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Georgia Dept of Early Care and Learning

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Serious Deficiency Process for Sponsors in the Summer Food Service Program, SFSP #15 (04-15)

LEGAL AUTHORITY

O.C.G.A. § 20-1A-4(3); 7 CFR § 225.2; 225.11; 225.13; and 225.14(c).

Cross Reference/See Also

USDA, SFSP State Agency Monitor Guide, February 2017, DECAL SFSP Policy No. 03-5, DECAL SFSP Policy 04-14; and DECAL SFSP Policy No. 17-20.

I. PURPOSE

The purpose of this policy is to describe the serious deficiency process and procedure for sponsors applying to or participating in the Summer Food Service Program (SFSP). The SFSP serious deficiency process was established to ensure compliance with USDA FNS regulations and guidance to protect Program integrity. It ensures Program integrity by allowing State agencies a process in which sponsors that have failed to correct non-compliance issues may be terminated and disqualified for cause in accordance with the applicable Federal regulations.

II. APPLIES TO

This policy applies to all sponsors applying to or participating in the SFSP, respectively.

III. DEFINITIONS

"Administrative Review" (appeal) means the fair hearing provided upon request to:

1. A sponsor that is given notice by the Georgia Department of Early Care and Learning (GA DECAL) of any action or proposed action that will affect its participation or reimbursement in the SFSP.

2. A principal or individual responsible for a sponsor's serious deficiency after the responsible principal and/or responsible individual has been given notice of GA DECAL's intent to terminate and disqualify him/her from the SFSP.

"Congregate meal service" means a food service at which meals that are provided to children are consumed on site in a supervised setting.

"Corrective Action" means any action directed by GA DECAL and/or taken by a sponsor to fully and permanently correct an isolated/repeat finding(s) and/or serious deficiency(ies). In response to the Notice of Serious Deficiency, a sponsor must submit in writing, what corrective action has been has taken. This correspondence details the internal controls implemented to ensure the serious deficiencies are fully and permanently corrected. Corrective action must be taken within the timeframe designated by the State agency.

"Disqualified" means the status of a sponsor, responsible principal or responsible individual that is ineligible for Program participation.

"Fully and Permanently" means that documentation submitted by an organization demonstrated that the serious deficiencies had been corrected in such a manner that they were determined by the State agency to be unlikely to recur.

"Georgia Disqualified List" or **"GDL"** means the list maintained by GA DECAL of institutions, sponsors, responsible principals, and/or individuals, and/or day care home providers disqualified from participation in the SFSP and/or CACFP. This list may be shared with other State agencies that administer the SFSP across the country.

"Non-congregate meal service" means a food service at which meals are provided for children to consume all of the components off site. Non-congregate meal service must only be operated at sites designated as “Rural” with no “Congregate meal service,” as determined in 7 CFR § 225.6(h)(3) and (4).

"Notice" means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by GA DECAL or the Food and Nutrition Service (FNS) with regard to a sponsor's Program reimbursement or participation. The notice must specify the action(s) being proposed or taken and the basis for the action(s) and is considered to be received by the sponsor when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the sponsor or responsible principal or individual, five (5) days after being sent to the addressee's last known mailing address.

"Office of State Administrative Hearings" (OSAH) means the executive state agency responsible for the impartial administration of the Georgia Administrative Procedure Act. This agency conducts the Administrative Review. OSAH is not accountable to the management of the SFSP or the State agency.

"Responsible principal and/or responsible individual" means:

1. A principal (i.e., managers, board members, officers), whether compensated or uncompensated, who is responsible for the managing and/or operating the SFSP and/or who GA DECAL or FNS determines to be responsible for an institution's serious deficiency;
2. Any other individual employed by, or under contract with, an institution or sponsored center,

who GA DECAL or FNS determines to be responsible for an institution's serious deficiency; or

3. An uncompensated individual who GA DECAL or FNS determines to be responsible for an institution's deficiency.

"Serious Deficiencies" includes, but is not limited to, the criteria as outlined in 7 CFR 225.11(c).

"Seriously Deficient" means the status of a sponsor that has been determined to be non-compliant in one or more aspects of its operation of the SFSP.

"Sponsor" means a public or private nonprofit school food authority, a public or private nonprofit residential summer camp, a unit of local, municipal, county or State government, a public or private nonprofit college or university currently participating in the National Youth Sports Program (NYSP), or a private nonprofit organization which develops a special summer or other school vacation program providing food service similar to that made available to children during the school year under the National School Lunch and School Breakfast Programs and which is approved to participate in the Program.

"Temporarily Deferred" means the Seriously Deficient determination by GA DECAL has been temporarily suspended until the State agency determines the corrective action submitted by the sponsor has been fully and permanently implemented.

IV. POLICY

A. **Overview**
Consistent with 7 CFR 225 and applicable USDA guidance, GA DECAL works to ensure that the SFSP is administered with integrity. As stated above, the SFSP serious deficiency process was established to ensure sponsor compliance with Federal regulations and guidance in order to protect Program integrity. GA DECAL monitors sponsors and their sponsored sites. A Program violation for noncompliance will result in a "finding." GA DECAL, GA DECAL contractors, USDA FNS, and/or USDA FNS representatives may issue findings during any of the following types of monitoring visits:

- Compliance review
- Follow-up Review
- Serious Deficiency (SD) follow-up review
- Audit
- Financial review
- Complaint and/or special investigation

B. **Findings**
Pursuant to 7 CFR 225.11(c), serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

1. Noncompliance with the applicable bid procedures and contract requirements of Federal child nutrition program regulations.

   Examples may include, but are not limited to, the following:

i. Failure to competitively procure goods and services.

ii. Anti-competitive practices, such as collusion, kickbacks, conflicts of interest.

iii. Inclusion of non-competitive provisions in a bid (e.g., "successful bidders for a contract to provide meals must establish a scholarship fund.")

2. The submission of false information to GA DECAL or any of its representatives.

Examples may include but are not limited to:

i. A determination that the sponsor has concealed a conviction for any activity that occurred during the past seven (7) years and that indicates a lack of business integrity. (A *'lack of business integrity' includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements in writing or otherwise, receiving stolen property, making false claims in writing or otherwise, forging another 's signature, altering dates, obstruction of justice, or any other activity indicating a lack of business integrity as defined by GA DECAL.*)

ii. Misappropriation of funds.

iii. Failure to disclose ineligible officers, directors, or other key employees.

iv. Allowing an individual who is on the National Disqualified List (NDL) and/or the Georgia Disqualified List (GDL) to serve in a principal capacity with the sponsor and/or allowing such an individual to serve as a principal at a sponsored site.

v. Allowing an individual that has been declared ineligible for any other publicly funded program by reason of violating that Program's requirements to serve in a principal capacity at the sponsor or site level.

vi. Listing fictitious employees, officers, and/or board members on a Program application.

vii. Claiming tax-exempt status when denied, rescinded, etc.

viii. Submitting the IRS tax-exempt determination letter of a different or defunct organization.

ix. Claiming non-existing/non-participating sites and/or children.

x. Inflating meal counts.

xi. Claiming non-existent costs.

xii. Claiming costs which are disallowed and/or not included in an approved budget (e.g., using Program funds for non-Program purposes.)

xiii. Claiming costs for fictitious employees.

xiv. Submission of information to GA DECAL or any of its representatives which does not accurately reflect the sponsor's true Program operations.

xv. Falsification of any Program document.

xvi. Making false statements within the sponsor' s corrective action plan (CAP) so as to influence the sponsor' s current serious deficiency status; and/or

xvii. Claiming legitimate costs but failing to pay for services.

3. Failure to return to GA DECAL any start-up or advance payments which exceeded the amount earned for serving meals in accordance with federal regulations, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with federal regulations.
4. Failure to timely repay any outstanding debt owed in the SFSP and/or Child and Adult Care Food Program (CACFP) and/or failure to adhere to a payment plan arrangement between the organization and GA DECAL.
5. Program violations at a significant proportion of the sponsor's sites. Such violations may include, but are not limited to:
    - Failure to maintain adequate records*;*
      Examples:
        i. Sponsors who consistently have missing records during (different) reviews, complaint investigations, agreed-upon-procedures reviews, or audits.
        ii. Missing/incomplete/different amounts or payees for invoices, receipts, canceled checks, inventories resulting in false/inflated/ unsubstantiated claimed costs.
        iii. Cost records not maintained according to generally accepted accounting principles resulting in false/inflated unsubstantiated claimed costs.
        iv. Missing/incomplete menu records.
        v. Missing/incomplete meal count records.
    - Noncompliance with the meal service time restrictions set forth at 7 CFR 225.16(c), as applicable.
    - Failure to adjust meal orders to conform to variations in the number of participating children.
    - For congregate meal service operations, the simultaneous service of more than one meal to any child.
    - The claiming of Program payments for meals not served to participating children.
    - For non-congregate meal service operations, distributing more than the daily meal limit when multi-day service is used.
    - Service of a significant number of meals, which did not include required quantities of all meal components.
    - For congregate meal service operations, excessive instances of off-site

meal consumption.

- Continued use of food service management companies that are in violation of health codes.
- Inflated meal counts, the meals claimed always equals the number of meals ordered/planned.
- Excessive and/or repeat instances of unsubstantiated block claiming.
- Claiming meals delivered/planned for as meals served to participants.
- Inflating site meal counts.
- Claiming non-existent and non-participating sites.
- Claiming meals for ineligible sites.
- Knowingly claiming dual participation sites.

6. Failure to operate the Program in conformance with performance standards (Financial Viability, Administrative Capability, and Program Accountability).
7. Failure by a sponsor to properly train or monitor sponsored sites in accordance with Federal regulations.
8. Failure to perform any of the other financial and administrative responsibilities required by Federal regulations.
9. Any other action affecting the sponsor's ability to administer the Program in accordance with Program requirements as defined in 7 CFR §225.14.

C. **Serious Deficiency Determination and Serious Deficiency Process**

Based on the nature of the finding(s) cited or any other additional supporting information received, GA DECAL will determine whether to classify a finding as an isolated error, a repeat error of a serious nature, or as a serious deficiency. A sponsor may be declared seriously deficient at any time during Program operation if any of the criteria as outlined within this policy are met.

Once GA DECAL has determined that a sponsor has committed one or more findings that rise to the level of serious deficiency, the State agency will issue a Notice of Serious Deficiency to the sponsor and its responsible principals and/or individuals (RP/Is). This notice will list the findings that led to the serious deficiency determination and will give the sponsor an opportunity to submit corrective action by a specified deadline. A determination of Serious Deficiency itself is not an adverse action and thus, is not appealable. To be clear, the decision to declare a sponsor seriously deficient is within the State agency' s sole discretion. Further, SFSP federal regulations do not provide a timeframe for which the serious deficiency determination must be disposed of.

DECAL will add the sponsor to DECAL' s list of seriously deficient sponsors, along with the basis for the serious deficiency determination, and provide a copy of the notice to FNS SERO.

Should the sponsor submit untimely corrective action, no corrective action at all, or corrective action that is determined to be insufficient in fully and permanently correcting the serious deficiency(ies) cited in the Notice, GA DECAL will propose to deny the sponsor's application for

participation and/or propose to terminate the sponsor and/or disqualify the sponsor and its RP/Is from Program participation and issue a Notice of Proposed Termination and Proposed Disqualification. Such letter is sent to the sponsor and its responsible principal and/or individuals (RP/Is). In contrast to the Notice of Serious Deficiency, once such actions have been proposed by GA DECAL, the sponsor may request an administrative review (appeal) of the application denial or proposed termination and proposed disqualification and will be provided appeal procedures. Within the Notice of Proposed Termination and Proposed Disqualification, sponsors are given appeal procedures and an appeal request deadline.

However, if GA DECAL determines that the submitted corrective action fully and permanently corrects the serious deficiency(ies) as cited in the Notice of Serious Deficiency, then GA DECAL will issue a Notice of Successful Corrective Action and Temporary Deferment letter to the sponsor and its RP/Is. As indicated above, the phrase "fully and permanently" means that documentation submitted by an organization demonstrated that the serious deficiencies had been corrected in such a manner that they were determined by the State agency to be unlikely to recur.

Once the Seriously Deficient determination has been temporarily deferred, DECAL, GA DECAL contractors, USDA FNS, and/or USDA FNS representatives will conduct an unannounced SD follow-up review to verify the adequacy and implementation of the corrective action submitted by the sponsor to ensure Program compliance and Program integrity.

For example, suppose ABC Kids Academy was cited for unallowable costs which resulted in $1,000 needing to be repaid and put back into the sponsor' s Food Service Account (FSA). As part of their corrective action, ABC Kids Academy submits bank transfer information demonstrating that $1,000 was repaid to its FSA using non-Program funds. Suppose further that GA DECAL temporarily defers the sponsor. ABC Kids Academy will be subject to a review conducted by GA DECAL' s Audits and Compliance Division to verify that the $1,000 is remaining in the FSA and that non-Program funds were used to repay the amount owed.

Pursuant to DECAL SFSP Policy No. 03-5 and DECAL SFSP Policy No. 17-20, **all accounts and records pertaining to the Program shall be made available upon request to DECAL, DECAL contractors, USDA, or any of their representatives for audit or review.** If DECAL finds in a follow-up review or in any subsequent review that any of the serious deficiency(ies) have not been fully and permanently corrected, and/or unallowable costs have not been repaid and/or verification of financial records and source documents are not provided, DECAL may propose to terminate the sponsor' s agreement and propose to disqualify the sponsor and its responsible principals and/or individuals (RP/Is) from the Program without any further opportunity for corrective action.

As required by DECAL SFSP Policy No. 03-5, sponsors must maintain their submitted corrective action at the place indicated in the "Recordkeeping" section of the sponsor's Management Plan located in GA ATLAS. As such, sponsors are required to have their corrective action available upon request by GA DECAL, GA DECAL contractors, USDA FNS or any of their representatives.

V. PROCEDURES

I. **Applying Sponsors**
Once GA DECAL determines that a sponsor applying for Program participation has committed one or more findings that rise to the level of serious deficiency, the State agency will issue a Notice of Serious Deficiency to the sponsor and its RP/Is. This notice will list and/or specify the following, and will specify:

- All of the RP/Is;
- The findings that led to the serious deficiency determination;
- The corrective actions to be taken in order to correct the serious deficiency(ies);
- Any adverse action if applicable;
- The time allotted to correct the serious deficiency(ies);
- The consequences of unsuccessful corrective action, should it result;
- That the serious deficiency is not subject to administrative review (appeal);
- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in GA DECAL's denial of the sponsor's application and the proposed termination and proposed disqualification of the sponsor and its responsible principals and/or individuals from future participation in the Program;
- That if the sponsor voluntary withdraws its application with GA DECAL after having been notified that it is seriously deficient will result in the proposed placement of the sponsor and its responsible principals and/or individuals on the GDL; and
- That termination and disqualification from the SFSP may impact an institution's eligibility to receive other State and/or Federal funding from sources such as the Childcare and Parent Services (CAPS) Program or Georgia's Pre-K Program.

A. **Corrective Action Plan (CAP)**
Once a sponsor is declared seriously deficient, it is required to provide written corrective action responses for each finding cited. Taken together, these responses are often referred to as a Corrective Action Plan or "CAP." Corrective action must be taken within the timeframe designated by the State agency. The written responses should indicate that the sponsor understands what violation occurred and what corrective action needs to be taken to fully and permanently correct the serious deficiency.

An acceptable CAP must include all of the following for **each** finding cited:

- **What** are the processes and/or procedures that were implemented by the sponsor to address the serious deficiency;
- **Who** is responsible for addressing the serious deficiencies;
- **When** was the procedure implemented by the sponsor to address the serious deficiencies and at what frequency (i.e., weekly, monthly, etc.) will the processes/procedures be performed/verified;

- **Where** is the corrective action plan documentation going to be retained; and
- **How** the staff will be informed of the policies and procedures.

A sponsor's CAP will be denied if it provides little detail, cannot be easily understood, lacks supporting documentation, and/or is missing some or all of the required information listed above. Further, a Notice of Proposed Termination and Proposed Disqualification may be issued to the sponsor.

B. **Successful Corrective Action and Re-Submission of Application**

If corrective action is taken to fully and permanently correct the serious deficiencies cited in the Notice of Serious Deficiency within the allotted timeframe and to GA DECAL's satisfaction, the State agency will notify the organization and its responsible principals and/or individuals that it has temporarily deferred its serious deficiency determination, by issuing a Notice of Successful Corrective Action and Temporary Deferment. At that time, the State agency will offer the sponsor an opportunity to resubmit its application. All questions concerning a Program application must be directed to GA DECAL's Application Services Manager and/or assigned Application Specialist.

However, if GA DECAL finds in any subsequent review and/or investigation that the serious deficiencies listed in the most recently issued Notice of Serious Deficiency have not been fully and permanently corrected, GA DECAL may immediately propose to terminate and disqualify the sponsor and its responsible principals and individuals from future participation in the SFSP without any further opportunity for corrective action.

Additionally, if the sponsor's approved corrective action consisted of entering into an approved payment arrangement, and the sponsor failed to submit proof of re-payments as agreed, GA DECAL may immediately propose to terminate and disqualify the sponsor and its responsible principals and individuals from future SFSP participation without further opportunity for corrective action.

C. **Unsuccessful Corrective Action and Proposed Denial of Application**
If timely corrective action is not taken to fully and permanently correct the serious deficiencies cited in the Notice of Serious Deficiency, GA DECAL will propose to deny the sponsor's application and proposed to disqualify the RP/Is. Further, if corrective action is determined to be complete for the sponsor (program contact) but not for all of the RP/Is (or vice versa), GA DECAL will continue with its proposed application denial and proposed disqualification of the remaining parties.

DECAL is prohibited from paying any claims for reimbursement from a new sponsor for eligible meals served or allowable administrative expenses incurred until DECAL has approved its application and the sponsor and State agency have signed a Program agreement.

GA DECAL will notify the organization's program contact and all other RP/ Is that the sponsor's application has been denied. The notice will indicate:

- That the sponsor's application has been denied and that GA DECAL is proposing to disqualify the sponsor and its responsible principals and/or individuals;
- The basis for the denial;
- The procedures for seeking an administrative review (appeal) of the proposed application denial and disqualification;
- If the time for requesting an administrative review expires, or if OSAH upholds GA DECAL's proposed denial of the sponsor's application and the proposed disqualification, the State agency will notify the sponsor's responsible principals and/or individuals that the sponsor and the responsible principals and/or individuals have been disqualified. This notice will be in the form of a letter entitled Notice of Termination and Disqualification. GA DECAL will then add the sponsor and its responsible principals and/or individuals to the GDL.
- If OSAH overturns GA DECAL's proposed application denial and proposed disqualification, the State agency will notify the sponsor and its responsible principals and/or individuals that the application denial and disqualification have been temporarily deferred. The State agency will issue a Notice of Successful Corrective Action and Temporary Deferment. At that time, the State agency will offer the sponsor an opportunity to resubmit its application. GA DECAL will then update its list of seriously deficient sponsors to include the sponsor as temporarily deferred.

II. Participating Sponsors

A. Findings and Serious Deficiency Determination

When findings are cited, GA DECAL will determine whether the finding is an isolated error or a repeated error of such severity as to warrant the sponsor to be declared seriously deficient.

If GA DECAL determines that the sponsor has committed an isolated error, the State agency will provide technical assistance, provide the opportunity for corrective action, and/or perform a followup visit to ensure the sponsor has resumed Program compliance in all areas of Program operations.

If GA DECAL determines that the sponsor has repeated errors and/or finding(s) that are serious in nature, the State agency will declare the sponsor seriously deficient and issue a Notice of Serious Deficiency.

B. Seriously Deficient Sponsors

Once GA DECAL determines that a participating sponsor has committed one or more

findings that rise to the level of serious deficiency, the State agency will notify the sponsor and its responsible principals and/or individuals that the sponsor has been determined to be seriously deficient by issuing the Notice of Serious Deficiency. The notice will specify:

- All of the RP/Is;
- The findings that led to the serious deficiency determination;
- The corrective actions to be taken in order to correct the serious deficiency(ies);
- Any adverse action if applicable;
- The time allotted to correct the serious deficiency(ies);
- The consequences of unsuccessful corrective action, should it result;
- That the serious deficiency is not subject to administrative review (appeal);
- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in GA DECAL proposing to terminate and disqualify the sponsor and its responsible principals and/or individuals from future participation in the Program;
- That any corrective action that is accepted by DECAL must be successfully implemented prior to operating the SFSP in subsequent Program years. Otherwise, the sponsor and its responsible principals and/or responsible individuals may be terminated and/or disqualified without additional opportunities to correct the deficiencies.
- That if the sponsor voluntary withdraws its application with GA DECAL after having been notified that it is seriously deficient will result in the proposed placement of the sponsor and its responsible principals and/or individuals on the GDL; and
- That termination and disqualification from the SFSP may impact an institution's eligibility to receive other State and/or Federal funding from sources such as the Childcare and Parent Services (CAPS) Program or Georgia's Pre-K Program.

C. **Corrective Action Plan (CAP)**

Once a sponsor is declared seriously deficient, it is required to provide written corrective action responses for each finding cited. Taken together, these responses are often referred to as a Corrective Action Plan or "CAP." Corrective action must be taken within the timeframe designated by the State agency. The written responses should indicate that the sponsor understands what violation occurred and what corrective action needs to be taken to fully and permanently correct the serious deficiency.

An acceptable CAP must include all the following for each finding cited:

- **What** are the processes and/or procedures that were implemented by the sponsor to address the serious deficiency;
- **Who** is responsible for addressing the serious deficiencies;

- **When** was the procedure implemented by the sponsor to address the serious deficiencies and at what frequency (i.e., weekly, monthly, etc.) will the processes/procedures be performed/verified;
- **Where** is the corrective action plan documentation going to be retained; and
- **How** the staff will be informed of the policies and procedures.

A sponsor's CAP will be denied if it provides little detail, cannot be easily understood, lacks supporting documentation, and/or is missing some or all of the required information listed above. Further, a Notice of Proposed Termination and Proposed Disqualification may be issued to the sponsor.

D. **Successful Corrective Action and Temporary Deferment**
If the required corrective action is taken to fully and permanently correct the serious deficiencies within the allotted timeframe and no new findings are cited, the compliance review is closed, and the serious deficiency determination will be temporarily deferred. GA DECAL will notify the sponsor and its RP/Is by issuing a Notice of Successful Corrective Action and Temporary Deferment and if DECAL finds in a follow-up review or in any subsequent review that any of the serious deficiency(ies) have not been fully and permanently corrected, DECAL may propose to terminate the sponsor's agreement and propose to disqualify the sponsor and its responsible principals and/or individuals (RP/Is) without any further opportunity for corrective action. Simultaneously, GA DECAL will update its serious deficiency list to provide that the sponsor has been temporarily deferred. However, if corrective action is complete for the sponsor but not for all of the responsible principals and/or individuals, GA DECAL will continue with proposed termination and proposed disqualification of the remaining parties.

If corrective action requests include adhering to an approved payment plan for reclaimed meals or disallowed costs, the deferment of the seriously deficient determination will be contingent upon adherence to the payment plan until the debt is repaid in full. To be clear, failing to adhere to the approved payment plan or the inability by the State agency to verify proper repayments after having been temporarily deferred, will result in GA DECAL issuing a Notice of Proposed Termination and Proposed Disqualification to the organization and its RP/Is.

E. **Unsuccessful Corrective Action and Proposed Termination and Proposed Disqualification**
If timely corrective action is not taken to correct the serious deficiencies, no corrective action is received, corrective action is received but is determined by the State agency to be insufficient, and/or additional findings are cited, GA DECAL will notify the sponsor and its responsible principals and/or individuals that it is proposing to terminate the sponsor's Agreement and proposing to disqualify the sponsor and its responsible principals and/or individuals fully and permanently and will issue a Notice of Proposed Termination and Proposed Disqualification. At this time, GA DECAL will update its Serious Deficiency list to denote that organization's compliance status.

The Notice of Proposed Termination and Proposed Disqualification will specify at a minimum:

- GA DECAL is proposing to terminate the sponsor's agreement and proposing to disqualify the sponsor and its responsible principals and/or individuals;
- The basis for the actions; and
- The procedures for seeking an administrative review of the proposed termination and proposed disqualification (appeal).

Unlike a serious deficiency determination, proposed Program termination and disqualification is considered an adverse action. Therefore, attached to the Notice of Proposed Termination and Proposed Disqualification will be appeal procedures, notifying the organization of its right to appeal that action.

F. **Administrative Review (Appellate Process)**
DECAL's action remains in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement will be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if DECAL's action is based on health imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, DECAL will specify it in its notice of action.

For additional guidance, please see DECAL's SFSP appeal procedures.

G. **Temporary Deferment**
Once an administrative review is requested, if the hearing official overrules the State agency's proposed actions, the State agency will issue a Notice of Temporary Deferment, notifying the sponsor and its responsible principals and/or individuals that the proposed termination and disqualification has been temporarily deferred and that the State agency will provide reimbursement for any valid claims for eligible meals served and allowable administrative costs incurred with appropriate documentation during the appeal process. At this time, GA DECAL will update the serious deficiency list to reflect the sponsor's current compliance status.

H. **Program Termination and Disqualification**
Sponsors participating in the SFSP that received a Notice of Proposed Termination and Proposed Disqualification, submitted a request for an administrative review, and the administrative hearing official rendered a final decision in GA DECAL's favor, will be terminated and disqualified from the Program. Sponsors who did not make a timely request for an appeal will also be terminated and disqualified from the Program following the end of the appeal deadline. In both cases, GA DECAL will issue a Notice of Final Termination and Disqualification to the sponsor and its RP/Is.

Specifically, if the sponsor fails to appeal the proposed termination and proposed disqualification, the effective date of termination will be the date following the last calendar day the sponsor had to appeal GA DECAL's proposed actions or the date the Final Termination letter was issued. If GA DECAL's actions are upheld by OSAH, the

State agency's proposed termination and disqualification of the sponsor and its responsible principals and/or individuals will be effective either on the date the Notice of Termination and Disqualification was issued or the date the administrative hearing official rendered its final decision. GA DECAL will also place the sponsor, along with the names of the responsible principals and/or individuals as listed on the SD correspondence on the Georgia Disqualified List (GDL). Notably, as of the date of this policy, terminated SFSP sponsors and RP/s are not placed on the National Disqualified List (NDL).

All sponsors, responsible principals and/or individuals that are placed on the GDL are disqualified from future participation in the SFSP and the Child and Adult Care Food Program (CACFP). Sponsors and responsible principals and/or individuals that are placed on the GDL will remain on the list until seven years have passed since the effective date of termination, as described above. **However, if the sponsor and responsible principals and/or individuals have failed to repay any debt owed under the Program, they will remain on the list until such debt has been repaid in full.**

VI. COMMENTS

Any questions concerning this policy should be directed to the Policy Administrator at (404) 651-8193.