



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243
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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

CERTIFIED MAIL RECEIPT #70163010000073326784

March 22, 2019

Dessie X, Owner
Education is the Key
975 Thomas Street
Memphis, Tennessee 38107-3859

RE: Notice of Proposed Termination and Disqualification for the Child and Adult Care Food Program (CACFP) Agreement Number 00-624 and Demand for Overpayment.

Dear Ms. X,

The Department of Human Services (DHS) - Division of Audit Services staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Education is the Key (Sponsor), Application Agreement number 00624, on February 6, 2019. Additional information was requested and provided on February 7, 2019. The purpose of this review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider agreement, and applicable Federal and State regulations.

Prior to this review, the Department had determined that Education is the Key was seriously deficient and was cited as such in Serious Deficiency Notice dated May 7, 2018. Education is the Key returned the overpayment as identified in the report and submitted an acceptable Corrective Action Plan. On July 31, 2018 the Department deferred the Serious Deficiency.

Durring the February 6, 2019 review the Department determined that the corrective action submitted to address the serious deficiencis identified in the May 7, 2018 report did not permanently correct the identified issues. Based on the Institution, Owner's failure to implement the submitted Corrective Action Plan to permanently correct the serious deficiencies identified in the prior review and based on the new findings, the Tennessee Department of Human Services ("Department") has determined that the Institution has failed to fully and permanently correct the serious deficiencies cited in the Serious Deficiency Notice dated May 7, 2018, and the Department hereby proposes to terminate Education is the Key's agreement to participate in the CACFP.

PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

As a result, the Department proposes to:

- Terminate Education is the Key's agreement to participate in the CACFP;
- Disqualify Education is the Key from future CACFP participation; and
- Disqualify Dessie X, Owner, from future CACFP participation.

In addition, if Education is the Key voluntarily terminates its CACFP agreement after receiving this letter, the Department will propose to disqualify Education is the Key and Dessie X, Owner from future CACFP participation. If disqualified, Education is the Key, and Dessie X, Owner will be placed on the National Disqualified List ("NDL"). While on the NDL, Education is the Key will not be able to participate in the CACFP as an institution or facility. Dessie X, 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.

STATUS OF SERIOUS DEFICIENCY

Background

CACFP Sponsors utilize meal count sheets to record the number of 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) for reimbursement.

We inspected meal counts 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 supplement on November 15, 2018.

Our review of the Sponsor's records for November 2018 disclosed the following:

- 1. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly**

Condition

Based on our review of the Claim for Reimbursement for the test month, we noted the Sponsor reported 92 participants in the free category, one (1) participant in the reduced-price category, and two (2) participants in the paid category. However, based on our review of the records available, we determined that there were 81 participants in the free category, zero (0) participants in the reduced-price category, and 16 participants in the paid category.

The differences were based on the following:

- The Sponsor did not have applications on file for 11 of the participants claimed for the review period. All participants were reclassified as paid.
- There was one participant reported in the free category, but the application did not have the signature or the adult household member or determining officials' signature or date. This participant was reclassified as paid.
- There was one participant reported in the free category, but the application did not have the determining officials' signature. This participant was reclassified as paid.
- There were three participants reported in the free category, but the application did not have the determining officials' signature or date. These participants were reclassified as paid.
- There were two participants reported incorrectly in the paid category, but according to the application, the participants were eligible for the free category. These participants were reclassified as free.
- There was one participant reported incorrectly in the reduced-price category, but according to the application, the participant was eligible for the free category. The participant was reclassified as free.
- There were 95 participants total reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we found there were 97 participants enrolled in the program. The Sponsor underreported the number of participants in the free category by two participants.

As a result, the Sponsor over reported the number of participants in the free category by 11, and over reported the number of participants in the reduced-price category by one (1), and under reported the number of participants in the paid category by 14. (See Exhibit)

This is a repeat finding from a previous report dated May 7, 2018.

Criteria

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 ..."

Title 7 of the Code of Federal Regulations, Section 226.15(e)(2) states, "All types of centers, except for emergency shelters and at-risk afterschool care centers, must maintain information used to determine eligibility for free or reduced-price meals in accordance with §226.23(e)(1). For child care centers, such documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care."

Title 7 of the Code of Federal Regulations, Section 226.17(b)(8) states, in part, "Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). ..."

Recommendation

The Sponsor should maintain all information used to determine eligibility, and ensure that each participant is classified and reported accurately based on categorical or income eligibility.

2. The Sponsor provided a lunch menu that did not meet the USDA meal pattern requirements

Condition

Based on our review of the menus provided by the Sponsor, a lunch menu was not in accordance with the USDA meal pattern requirements.

The lunch menu on November 1, 2018, listed, Whole milk/1%, chicken patty, sweet peas, diced pears, and diced pineapples. The meal was missing a grain component.

As a result, 52 lunch meals claimed for reimbursement were disallowed. (See Exhibit)

This is a repeat finding from a previous report dated May 7, 2018.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, in part, “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. ...”

Recommendation

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

3. The Sponsor did not serve a whole grain-rich component once per day as required

Condition

Based on our review of the menus provided, the Sponsor did not serve a whole grain-rich component once per day as required. The sponsor provided a wheat bread label, but the product did not meet the whole grain-rich requirement. The following menus listed wheat bread on the menu, however, the label verified this product was not whole grain-rich:

On November 21st, 26th, and 29th 2018 the sponsor listed wheat bread with the lunch meals to meet the requirement that at least one serving of grain per day must be whole grain-rich, however, the label provided did not meet the whole grain-rich requirements. In addition, the grains listed for breakfast meals and supplements did not meet the whole grain-rich requirement either.

Due to the new the CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(a)(b) states “At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich

foods contain at least 50 percent whole grains and the remaining grains in the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance.”

Recommendation

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

4. The Sponsor served a breakfast cereal that did not meet USDA meal component requirements

Condition

Based on our review of the menus for breakfast meals provided by the Sponsor, the menus were not in accordance with the USDA meal pattern requirements.

Honey Nut Cheerios was served for breakfast on November 19, 2018. This cereal contains 9 grams of sugar per 28 grams of dry cereal. This exceeds the sugar limit established by the USDA.

Due to the new the CACFP meal pattern requirements and emphasis on providing technical assistance during the implementation process, there were no meals disallowed.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(ii) states, “... Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal)...”

Recommendation

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

5. The Sponsor provided infant menus that did not meet the USDA meal pattern requirements

This is a Serious Deficiency:

Condition

Based on our review of the infant menus provided by the Sponsor for the test month, the menus provided did not meet the USDA meal pattern requirements. The menus provided for infants had deficiencies and listed the following:

Infant: ZH, 11 Months

Date	Menu Deficiency/Missing Component	Deficient Meal
November 2018	Whole Milk Listed as Type of Formula Served	19 Breakfast Meals 19 Lunch Meals 19 Supplements

Infant: AM, 11 Months

Date	Menu Deficiency/Missing Component	Deficient Meal
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November 2018	Whole Milk Listed as Type of Formula Served	19 Breakfast Meals 19 Lunch Meals 19 Supplements
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Infant: KP, 8 Months

Date	Menu Deficiency/Missing Component	Deficient Meal
11/26/18	Fruit/Vegetable Menu Lists: IFIF, Rice Cereal, WG Graham Crackers	1 Supplement

Infant: AC, 6 Months

Date	Menu Deficiency/Missing Component	Deficient Meal
11/26/18	Fruit/Vegetable Menu Lists: IFIF, Rice Cereal, WG Graham Crackers	1 Supplement

Infant: TS, 6 Months

Date	Menu Deficiency/Missing Component	Deficient Meal
11/26/18	Fruit/Vegetable Menu Lists: IFIF, Rice Cereal, WG Graham Crackers	1 Supplement

As a result, 38 breakfast meals, 38 lunch meals, and 41 supplements claimed for reimbursement were disallowed. (See Exhibit)

This is a repeat finding from a previous report dated May 7, 2018.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (b) states in part, "... Infant meals-(1) Feeding infants. Foods in reimbursable meals served to infants ages birth through 11 months must be of a texture and a consistency that are appropriate for the age and development of the infant being fed. Foods must also be served during a span of time consistent with the infant's eating habits."

Title 7 of the Code of Federal Regulations, Section 226.20(b)(4)(ii) states, "... (A) Breakfast, lunch, or supper. Six to 8 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both; and 0 to 4 tablespoons of iron-fortified dry infant cereal, meat, fish, poultry, whole egg, cooked dry beans, or cooked dry peas; or 0 to 2 ounces (weight) of cheese; or 0 to 4 ounces (volume) of cottage cheese; or 0 to 4 ounces of yogurt; and 0 to 2 tablespoons of vegetable, fruit, or portions of both. Fruit juices and vegetable juices must not be served. (B) Snack. Two to 4 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to 1/2 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

Recommendation

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

6. The Sponsor did not maintain child nutrition (CN) labels or product formulation statements for frozen and commercially prepared foods

This is a Serious Deficiency:

Condition

The Sponsor provided menus that contained frozen or commercially prepared food components. The Sponsor did not provide CN labels or product formulation statements in order for us to determine whether these components were creditable. The following meals were disallowed due to components not determined creditable:

Date	Menu	Menu Error	Meal Type	No. of Meals
11/06/18	Whole Milk/1%, chicken nuggets, green beans cut, pineapple chunks, whole grain bread	Chicken Nuggets	Lunch Meals	51
11/14/18	Whole Milk/1%, chicken nuggets, mash potatoes, green beans, wheat rolls	Chicken Nuggets	Lunch Meals	50
11/19/18	Whole Milk/1%, chicken nuggets, mash potatoes, sweet peas, wheat rolls	Chicken Nuggets	Lunch Meals	51
11/27/18	Whole Milk/1%, chicken nuggets, sweet peas, dice pears, wheat bread	Chicken Nuggets	Lunch Meals	54

As a result, 206 lunch meals claimed for reimbursement were disallowed. (See Exhibit)

This is a repeat finding from a previous report dated May 7, 2018.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, in part, “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, Revised 2011, page 62, states, in part, “... 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. ...”

Recommendation

The Sponsor should ensure that such information is maintained. This information is used to confirm all meal components are creditable and all meals served are reimbursable.

7. The Sponsor did not provide enrollment information for ten participants

Condition

During our on-site monitoring visit on February 6, 2019, we noted that enrollment information was not on file for ten participants who were listed on the attendance documentation.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.17(b)(8) states, “Child care centers shall collect and maintain documentation of the enrollment of each child, including information used to determine eligibility for free and reduced price meals in accordance with §226.23(e)(1). ...”

The USDA policy memorandum, CACFP 15-2013 Existing Flexibilities in the Child and Adult Care Food Program states, “CACFP regulations require that institutions maintain documentation for participants enrolled to receive care [7 CFR 226.15(e)(2) and (e)(3)]. Documentation of participant’s enrollment must include information on normal days and hours of care and the meals the participant normally receives while in care....”

Recommendation

The Sponsor should ensure that all enrollment information is collected as required and updated as needed.

8. The Sponsor reported the number of attendance days incorrectly

Condition

Based on our review of the Claim for Reimbursement for the test month, the Sponsor reported 1,685 participant days. However, we found there were 1,720 participant days.

Criteria

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 that all participants are recorded as present only for their actual days of attendance.

9. An inventory of food and non-food items was not maintained

Condition

The Sponsor did not maintain an annual inventory of food and non-food items purchased with CACFP funds. As a result, we could not determine if unused CACFP funds exist.

Criteria

The Independent Center Child Care A Child and Adult Care Food Program Handbook, pages 56-57, in part states, “Many State agencies require the calculation of the "cost of food used" at the end of each month. Other State agencies may, however, require an inventory to be taken once a year so centers can make adjustments in the cost of food on an annual basis. In this case, the same procedure as for the monthly inventory would be followed, but only once a year.... Costs of Nonfood Supplies Nonfood supplies include small kitchen equipment, paper goods, such as napkins and plates, and cleaning supplies used directly for the food service operation. Itemized receipts or invoices must be kept on file as documentation. State agencies may require a monthly or yearly inventory of these supplies.”

Recommendation

The Sponsor should ensure an inventory is completed annually for food and nonfood supplies purchased with CACFP funds.

Note: Our observation of the supplement served on November 15, 2018, revealed no deficiencies.

Technical Assistance Provided

The Sponsor was provided technical assistance in regards to specifying whole wheat and whole grain on the menu and required iron fortified infant formula to be served to infants.

STATUS OF OVERPAYMENT

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 \$2,013.97.

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

APPEAL OF PROPOSED TERMINATION AND DISQUALIFICATION

In accordance with the USDA FNS regulations at 7 C.F.R. § 226.6(k), you may appeal the Department's proposed action to terminate and disqualify the Institution and its Owner's and Director's CACFP participation. **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.** If a timely appeal is received, the Institution may continue to participate in the program and receive reimbursement for eligible meals served and allowable administrative costs incurred until the appeal process is completed. If the Institution decides to appeal the proposed actions, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal 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

CLOSE OUT COSTS

The Institution shall retain all CACFP program records for a period of three (3) years from the date of this letter, or longer if any fiscal or administrative issues are not resolved by the date.

Costs incurred by the Institution in meeting the closeout requirements of its CACFP operations are allowable costs. Proper documentation of all closeout costs must be maintained. Closeout costs are subject to review and prior written approval of the Department and must meet the provisions of FNS Instruction, 796-2, Revision 4, the SA Financial Guidance Handbook 100-100, the United States Department of Agriculture Federal Assistance Regulation, 7 C.F.R. § 3019, Office of Management and Budget Circular A-122 and the CACFP regulations at 7 C.F.R. § 226. Please refer to these documents,

which have been previously provided to your Institution's responsible individuals, for additional information. Only those costs necessary to cease CACFP operations and secure federally funded property and records will be eligible for close out cost funding.

You should submit a budget identifying your anticipated close out costs within five (5) working business days of receipt of this letter to ensure timely approval of your request. You may use the Department's existing budget format or prepare your own format. Copies of the Department's budget format are available through our website at: <http://www.tn.gov/humanservices> or in the download forms section of the Tennessee Information Payment System (TIPS) online system. You may submit a copy of the budget through the Tennessee Information Payment System (TIPS) online system; however, the Department's approval is contingent upon receipt of the budget with an original signature from the Institution's responsible individuals or their designee(s) of record, as of the date of this letter. Eligible close out costs will be funded on a reimbursement basis. All close out cost requests must be submitted within ninety (90) days following termination. Failure to submit required documentation by that date will result in the forfeiture of close out cost funding.

SUMMARY

The Institution has not fully and permanently corrected the serious deficiency identified in the Serious Deficiency Notice. For this reason, the Department is proposing to terminate the Institution's CACFP agreement and disqualify the Institution and responsible individuals from future CACFP participation.

The proposed termination and the disqualifications may be appealed. If appealed, the proposed actions will not take effect until the hearing official issues a decision. If the Institution does not make a timely request for an appeal, the Institution's agreement will be terminated. If the Institution and Dessie X, Owner do not appeal the proposed disqualification, they will be disqualified from future CACFP participation and placed on the NDL.

The Institution may continue to participate in the CACFP until the termination/disqualification is effective or, if the Institution appeals the proposed action, until the hearing official issues a decision on the appeal. The Department will always pay all valid claims for reimbursement submitted by the Institutions. As always, the Institution must submit claims within sixty (60) calendar days of the last day of the month covered by the claim. In addition, we will deny any portion of a claim we determine is invalid. If we deny payment of any portion of a claim, that action may be appealed.

To provide for the full and permanent correction of the serious deficiencies and findings Education is Key must complete the following actions within 30 days from the date of this report:

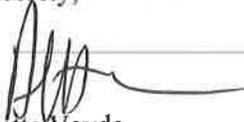
- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for November 2018, which contains the verified claim data from the enclosed exhibit. ***Please note that, if the claim is revised,*** TIPS will automatically deduct the overpayment from your next CACFP claim for reimbursement. **OR**
- If you are no longer participating in the CACFP program, remit a check payable to the ***Tennessee Department of Human Services*** in the amount noted in the report 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 identified overpayment and the revised claims within the outlined timeframe the Department will terminate the Institution's CACFP Provider Agreement and disqualify you and the Institution from future CACFP participation by issuing a Notice of 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

cc: Debra Pasta, Program Manager, Child and Adult Care Food Program
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program
Constance Moore, Program Specialist, Child, and Adult Care Food Program
Marty Widner, Program Specialist, Child, and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT

Verification of CACFP Independent Center Claim

Name of Agency: Education is the Key
Review Month/Year: November 2018
Total Meal Reimbursement Received: \$8,357.98

Site Meal Service Reconciliation and Monitor Activity	Reported on Claim	Reconciled to Documentation
Total Days of CACFP Food Service	19	19
Total Attendance	1,685	1,720
Percentage of Free or Reduced-price Category	XXXXXX	84%
Number of Breakfasts Served	1,683	1,645
Number of Lunches Served	1,126	830
Number of Supplements Served	1,683	1,642
Number of Participants in Free Category	92	81
Number of Participants in Reduced-Price Category	1	0
Number of Participants in Paid Category	2	16
Total Number of Participants	95	97
Total Amount of Eligible Food Costs	XXXXXXXX	\$2,510.91
Total Amount of Eligible Food and Non-Food Costs	XXXXXXXX	\$4,305.28



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

JAMES K. POLK BUILDING
505 DEADERICK STREET
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BILL LEE
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

March 22, 2018

Dessie X, Owner
Education is the Key
975 Thomas Street
Memphis, Tennessee 38107-3859

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

Institution Name:	Education is the Key
Institution Address:	975 Thomas Street Memphis TN, 38107-3859
Agreement Numbers:	00624
Amount Due:	\$2,013.97
Due Date:	April 22, 2019

Based on the monitoring report issued, by the Division of Audit Services 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
James K. Polk Building, 16th Floor
505 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

**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 Education is the Key	CACFP Agreement No. 00-624
Mailing Address: 975 Thomas Street Memphis, Tennessee 38107	

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

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

SD Report: March 22, 2019	Corrective Action Plan: March 22, 2019
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Section D. Findings

<p>Findings:</p> <ol style="list-style-type: none"> 1. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly 2. The Sponsor provided a lunch menu that did not meet the USDA meal pattern requirements 3. The Sponsor did not serve a whole grain-rich component once per day as required 4. The Sponsor served a breakfast cereal that did not meet USDA meal component requirements 5. The Sponsor provided infant menus that did not meet the USDA meal pattern requirements 6. The Sponsor did not maintain child nutrition (CN) labels or product formulation statements for frozen and commercially prepared foods 7. The Sponsor did not provide enrollment information for ten participants 8. The Sponsor reported the number of attendance days incorrectly 9. An inventory of food and non-food items was not maintained

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 reported the number of participants in the free, reduced-price, and paid categories 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:

Measure No. 2: The Sponsor provided a lunch menu that did not meet the USDA meal pattern 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. 3: The Sponsor did not serve a whole grain-rich component once per day as required

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 Sponsor served a breakfast cereal that did not meet USDA meal component 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. 5: The Sponsor provided infant menus that did not meet the USDA meal pattern 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. 6: The Sponsor did not maintain child nutrition (CN) labels or product formulation statements for frozen and commercially prepared foods

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. 7: The Sponsor did not provide enrollment information for ten participants.

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. 8: 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:

Measure No. 9: An inventory of food and non-food items was not maintained.

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

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

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.