



Georgia Department of Early Care and Learning

BRIGHT FROM THE START: Georgia Department of Early Care and Learning

Nutrition Services

POLICY	No.: CACFP/16-38	Effective Date:	11/8/2016
		Revised:	10/1/2019
		Revision Effective:	10/1/2019

SUBJECT: Institutions, Principals, and Individuals Requesting Early Removal from the USDA National Disqualified List (NDL) and the Georgia Disqualified List

LEGAL AUTHORITY: 7 CFR 226.6(c)(7)(v) and (vi); USDA Serious Deficiency, Suspension, & Appeals Handbook for State Agencies & Sponsoring Organizations, February 2015; USDA Memorandum CACFP 03-2006.

Cross Reference/See Also: DECAL Policy No. CACFP 00/09 - Serious Deficiency Process for Applying (New), Renewing, and Participating Institutions

I. PURPOSE

The purpose of this policy is to provide guidance to disqualified institutions, principals, and individuals seeking early removal from the United States Department of Agriculture's (USDA) National Disqualified List (NDL) and the Georgia Disqualified List.

II. APPLIES TO

All institutions participating in the Child and Adult Care Food Program (CACFP).

III. DEFINITION(S)

"Disqualified" means the status of an institution, a responsible principal or responsible individual, or a day care home that is ineligible for participation.

"Early Removal" means removal from the National Disqualified List (NDL) or the Georgia Disqualified List prior to the close of the seven-year Program disqualification period.

"Georgia Disqualified List" means the list, maintained by the Georgia Department of Early Care and Learning (DECAL), of the institutions, responsible principals and/or responsible individuals, and day care homes disqualified from participation of the Child and Adult Care Food Program

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(CACFP) and/or the Summer Food Service Program (SFSP).

IV. POLICY

Institutions and responsible principals and/or individuals may submit corrective action, pay off any debts (including any interest), and submit a request to the Georgia Department of Early Care and Learning (DECAL) for early removal from the United States Department of Agriculture's (USDA) National Disqualified List (NDL), or the Georgia Disqualified List. The burden for documenting that the corrective action has been accomplished lies with the institution or the individual making the request.

In accordance with USDA guidance, an individual who wishes to assume a position related to the Child and Adult Care Food Program (CACFP) and learns that his or her name is listed on the United States Department of Agriculture's (USDA) National Disqualified List (NDL), or the Georgia Disqualified List, has the right to request removal from the list which would necessitate submission of an acceptable corrective action plan.

USDA permits State agencies to utilize discretion when determining whether to forward them requests for early removal. Therefore, this policy establishes guidelines for institutions, principals, and/or individuals to follow when requesting early removal from the NDL and the Georgia Disqualified List.

Pursuant to State policy, early removal requests from an institution, principal, and/or individual for the NDL and Georgia Disqualified List, will not be accepted prior to one (1) year from the effective date of Program disqualification.

A. Early Removal from the USDA National Disqualified List (NDL)

In accordance with Federal regulations, once placed on the NDL, an institution, principal, and/or individual remains on the list until such time as the USDA Food and Nutrition Services (FNS), in consultation with DECAL, determines that the serious deficiency(ies) has been corrected and the USDA decides in their determination that early removal is permissible, or until seven years have elapsed since disqualification and all debt relating to the serious deficiency(ies) has been paid in full.

In order for an institution, principal, and/or individual to be considered for removal prior to the close of the seven-year disqualification period, corrective action documentation detailing how the deficiency(ies) has been fully and permanently corrected must be provided to DECAL. A detailed description of the required documentation is outlined in Section V below.

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Once the request for early removal is made, DECAL will review the serious deficiency(ies) that resulted in Program termination, disqualification, and placement on the NDL; the evidence presented that demonstrates why early removal is warranted; and the written corrective action plan (CAP) to determine if the documentation sufficiently addresses the previously identified deficiency(ies). DECAL will also determine if the institution, principal, and/or individual has satisfied all related debt owed to the DECAL through completion of a Program close-out process.

If all required documentation submitted is complete; the CAP sufficiently demonstrates the serious deficiency(ies) appear to be fully and permanently corrected; and the Program close-out process is successfully completed, DECAL will forward the request with the submitted documentation to USDA FNS Southeast Region (SERO) for review and approval. If the USDA FNS SERO approves the request and written documentation, they will be forwarded to the USDA FNS National Office for a final decision.

If USDA FNS' National Office grants early removal, the institution, principal, and/or individual will be eligible to reapply for Program participation. The effective date of NDL removals will be the date on which the FNS National Office processes the removal request. However, the institution, principal, and/or individual must attend DECAL's 2-day CACFP/DCH Orientation and Program Training and re-apply to the Program through DECA's application process. In order to be reinstated, an organization must submit a complete the Program application that demonstrates Program eligibility, financial viability, and administrative capability, and the application must be approved by DECAL.

If DECAL deems the corrective action insufficient in demonstrating the serious deficiency(ies) has been fully and permanently corrected, and/or the Program close-out process reveals additional deficiencies or results in outstanding debt owed to DECAL, and/or the USDA FNS rejects the early removal request, DECAL will deny the request, and will not consider any subsequent requests for early removal from the institution, principal, and/or individual.

There is neither a statutory nor regulatory timeframe for DECAL to respond to requests for early removal from the NDL or Georgia Disqualified List. Accordingly, DECAL will review and respond to all requests for early removal in its normal course of business.

Reasons Barring Early Removal from the NDL

Institutions, principals, and/or individuals disqualified as a result of submission of false information, submission of false claims, an act that presents a lack of business integrity, failure to operate the Program in conformance with the Performance Standards (i.e., severe or repeated lack of financial viability, administrative capability and Program accountability), or severe or repeated lack of oversight of Program funds, will not be considered by DECAL for early removal.

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B. Early Removal from the Georgia Disqualified List

The Georgia Disqualified List early removal policy generally mirrors the policy for early removal from the NDL. However, there are two exemptions: (1) requests are granted solely within DECAL's discretion; and (2) requests are not submitted to the USDA for review, processing or decision determination.

V. PROCEDURE(S)

In order for a terminated and disqualified institution, principal, and/or individual to be considered for removal from the National Disqualified List (NDL) or the Georgia Disqualified List prior to the close of the seven-year disqualification period, the institution, principal and/or individual making the request must meet the requirements outlined above in Section IV. An early removal request from an institution, principal, and/or individual will not be accepted prior to one year from the effective date of Program disqualification.

If all requirements are met, and the disqualified institution, principal and/or individual is eligible to make an early removal request, the following documentation is required:

1. Name, title, and signature of the person requesting removal;
2. Name of the institution to remove;
3. The name and date of birth of each principal and/or individual to remove;
4. The reason the institution, principal, and/or individual was placed on the NDL or Georgia Disqualified List, listing all serious deficiencies; and
5. A detailed Corrective Action Plan sufficiently demonstrating how each serious deficiency that led to the termination and disqualification has been fully and permanently corrected. Submission of corrective action plans previously submitted to DECAL are prohibited.

The Corrective Action Plan (CAP) must describe in detail, all of the following:

- a. What processes and/or procedures the institutions has implemented to fully and permanently correct the finding;
- b. Who is responsible for implementing and complying with the processes and/or procedures;
- c. How the institution will ensure the processes and/or procedures are followed consistently in order to prevent future findings (including how the institution's staff will be informed of the new processes and procedures);
- d. When the processes and/or procedures for addressing the serious deficiency will be implemented and at what frequency (i.e., weekly, monthly, etc.) will the

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- processes/procedures be performed/verified;
- e. Where the corrective action plan documentation will be retained; and
 - f. Indicate that the institution, principal, and/or individual has paid all debt associated with the termination and disqualification in full.

In addition to the requirements listed in (a) through (f) above, the party request early removal must also provide any applicable supporting documentation with the CAP upon submission. To be clear, any and all supporting documentation must be submitted together with the corrective action response, where applicable. For example, if written policies or procedures are modified or developed, these written policies and/or procedures must be attached and submitted to DECAL to support the CAP response. Further, when addressing (f) above, the institution, principal, and/or individual must provide DECAL with documentation to support that the debt associated with the termination and disqualification has been paid in full.

Institutions, principals, and/or individuals that were terminated and disqualified as a result of health and safety violations must demonstrate twelve (12) months of satisfactory operation of the facility, and any Program or Child Care Services (CCS)-related restrictions must be lifted prior to consideration for early removal from either the NDL or Georgia Disqualified List.

Once the request for early removal is received, the corrective action plan documentation will undergo an extensive review process by DECAL and by the USDA FNS SERO/National Office for NDL removals. If the USDA FNS National Office or DECAL grants early removal, the institution, principal, and/or individual must attend DECAL's 2-day CACFP/DCH Orientation and Program Training and re-apply to participate in the Program. If the request is denied or rejected by the USDA FNS or DECAL, DECAL will not consider any subsequent requests, and the institution, principal and/or individual's presence on the NDL or Georgia Disqualified List will remain until seven years have elapsed since Program disqualification and all debt relating to the serious deficiency(ies) has been paid in full.

For more information and examples of sufficient corrective action documentation, please refer to the USDA's Serious Deficiency, Suspension, & Appeals for State Agencies & Sponsoring Organizations: A Child and Adult Care Food Program Handbook (February 2015) and DECAL Policy No. CACFP 00/09.

VI. COMMENT(S)

For questions concerning this policy, please contact the Policy Administrator at 404-651-8193.