# STATE OF WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION APPEALS PROCEDURES FOR SCHOOL NUTRITION PROGRAMS PURSUANT TO 7 CFR 210.18(P)

## Appellant Rights:

Pursuant to 7 CFR 210.18(p), the School Food Authority (SFA) may appeal the Department of Public Instruction's (DPI) denial of all or a part of a claim for reimbursement, withholding payment arising from administrative or follow-up review activity conducted by DPI under 7 CFR 210.18, or fines established under 7 CFR 210.26, 215.15 or 220.18. Appellants are guaranteed the right to:

1. A fair and impartial decision made by an independent official;
2. The SFA may be represented by legal counsel on appeal; and
3. As determined by the DPI, *either* a review of the record with the right to file written information, *or* a hearing which the SFA may attend in person.

## Appeals Process:

### 1. *Notification of Denial*

DPI shall provide the SFA with a written notice sent by email and postal mail to the recipient's last known email and postal mail addresses, which shall include:

a. Details for the grounds on which the denial of all or a part of the claim for reimbursement or withholding of payment is based.
b. A statement indicating that the SFA may appeal.

### 2. *Request for Appeal*

The SFA's request for appeal must:

a. Be in writing and filed with the Office of Legal Services within 15 days of the date of the DPI's action on the School Nutrition Programs Appeal Request Form (https://dpi.wi.gov/sites/default/files/imce/forms/doc/f1455.doc).
The request may be filed with the Office of Legal Services by email sent to ols@dpi.wi.gov or by mail sent to the following address:

Office of Legal Services
Wisconsin Department of Public Instruction
PO Box 7841
Madison, WI 53707-7841

b. Identify the name of the individual and/or entity which is filing the request and include their most current email and postal address. (For example, a request is filed on behalf of *[Institution Name], [Authorized Representative name]* and/or *[Owner or Board President Name])*

c. Specify whether the appellant is requesting a review of the written record, or a hearing. The review official will hold a hearing ONLY IF the appellant specifically requests a hearing in the letter of request for review.

## 3. *Appeal Acknowledgement*

DPI will send written acknowledgement of the request for appeal to the independent hearing official, and copy the appellant, (to the e-mail and postal address included in the request for appeal) within 10 calendar days of receiving the written request for appeal from the SFA.

## 4. *Procedures and Timelines*

Record Reviews

a. DPI's action shall remain in effect during the appeal process.
   The appellant may retain legal counsel or may be represented by another person.
b. Written materials that the parties want the hearing official to consider must be submitted to the hearing official within 30 calendar days of the date of DPI's acknowledgement of the appeal request.
c. The hearing official shall send the final decision to both the DPI and the appellant. Decisions will be rendered in a timely manner, not to exceed 120 days from the date of the receipt of the request for review.
d. The hearing official's decision is DPI's final agency decision and will include a notification of the right to appeal the decision to circuit court.

Hearings

a. DPI's action shall remain in effect during the appeal process.
   The appellant may retain legal counsel or may be represented by another person.
   The hearing official will provide notification via either e-mail or postal mail of the date, time, and place for the hearing.
b. The hearing official shall provide the parties at least 10 calendar days' notice prior to the date of the hearing.
c. The hearing official shall set a schedule for the exchange of written materials, exhibits and witnesses.
d. Failure of the appellant to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the hearing official unless the review official agrees to reschedule the hearing. The hearing official may grant a request to reschedule the hearing for good cause only if the hearing official is provided with sufficient time to issue a timely decision
e. A representative of DPI shall be allowed to attend the hearing to provide testimony, respond to the appellant's testimony, and to answer questions posed by the hearing official
f. The hearing official shall send the final decision to both DPI and the appellant
g. The hearing officer's decision is DPI's final agency decision and will include a notification of the right to appeal the decision to circuit court.

The Wisconsin Department of Public Instruction does not discriminate on the basis of sex, race, color, religion, creed, age, national origin, ancestry, pregnancy, marital status or parental status, sexual orientation, or ability and provides equal access to the Boy Scouts of America and other designated youth group.

**USDA Nondiscrimination Statement**

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/ad-3027.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

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