



United States
Department of
Agriculture

Food and
Nutrition
Service

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DATE: January 26, 2007

MEMO CODE: CACFP 01-2007

SUBJECT: Retention of records relating to institutions, responsible principals or responsible individuals, and family day care homes on the National Disqualified List; retention of records relating to serious deficiencies

TO: Special Nutrition Programs
All Regions

State Agencies
Child Nutrition Programs
All States

The purpose of this memorandum is to clarify Program requirements for the retention of records relating to institutions, responsible principals or individuals, and family day care homes that have been placed on the CACFP National Disqualified List (NDL). In addition, this memorandum also clarifies recordkeeping requirements relating to institutions and homes that have been declared seriously deficient, but which take satisfactory corrective action and are not placed on the NDL. These issues need to be addressed to ensure that the records supporting a serious deficiency determination, and/or a termination and disqualification, are properly maintained by State agencies (SAs) and sponsoring organizations. This memorandum supersedes question #44 in guidance that was previously issued on November 7, 2005, in CACFP Policy #01-2006 ("Questions and Answers on the Serious Deficiency Process in the CACFP").

Section 226.10(d) of the regulations establishes retention requirements for records relating to claims submitted by SAs and institutions participating in CACFP. Such records must be retained for three years after the submission of the final claim for the fiscal year to which they pertain. If, at the end of this period, audit findings have not been resolved, the records must be retained until the audit is resolved.

The same principle applies to the retention of records relating to institutions, responsible principals or individuals, and family day care homes that have been placed on the CACFP's NDL. These records are considered to pertain to the entire period that an individual or institution remains on the NDL, since the documentation supporting the disqualification must be available to respond to any challenge to the institution's or individual's inclusion on the NDL, or to a request for removal from the NDL. Therefore, consistent with the requirements at § 226.10(d) concerning the retention of claims-related records, the SA or institution must retain records relating to the disqualification for three years after the institution, responsible principal or individual, or family day care home is removed from the NDL.

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

This memorandum also clarifies record retention requirements relating to an institution or family day care home that is declared seriously deficient, or a principal or individual who has been identified as responsible for a serious deficiency, when the serious deficiency is corrected before disqualification. Records relating to any serious deficiency must be retained by the SA or sponsoring organization for three years after the SA and FNS (for institutions or responsible principals or individuals) or sponsoring organization (for family day care homes) accepts the corrective action. This timeframe will permit the SA (or the sponsoring organization, in the case of a family day care home) to conduct one or more follow-up reviews to ensure that the institution or home has fully and permanently corrected the serious deficiency, and will provide the necessary documentation for a proposed termination if it is found that the corrective action has not been permanently implemented.

Please contact Keith Churchill or Ed Morawetz if you have any questions concerning this guidance.

A handwritten signature in dark ink, appearing to read "Stanley C. Garnett". The signature is written in a cursive, flowing style.

STANLEY C. GARNETT
Director
Child Nutrition Division