



**Hawaii
Child
Nutrition
Programs**

Hawaii Child Nutrition Programs
650 Iwilei Road Suite 270
Honolulu, Hawaii 96817
Phone: (808) 587-3600, Fax: (808) 587-3606

APPEAL PROCEDURE - CACFP

The Department of Education Hawaii Child Nutrition Programs established the following appeal procedures so that an institution may request a review of any of the following:

- denial of an institution's application for participation,
 - denial of an application submitted by a sponsoring organization on behalf of a facility,
 - proposed termination and disqualification of the participation of an institution or facility,
 - suspension of an institution's agreement,
 - denial of an institution's application for start-up payments,
 - denial of all or a part of the claim for reimbursement, (except for late submission under § 226.10(e),
 - denial by the State agency to forward to FNS an exception request by the institution or sponsoring organization for payment of a late claim or a request for an upward adjustment to a claim, demand for the remittance of an overpayment, and any other action of the State agency affecting the participation of an institution in the Program or the institution's claim for reimbursement.
1. The institution shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the institution has the right to appeal the action.
 2. The written request for review shall be filed by the appellant not later than 15 calendar days from the date the appellant received the notice of action, and the State shall acknowledge the receipt of the request for appeal within 10 calendar days.
 3. The appellant may refute the charges contained in the notice of action in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice of action. The appellant may retain legal counsel, or may be represented by another person. A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official.
 4. If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.



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5. Any information on which the State agency's action was based shall be available to the appellant for inspection from the date of receipt of the request for review.
6. The review official shall be independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section.
7. The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations.
8. Within 60 calendar days of the State agency's receipt of the request for review, the review official shall inform the State agency and the appellant of the determination of the review.
9. The State agency's action shall remain in effect during the appeal process. However, participating institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent dangers to the health and welfare of children. If the institution or facility has been terminated for this reason, the State agency shall so specify in its notice of action. Institutions electing to continue operating while appealing terminations shall not be reimbursed for any meals served during the period of the appeal if the State agency's action is upheld.
10. The determination by the State review official is the final administrative determination to be afforded to the appellant.
11. Appeals shall not be allowed on decisions made by FNS on requests for exceptions to the claims submission deadlines stated on § 226.10(e) or requests for upward adjustments to claims.
12. In cases where an appeal results in the dismissal of a claim against an institution which was asserted by the State agency based upon Federal audit findings. FNS may assert a claim against the State agency in accordance with the procedures outlined in § 226.14(c).



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Designated Appeal Official

Office of Attorney General/HIDOE Division
Office of the Superintendent
Hawaii Department of Education
Queen Liliuokalani Building, 1390 Miller Street, Room 416
Honolulu, Hawaii 96813

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
program.intake@usda.gov

This institution is an equal opportunity provider.