: \$15,257.40**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Breakfasts Served	1,950	1,950
Number of Lunches Served	1,476	1,476
Number of Supplements Served	474	1,950
Number of Suppers Served	1,950	474

Exhibit E**Verification of CACFP Independent Center Claim (Claiming Percentages)****Name of Agency: Fundamental 1st Learning Academy****Review Month/Year: January 2018****Total Meal Reimbursement Received: \$11,486.67**

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Breakfasts Served	1,939	1,939
Number of Lunches Served	1,421	1,421
Number of Supplements Served	1,939	1,939
Number of Suppers Served	518	518

Exhibit F

Verification of CACFP Independent Center Claim (Claiming Percentages)

Name of Agency: Fundamental 1st Learning Academy

Review Month/Year: March 2018

Total Meal Reimbursement Received: \$12,411.06

Program Area	Reported on Claim	Reconciled By Monitoring Review
Number of Breakfasts Served	2,035	2,035
Number of Lunches Served	1,532	1,532
Number of Supplements Served	2,119	2,119
Number of Suppers Served	587	587

EXHIBIT G

Summary of Overpayment

Month of Review	Amount of Overpayment
October 2017	\$ 3,859.51
November 2017	\$3,667.58
December 2017	\$3,806.81
February 2018	\$4,067.98
Total Amount of Overpayment	\$15,401.88



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BILL HASLAM

GOVERNOR

DANIELLE W. BARNES

COMMISSIONER

May 2, 2018

Jamese Couch, Owner
Fundamentals 1st Learning Academy
2904 Lamar
Memphis, Tennessee 38114

Notice of payment due to findings disclosed in the monitoring report dated May 2, 2018 for Child and Adult Care Food Program (CACFP)

Institution Name:	Fundamentals 1 st Learning Academy
Institution Address:	2904 Lamar Memphis, TN 38114
Agreement Numbers:	00281
Amount Due:	\$15,401.88
Due Date:	June 3, 2018

Based on the monitoring report issued, 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 cost noted in the report

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount noted above by the due date to:

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

Please note that the disallowed meals 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 of Operations 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;

- (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

Appeal Procedures for Child and Adult Care Food Program-Institutions
Revised March 2017

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
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 Fundamentals 1 st Learning Academy	CACFP Agreement No. 00-281
Mailing Address: 2904 Lamar Avenue Memphis, Tennessee 38114	

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

Name and Title: James Couch, Owner	Date of Birth (s):
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

SD Report: May 2, 2018	Corrective Action Plan: May 2, 2018
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Section D. Findings

<p>Findings:</p> <ol style="list-style-type: none"> 1. The Sponsor provided menus that did not meet USDA meal requirements 2. The Sponsor claimed the incorrect number of meals 3. The Sponsor provided infant menus that did not meet the new CACFP meal pattern 4. The training provided by Sponsor did not discuss topics according to the Management Plan 5. The Sponsor reported the number of attendance days incorrectly

The following measures will be completed within **5 business days** of my institution's receipt of this corrective action plan:

Measure No. 1: The Sponsor provided menus that did not meet USDA meal requirements

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:

Measure No. 2: The Sponsor claimed the incorrect number of meals

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:

Measure No. 3: The Sponsor provided infant menus that did not meet the new CACFP meal pattern

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:

Measure No. 4: The training provided by Sponsor did not discuss topics according to the Management Plan

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:

Measure No. 5: The Sponsor reported the number of attendance days incorrectly

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