



# Georgia Dept of Early Care and Learning

BRIGHT FROM THE START

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## MEMORANDUM

To: Non-profit and For-Profit Institutions Required to Have a Board of Directors and SFSP Sponsors Applying to, or Participating in, the CACFP

From: Tamika Boone, Director of Nutrition Services (*Original Signed*)

Date: October 1, 2020 (v.3)

Subject: Ensuring Institutions Implement Adequate Oversight and Internal Controls of CACFP Operations

Legal Authority: 2 C.F.R. § 200; 7 C.F.R. § 226.2; 7 CFR §226.6(b)(1)(xviii); 7 CFR §226.6(b)(2)(vii); 7 CFR § 226.16; FNS Instruction 796-2, Rev.4; and FNS Final Rule, 76 FR 34541.

**Cross Reference/See also:** DECAL Policies No. CACFP/02-18 and CACFP/03-28.

Definitions: **Corporation** means a body formed and authorized by law to act as a single person although constituted by one or more persons and legally endowed with various rights and duties including the capacity of succession.

**Independent governing board of directors** means, in the case of a non-profit organization, or in the case of a for-profit institution, required to have a board of directors, a governing board which meets regularly, and which has the authority to hire and fire the institution's executive director.

**Institution** means a sponsoring organization, childcare center, at-risk afterschool care center, outside-school-hours care center, emergency shelter or adult day care center which enters into an agreement with the State agency to assume final administrative and financial responsibility for Program operations.

**Internal controls** means the policies, procedures, and organizational structure of an institution designed to reasonably assure that: (a) the Program achieves its intended result; (b) Program resources are used in a manner that protects against fraud, abuse, waste, and mismanagement and in accordance with law, regulations, and guidance; and (c) timely and reliable Program information is obtained, maintained, reported, and used for decision-making.

This Policy Memorandum supersedes the following: *All Institutions Participating in the Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP) Sponsors Applying or Who Have Transitioned to the CACFP*, December 15, 2014; and DECAL Policy Memorandum, *Ensuring Institutions Implement Adequate Oversight and Internal Controls of CACFP Operations*, October 1, 2019.

The purpose of this guidance is to ensure institutions implement adequate oversight and internal controls of CACFP operations. Each institution must practice and submit documentation to justify that it is: **(1) financially viable, (2) administratively capable of administering and operating the Program in accordance with 7 C.F.R. § 226.6, and (3) has internal controls in effect to ensure accountability.** These are known as Program performance standards and are sometimes referred to as “VCA.”

In order to document these requirements are met, new or renewing institutions must demonstrate in their online application (located in GA ATLAS), that they can operate in conformance with the performance standards as identified in this memorandum. The Georgia Department of Early Care and Learning (DECAL) will only approve applications of those new institutions that meet these performance standards and must take adverse action against participating institutions that fail to meet or maintain these standards.

Additionally, all institutions must demonstrate they maintain adequate oversight and internal controls of its CACFP through its overall Program performance and accurate recordkeeping. To ensure compliance with these performance standards, DECAL will adhere to/apply Federal regulations and comparable discretion, in determining whether an institution's application, in conjunction with its Program performance, demonstrates the institution meets the standards.

## **I. Financial Viability**

Each institution must be financially viable. Program funds must be expended and accounted for in accordance with this policy, FNS Instruction 796-2 Rev. 4. and 2 CFR § 200. To demonstrate financial viability, the institution must document that it meets all the following criteria:

- (1) *Description of need/recruitment.* A sponsoring organization must demonstrate that it will use appropriate practices for recruiting facilities, consistent with 7 CFR § 226.6(p) and any State agency requirements.
- (2) *Fiscal resources and financial history.* An institution must demonstrate that it has adequate financial resources to operate the CACFP on a daily basis, has adequate sources of funds to continue to pay employees and suppliers during periods of temporary interruptions in Program payments and/or to pay debts when fiscal claims have been assessed against the institution, and can document financial viability (*e.g.*, through audits, financial statements, etc.). If an institution does not have a source of non-Program funds in these instances, it runs the risk of going out of business, due to its inability to repay DECAL, or pay its employees or suppliers. Institutions are expected to have such funds on hand, since its existence as a viable entity, and its continued ability to provide Program benefits to children may depend on it.
- (3) *Budgets.* Costs in the institution's budget must be necessary, reasonable, allowable, and appropriately documented to support Program administration and operation.

### Financial Management

With regard to financial management, a key element in a system of internal control is segregation of duties. Segregation of duties are a preventive control activity whereby certain duties are divided amongst different individuals to minimize the risk of error and/or inappropriate action. Adequate segregation of accounting duties provides reasonable assurance that CACFP funds and other assets are safeguarded and used solely for authorized purposes. Effective internal control over cash and other assets requires that the functions of authorizing transactions, recording transactions, handling the related assets, and reconciling cash accounts are segregated and performed by different individuals.

In order to provide DECAL with reasonable assurance that Program funds and all other CACFP resources are safeguarded from fraud, abuse, waste, and mismanagement, institutions are required to:

1. Divide and assign to different individuals the responsibilities of authorizing, recordkeeping, asset custody, and bank reconciliations;
2. Establish and maintain internal control policies and procedures regarding the separation of duties;
3. Ensure internal control policies and procedures align with Generally Accepted Accounting Principles (GAAPs) and Federal regulations. GAAPs consist of professional standards that govern accounting for financial transactions. GAAPs are comprised of rules and principals from sources including the Governmental Accounting Standards Board, the Federal Accounting Standards Board, and the American Institute of Certified Public Accountants. *Institutions participating in the CACFP are required to follow GAAPs.*
4. Ensure that internal control policies regarding the separation of duties are communicated to, and observed by, all employees; and
5. Conduct ongoing and periodic monitoring activities to ensure that internal control processes regarding the separation of duties are operating as intended.

## **II. Administrative Capability**

Each institution must be administratively capable. Appropriate and effective management practices must be in effect to ensure that the Program operates in accordance with Federal regulations. To demonstrate administrative capability, the institution must document that it meets the following criteria:

- (1) Has an adequate number and type of qualified staff to ensure the operation of the Program in accordance with Federal regulations;
- (2) Documents in its online Management Plan that it employs staff sufficient to meet the ratio of monitors to facilities in accordance with CACFP monitoring (FTE) requirements;
- (3) Has written Program policies and procedures that assign Program responsibilities and duties, and ensure compliance with Civil Rights requirements; and
- (4) Has an outside employment policy that ensures the outside employment of any of its employees will not interfere with the performance of the employee's duties, including CACFP-related duties, and is performed outside of the employee's approved work schedule. Employees must be required to request approval from the institution to have outside employment if it presents a real or perceived conflict of interest.

In order to demonstrate the requirements listed above, the institution applying to become, or participating as a CACFP institution, must provide copies to DECAL and/or maintain on file the following:

- a. An organizational chart;
- b. Organizational mission statement and bylaws;
- c. Written job descriptions for full-time employees, part-time employees, volunteers, and information on the contract employees assigned to perform CACFP duties. A description of qualifications for all CACFP positions and their prospective salary ranges as well as

resumes of individuals employed by the institution who will be performing CACFP duties are required;

- d. CACFP staff training plan;
- e. Staff performance appraisal procedures;
- f. Projected staffing patterns based on the number of projected centers and/or day care homes to be sponsored during the year; and
- g. The Institution's outside employment policy.

### **III. Program Accountability**

Each institution must have internal controls and other management systems in effect to ensure fiscal accountability and to ensure that the Program operates in accordance with Federal requirements. To demonstrate Program accountability, the institution must document that it meets all the following criteria numbered (1) through (5) below:

(1) *Meet the definition of 'Independent Governing board of directors.'* Georgia law requires all corporations to have a board of directors unless the corporation is a statutory close corporation meeting the requirements of O.C.G.A. 14-2-922 or a signed shareholder's agreement has eliminated the board of directors.<sup>1</sup> A for-profit corporation's board of directors must consist of at least one member. The code further states that, "all corporate powers shall be exercised by or under the authority of the board of directors of the corporation, and the business and affairs of the corporation shall be managed by or under the direction, and subject to oversight, of its board of directors, subject to any limitation set forth in the articles of incorporation, in rights, options, or warrants permitted by paragraph (2) of subsection (d) of Code Section 14-2-624, or except as provided in an agreement among the shareholders meeting the requirements of Code Section 14-2-732 [O.C.G.A. § 14-2-801(b)]."

All non-profit corporations and all for-profit corporations that have a board of directors must perform the following functions:

- a. Meet applicable Federal and State statutes and requirements;
- b. Be responsible for policy setting, fiscal guidance, and ongoing governance;
- c. Regularly review the corporation's policies, program and budgets;
- d. Establish policies for the corporation;
- e. Select and evaluate the Executive Director;
- f. Provide fiscal guidance;
- g. Approve decisions about compensation of employees and other parties providing services;
- h. Ensure the establishment and implementation of written codes of conduct and performance of employees engaged in awards and administration of contacts; and

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<sup>1</sup> For additional information, see DECAL Policy No. CACFP/03-28.

i. Possess Program knowledge and have operational oversight.

Additionally, all non-profit corporations must meet the definition of an independent governing board of directors per Federal requirements. All for-profit corporations that have a board consisting of two or more persons must also meet the definition of an independent governing board of directors per Federal requirements. Therefore, based on aforementioned Federal and State guidance and in an effort to preserve the board's independence, the following are additional guidelines corporations must include in their governing boards policies to maintain compliance with the CACFP and Federal regulations.

1. The executive director/CACFP director, owner, other sponsor officials, and/or members of their families are prohibited from serving as Chairman of the Board.
2. The board must be comprised of a majority (51 percent or more) of members of the community who are not financially interested in its activities, or relatives of staff members or to each other.
3. Board members are prohibited from voting on decisions relating to their own compensation (or the compensation for a relative).
4. There must be a segregation of duties for Program staff who also serve on the board.

The corporation's CACFP application must reflect how often the governing board will meet. In addition, corporations must maintain signed, dated, and authenticated records of board meeting minutes as documentation of decisions made during the Board meetings. These records must be maintained with all other required Program records and must be available for review by USDA, DECAL, DECAL contractors, and/or any of its agents at all times. Further, the institution's policies, operations, programs, and budgets must be reviewed regularly at board meetings. All decisions to make changes in the institution's policies, operations, programs, services and/or budgets must be documented in the governing board's meeting minutes.

If the members of the governing board change, the institution's Program Contact must notify DECAL in writing by completing the *Institution Change Notification Form* and must update the online application located in GA ATLAS **within 30 days** of the change. The new principal will also be required to attend the CACFP 2-day training **within 90 days** of notification to DECAL. The change in the governing board must be in compliance with this policy.

Non-profit and for-profit organizations applying to or participating in the CACFP must document that their institution has adequate oversight of the Program by its governing board to ensure Program accountability pursuant to this Policy. This documentation is done within the organization's online application housed within GA ATLAS. Federal tax-exempt non-profit organizations and for-profit organizations must also include the names of all board members, along with their mailing addresses, and dates of birth.

For-profit organizations legally operating without a Board of Directors are required to maintain the same expectation of preserving independent oversight of the CACFP. This is especially true in instances where the *same* individual is performing duties as the Principal/Program Contact, Executive Director, Owner, and is the official delegating authority to perform CACFP or SFSP duties. Accordingly, these organizations must include the names of each shareholder/owner in their online application along with the mailing address and date of birth for each shareholder/owner. Additionally, these organizations must notify DECAL of any shareholder changes in writing by completing the *Institution Change Notification Form* and must update the online application **within 30 days** of the change.

- (2) *Fiscal accountability.* Have a financial system with management controls specified in writing. These written operational policies must ensure:
- a. Fiscal integrity and accountability for all funds and property received, held, and disbursed;
  - b. The integrity and accountability of all expenses incurred;
  - c. That claims are processed accurately and in a timely manner;
  - d. That funds and property are properly safeguarded and used, and expenses are incurred for authorized Program purposes; and
  - e. That a system of safeguards and controls is in place to prevent and detect improper financial activities by employees
- (3) *Recordkeeping.* Maintains appropriate records to document compliance with Program requirements including budgets, accounting records, approved budget amendments, management plans, and appropriate records on facility operations.
- (4) *Sponsoring organization operations.* A sponsoring organization documents in its management plan that it will:
- a. Provide adequate and regular training of sponsoring organization staff and sponsored facilities in accordance with 7 C.F.R. §§ 226.15(e)(12) and (e)(14), and 7 C.F.R. §§ 226.16(d)(2) and (d)(3);
  - b. Perform monitoring in accordance with 7 C.F.R. § 226.16(d)(4) to ensure that sponsored facilities accountably and appropriately operate the Program;
  - c. If a sponsor of family day care homes, accurately classify day care homes as tier I or tier II in accordance with 7 C.F.R. § 226.15(f); and
  - d. Have a system in place to ensure that administrative costs funded from Program reimbursements do not exceed regulatory limits set forth at 7 C.F.R. §§ 226.12(a) and 226.16(b)(1).
- (5) *Meal service and other operational requirements.* Independent centers and facilities will follow practices that result in the operation of the Program in accordance with the meal service, recordkeeping, and other operational requirements of this part. These practices must be documented within the independent center's online application and must demonstrate that the independent center or sponsored facility will:
- a. Provide meals that meet the meal patterns set forth in 7 C.F.R. § 226.20;
  - b. Comply with licensure or approval requirements set forth in paragraph (d) of this section;
  - c. Have a food service that complies with applicable State and local health and sanitation requirements;
  - d. Comply with Civil Rights requirements;
  - e. Maintain complete and appropriate records on file; and
  - f. Claim reimbursement only for eligible meals.

All institutions currently participating in the Program must ensure they are meeting the requirements of this memorandum at all times. Institutions will be asked to demonstrate that they meet adequate oversight and internal controls of its CACFP operations through submission of documentation to verify fiscal and Program accountability. Participating institutions will be annually required to demonstrate they meet these requirements during the renewal application process. Moreover, DECAL will determine if institutions are operating in accordance with Federal regulations and State policy by conducting Compliance Reviews and/or investigations. Institutions participating in the CACFP who fail to meet the above described Program performance standards, will be declared Seriously Deficient.

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