

Module 6: The Compliance Review Process, Serious Deficiency, and Corrective Action

New Center Training

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CACFP Staff

Office of Child Nutrition
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Module Summary

This module covers the Compliance Review process, the Serious Deficiency Process, and formulating Corrective Action Plans.

Module Objectives

- To explain the Compliance Review Process.
- To define Serious Deficiency.
- To understand the relationship between corrective action and a Corrective Action Plan.

Topic 1: The Compliance Review Process



What is a Compliance Review?

An ***unscheduled***, on-site visit conducted by a Child and Adult Care Food Program (CACFP) Program Monitor to assess Program operations, use of Program funds, and to ensure CACFP requirements are being met. The review period is ***usually*** the most recent month for which a claim for reimbursement has been filed by your organization.

What areas will the Program Monitors evaluate?

- Enrollment Forms
- Meal Applications
- Master Roster
- Menu Book
- Monthly Claim Data
- Application and Agreement
- Meal Service Observation
- Meal Counts
- Record of Use of Program Funds
- Procurement Plan
- Civil Rights Information
- Current License

What happens after the Review?

The Program Monitor will prepare a **Compliance Review Report** detailing the areas covered during the review. A **Findings** Letter containing the specific deficiencies will be sent by certified mail to the person responsible for effective operation of the Program. Findings are areas of **noncompliance** with Federal regulations, FNS Instructions, and CACFP policy memoranda. They require immediate attention and must be **adequately** addressed by the organization.

Examples of Serious Concerns:

Any of these areas of noncompliance will result in the disallowance of meals or the repayment of Program funds!

- Claiming meals for children who are not present
- Claiming meals for children who are not enrolled
- Missing receipts and invoices
- Missing menus and production records
- Serving meals that do not meet meal pattern requirements
- Serving insufficient amounts of meal components
- Claiming more meals than children in attendance
- Unapproved and unallowable expenditures
- Point of service meal counts not done or documented

Corrective Action Plans

Upon receiving a Findings letter from the State Agency, each organization must provide a written Corrective Action Plan (CAP). The CAP must address each finding and include the actions being implemented to ***permanently*** correct the identified deficiency.

How to Develop a CAP

Who?

What?

When?

Where?

How?

If the Corrective Action Plan is Accepted

When a Corrective Action Plan is received from an organization, it is **evaluated** to ensure that it is complete and that each finding has been adequately addressed. If the CAP is **satisfactory**, the State Agency will issue a letter to the institution indicating that its response was acceptable, and the review is closed.



If the Corrective Action Plan is **NOT** Accepted

- If the Corrective Action Plan is ***incomplete***, the organization will be informed of all outstanding items and allowed additional time to submit the remaining documentation.
- If the Corrective Action Plan is not submitted and/or the additional documentation is ***inadequate***, the State Agency must proceed to declare the organization ***seriously deficient***.

The Most Common Mistakes involve *Recordkeeping!*

- Meal Count Discrepancies
- Eligibility
- Missing Financial Records
- Inadequate Enrollment Documentation
- Incomplete Attendance Records



Topic 2: The Serious Deficiency Process



Serious Deficiency Definition

The status of an institution, sponsoring organization, or day care home provider that has been determined to be ***noncompliant*** in ***one or more aspects*** in its operation of the Child and Adult Care Food Program (CACFP).

7 CFR 226.2

Serious Deficiency Purpose

The serious deficiency process is designed to ***assist*** the organization with:

- ➔ Identifying frequent or severe program noncompliance,
- ➔ Requesting written corrective action;
- ➔ Preventing recurring noncompliance, and
- ➔ Offering due process for proposed termination and disqualification.

Goals of the Serious Deficiency Process

- ✓ Set the framework to **correct** the problem.
- ✓ Begin groundwork for **possible** termination and disqualification.



Outcome of the Serious Deficiency Process

Starts with a Determination



Must *End* with a Resolution

Steps in the Serious Deficiency Process

The Serious Deficiency Process is a *five-step* process.

1. Determination

2. Notice of Serious Deficiency

3. Corrective Action

4. Proposed Termination & Disqualification

5. Termination & Disqualification

Step 1: Serious Deficiency Determination

The State Agency or Sponsoring Organization must identify the serious deficiency. Examples of issues that might lead to a serious deficiency determination include:

False Claims	Imminent threat to health and safety
Meals not compliant with meal pattern requirements	Failure to maintain adequate records
Missing records	Claiming children not in attendance
False information on the application to participate in the Program	Failure to train and monitor sponsored centers or providers

Step 2: Notice of Serious Deficiency

The Notice of Serious Deficiency is issued by the State Agency or Sponsoring organization. This notice outlines and defines the violation of Program requirements. The notice also specifies any corrective actions needed and a **deadline** by which the violations must be corrected.

This notice also states that the serious deficiency determination **IS NOT** subject to appeal.



Step 3: Corrective Action

The organization is given an ***opportunity*** to correct the violation within the specified period of time. If the corrective action is accomplished to the State Agency's satisfaction, the serious deficiency determination will be ***temporarily deferred***.

The Corrective Action response ***must*** address:

Who?

What?

When?

Where?

How?

Step 4: Notice of Proposed Termination & Disqualification

If the organization ***fails*** to correct or resolve the serious deficiency by the specified date, the State Agency will send the Notice of Proposed Termination and Proposed Disqualification. This notice outlines:

- ***Who*** is being disqualified;
- The ***basis*** for the proposed action;
- The ***effective date*** of the proposed action;
- Procedures for ***appealing*** the proposed action;
- Whether CACFP payments will ***continue*** during the appeal; and
- The action will continue even if the recipient ***voluntarily*** terminates the contract.

Step 5: Notice of Termination and Disqualification

If the organization does not appeal, or if the hearing official rules in favor of the State Agency, the Office of Child Nutrition (OCN) will ***immediately*** issue a Notice of Termination and Disqualification. Remember, this Notice cannot be appealed.



The National Disqualified List (NDL)



The ***National Disqualified List (NDL)*** is a list kept by the USDA of organizations, responsible principals, and responsible individuals disqualified from participation in the CACFP. While on the list, you may not participate in the CACFP.

Persons will remain on the NDL for ***seven*** years or until USDA and FNS, in consultation with the State Agency, determines that the serious deficiencies have been corrected.

If a sponsoring organization, responsible principal, or responsible individual owes a ***debt*** to the CACFP, they will remain on the NDL **until the debt is paid.**

It is important for organizations to review to the NDL ***regularly*** as they hire new employees or add cites to their sponsorship.

Topic 3: Corrective Action



Why is Corrective Action Required?

Corrective action is required to address Program findings and to *maintain* Program compliance.

Participating organizations:

- are required to provide corrective action as a result of findings cited by the State Agency during a compliance review or as a result of your sponsorship being declared seriously deficient (SD).
- are required to provide corrective action as a result of findings from your independent program audit.
- are required to obtain corrective action from your sponsored day care home providers or centers for findings cited during a monitoring visit or as part of the SD process for your sponsored facilities.

What is the definition of Corrective Action?

According to 2 *CFR* 200.26, a corrective action is the ***action*** the organization will take within a specific time frame to address the finding of noncompliance and to prevent it from recurring.

Corrective Action

- is new or improved processes or procedures;
- is implemented within a specific time frame;
- is expected to resolve the condition that resulted noncompliance;
- is expected to prevent recurrence; and
- identifies who is responsible for implementing and maintaining new processes or procedures.



Root-Cause Analysis

In order to successfully implement corrective action, the **cause** of the finding of noncompliance must be determined by the organization. The best way to determine the cause is to ask the question **“Why?”**



Corrective Action Plan

According to 2 *CFR* 200.511(c), a Corrective Action Plan is a **written** response that details the specific action the organization will take within a specific time frame to permanently correct the noncompliance.

A Corrective Action Plan must:

- Detail step-by-step actions.
- Contain actions which must resolve the cause that resulted in the noncompliance.
- Outline actions that permanently prevent recurrence.
- Include processes and procedures that are consistent with federal regulations, State Agency policy, and internal, organizational requirements.
- Be signed and dated by the organization.

Components of a Corrective Action Plan



Components of a Corrective Action Plan

- **What** procedures will be implemented to permanently correct the noncompliance?
- **Who** will be responsible for the task?
- **How** the staff and facilities will be informed of the new policies and procedures?
- **When** the procedures to permanently correct the noncompliance will be implemented, including a timeline for implementing the procedure?
- **Where** will the Corrective Action Plan be retained?

Supporting Documentation

Submission of the Corrective Action Plan may require supporting documentation demonstrating that the problems identified have been fully and permanently corrected by the organization. A few examples of supporting documentation are:

❖ Eligibility Forms	❖ Enrollment Forms
❖ Invoices and Receipts	❖ Meal Count Sheets
❖ Bank Statements	❖ Attendance Records

Are Corrective Actions Permanent?

Things to Consider:

- ✓ Original Problem
- ✓ Time Elapsed
- ✓ Personnel Changes
- ✓ Records

YES

Acknowledgement

The Participating Organization **understands** and **acknowledges** that:

- ❖ The training completed does not cover the entire scope of the Child and Adult Care Food Program (CACFP); and
- ❖ The organization is responsible for knowing and understanding all handbooks, manuals, alerts, notices, and guidance, as well as any other forms of communication that provide further guidance, clarification or instruction on operating the program.

Questions





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