

MAY 03, 1996

SUBJECT: Child and Adult Care Food Program (CACFP) Seriously Deficient Providers

TO: Regional Directors  
Child Nutrition Programs  
All Regions

This memorandum responds to regional requests at the Seattle meeting for clarification regarding States' authority to maintain a list of seriously deficient day care home providers.

For several years, and most recently at the Child Care Initiative Task Force meetings, discussion has been generated about the termination of day care home providers from CACFP for cause. Some State agencies and sponsors of day care homes continue to doubt that they have the legal authority to prevent a day care home provider terminated for cause by one sponsor to reapply with another sponsor and continue participating in CACFP.

As you are aware, the current regulations at §226.6(c) prevent States from taking agreements with seriously deficient institutions, but are silent on the subject of sponsors taking agreements with seriously deficient day care home providers. Section 226.6(m) also stipulates that States have the authority and the responsibility to promptly investigate complaints or irregularities and to take appropriate action to correct any Program irregularities.

In conformance with Section 226.6(m), we believe that State agencies have the authority and responsibility to ensure that seriously deficient family day care providers do not continue to participate in CACFP, and to maintain lists of such providers. This is true regardless of whether the provider's serious deficiency is discovered by the sponsor or the State agency. As you are aware, we are in the process of drafting a rulemaking which proposes a wide variety of changes to current CACFP regulations designed to improve program integrity. As part of this process, we plan to propose regulatory language which would deal specifically with State agencies' administrative responsibilities with regard to seriously deficient providers.

If you have further comments or questions on this issue, please contact Norma Ball or Ed Morawetz at (703) 305-2621.

/ORIGINAL SIGNED/

ALBERTA C. FROST  
Director  
Child Nutrition Division