



COLORADO

Department of Public
Health & Environment

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*** CDPHE-CACFP PROCEDURE MEMO CENTERS #15-07 ***

DATE: March 6, 2015
MEMO CODE: CENTERS #15-07
SUBJECT: Licensing or approval for at-risk afterschool care centers
TO: Sponsors of Centers sponsoring at-risk afterschool care centers

The intent of this memorandum is to communicate Child and Adult Care Food Program (CACFP) regulations and State of Colorado laws pertaining to child care licensing and approval for afterschool programs in Colorado, specifically as they relate to the at-risk afterschool meal and snack component of the CACFP.

In summary, this memorandum describes the following:

- The Colorado Department of Public Health and Environment, Child and Adult Care Food Program (CDPHE-CACFP) revised approval process for new at-risk afterschool care centers;
- Annual verification of licensing or approval for participating sites;
- Sponsoring organization facility monitoring requirements for at-risk afterschool care centers; and
- Special instructions for sponsoring organizations to prepare for Fiscal Year 2016 CACFP recertification.

Summary of CACFP regulations and Colorado laws pertaining to child care licensing:

According to CACFP regulation 7 CFR 226.6 (d)(1)(i), the CDPHE-CACFP must ensure that at-risk afterschool care centers are licensed or approved by Federal, State, or local authorities. The CACFP regulation, 7 CFR 226.6 (d)(1)(v) requires at-risk afterschool care centers to meet local health and safety standards when Federal, State, or local child care licensing is not required. Meeting these standards is a precondition for any at-risk afterschool center's eligibility for CACFP nutrition benefits.

In Colorado, the Child Care Licensing Act (Sections 26-6-101 to 26-6-119, C.R.S.), enforced by the Colorado Department of Human Services (CDHS), Division of Early Care and Learning and the Office of Early Childhood, requires afterschool child care programs to be licensed (Rule Manual Volume 7 Child Care Facility Licensing, 12 CCR 2509-8, 7.701.11-12). The law includes many exemptions to these requirements based on various characteristics of the services offered. The CDHS may determine that certain afterschool programs are not required to have a child care license, or may grant formal child care licensing exemptions for certain programs after the review of applications for such exemptions. If the CDHS determines an at-risk afterschool care center is not required to have a child care license, or grants a formal exemption from child care licensing, the afterschool care center may participate in the CACFP if it meets health and safety standards per 7 CFR 226.17a(d).



Revised CACFP application process for new at-risk afterschool programs:

The CDPHE-CACFP revised the new site application submission and approval process to improve compliance with rules and regulations. Sponsoring organizations must contact the CDPHE-CACFP office to initiate the process to add a new site. Before starting the site application in CHEARS, the sponsoring organization must determine if the site has a child care license, a formal exemption, or if the CDHS does not require child care licensing for the site. Sponsoring organizations can determine this by completing the following steps:

- 1) Ask the site representative if the site has a child care license. If the answer is yes, obtain a copy of the license for the sponsorship's records. If the answer is no, proceed to step 2.
- 2) Ask the site representative if the CDHS has granted a formal licensing exemption for the site. If the answer is yes, obtain documentation of the formal exemption for the sponsorship's records. If the answer is no, proceed to step 3.
- 3) Ask the site representative if the CDHS has determined the child care licensing laws do not apply to the site. If the answer is yes, obtain documentation of this determination for the sponsorship's records. If the answer is no, or if the site doesn't have documentation from CDHS that the site is not required to have a license, instruct the site representative to contact Niki Gill at CDHS at (303) 866-5889 to discuss licensing requirements and/or obtain documentation. An email message from CDHS is acceptable documentation.

If a site is licensed by the CDHS for child care, the sponsoring organization must enter licensing information in the online site application. The sponsoring organization is not required to provide a copy of the license to the CDPHE-CACFP.

If the CDHS has granted the site a formal exemption from child care licensing, or if the CDHS determines the child care licensing laws do not apply to the site, licensing information is not required in the online site application; however, the sponsoring organization must attach written documentation of the exemption to the application packet in CHEARS or provide it to the CDPHE-CACFP by other means (fax or e-mail).

Several sponsoring organizations in Colorado provide food to sponsored sites as part of CACFP services. The CDPHE-CACFP recommends such organizations determine eligibility and child care licensing status of afterschool programs before serving food or delivering any CACFP benefits to these sites, if the organization wishes to receive reimbursement for these services. If a site that is required to have a child care license is not in compliance with this requirement, the CDPHE-CACFP will not reimburse for meals served prior to the effective date of the license. If the site is already licensed as required by CDHS, granted formal exemption from licensing, or is not required to have a child care license, the CDPHE-CACFP will reimburse for meals served beginning with the date of the pre-approval visit. If the sponsoring organization provides training for site staff members before the pre-approval visit, the sponsoring organization can discuss this with the CDPHE-CACFP Nutrition Consultant, who will consider the training date as the first day a site is eligible to claim meals.

Annual verification of child care licensing or approval for participating sites:



The CACFP regulation, 7 CFR 226.6 (d)(1)(i) and (v) requires the CDPHE-CACFP to annually ensure that participating facilities maintain child care licensing or approval by Federal, State, or local authorities. The CDPHE-CACFP staff will complete this verification annually during the recertification process and will contact the sponsoring organization if any documentation of licensing or approval is necessary for participating sites.

At least annually, during the recertification period, sponsoring organizations must ensure the child care license anniversary date is current in the CHEARS site application for each site that has a child care license. The CDPHE-CACFP will ensure this date is current and verify the child care license remains active by referencing child care licensing lists from the CDHS.

The CACFP regulation, 7 CFR 226.6 (d)(1)(i) states that institutions approved for Federal programs on the basis of State or local child care licensing are not eligible for the Program if their child care licenses lapse or are terminated. Where Federal, State or local child care licensing is required, 7 CFR 226.17a(d) allows at-risk afterschool care centers to participate in the Program during the licensing renewal process, given that the center is complying with applicable procedures to renew the licensing, and the State agency has no evidence to indicate that the renewal will be denied.

Sponsoring Organization Monitoring Requirements:

The CACFP regulations, 7 CFR 226.16 (d)(4)(i)(B), require sponsoring organizations to assess sponsored sites' compliance with Program requirements pertaining to child care licensing or approval. This required review element is included in the CDPHE-CACFP site visit form used by sponsoring organizations to conduct required monitoring visits three times per year. The CDPHE-CACFP revised this form for at-risk afterschool programs to prompt monitoring staff to intentionally assess the child care licensing or approval requirements according to the clarifications in this memorandum. The revised site visit form is attached with this memorandum. The revised form for use by School Food Authorities is also attached.

For sites that have a child care license, the program monitor must assess whether the child care license is still active during the visit and ensure the license has not been revoked. For all other sites that received formal exemption from child care licensing or that are not required to have a child care license as determined by CDHS, the monitor must document this information on the form and no further action is necessary. Typically, this determination by CDHS is a one-time assessment that does not re-occur. Therefore, sponsoring organizations do not need to re-assess whether the exemption determination made by CDHS has changed.

Instructions for sponsoring organizations to transition to the new procedures:

Currently, the CDPHE-CACFP is aware that sponsoring organizations might not have documentation of child care licensing status for all at-risk afterschool programs participating in the CACFP under the sponsorship. The CDPHE-CACFP encourages sponsoring organizations to develop a system to maintain information regarding child care licensing status and relative documentation for all sponsored at-risk afterschool sites.

Before August 30, 2015, sponsoring organizations must determine child care licensing status for all participating sites during monitoring visits using the new site visit form as a tool. The following procedures apply only until August 30, 2015. After August 30, 2015, sponsoring

organizations must follow regular monitoring requirements described in the section of this memorandum, entitled, “Sponsoring Organization Monitoring Requirements.”

For monitoring visits that occur between the date of this memorandum and August 30, 2015, sponsoring organizations must follow the instructions below:

- 1) If a site already has a child care license, has received formal licensing exemption from CDHS, or is not required to have a child care license, collect copies of child care licenses and exemption documentation for the sponsorship’s records.
- 2) For licensed sites, ensure the child care license is still active and has not been revoked. Enter licensing information in the CHEARS site application. If the sponsoring organization enters this information in the 2015 CHEARS application packet, the CDPHE-CACFP will approve the application, and the information will roll over into the 2016 application packet. Sponsoring organizations also have the option to wait to enter the information into the 2016 CHEARS application packet during recertification beginning in August 2015.
- 3) For sites that are exempt from licensing, or determined by CDHS that a license is not required, submit documentation of this status to the CDPHE-CACFP office by e-mail to julie.pfankuch@state.co.us. Clearly indicate which site the documentation refers to in the email. This will allow the CDPHE-CACFP to expedite approvals of the 2016 application packets.
- 4) If a monitor discovers the site’s child care licensing status is unknown, the monitor must require the site to contact the CDHS to receive an assessment of whether a child care license is required or not. Niki Gill, Child Care Licensing Supervisor with the Colorado Department of Human Services can assist the site representative with this assessment. Ms. Gill will communicate the result to the representative and inform the CDPHE-CACFP office of the assessment result. The CDPHE-CACFP office will forward the documentation to the sponsoring organization and maintain the documentation in the CDPHE-CACFP office.

If the CDHS determines the site does not require a child care license or grants a formal exemption to the site, the site can continue CACFP participation.

If the CDHS determines a site is required to have a child care license, and the site is not in compliance with this requirement, the sponsoring organization must not claim CACFP reimbursement for meals served at the site. The sponsoring organization can receive CACFP benefits for meals served at the site once the site receives an active child care license from the CDHS. The sponsoring organization must enter current licensing information in the online site application for CDPHE-CACFP approval.

The CDHS Division of Early Care and Learning and the Office of Early Childhood does not endorse unlicensed child care for facilities that must be licensed. According to the CDHS, if the program chooses to continue to operate, the program operators acknowledge the legal consequences or ramifications of operating out of compliance and practicing unlicensed care.



During the CACFP Fiscal Year 2016 recertification process beginning in August of 2015, the CDPHE-CACFP staff will ensure all at-risk afterschool programs meet the child care licensing or approval requirement, using available documentation and child care licensing status information. The CDPHE-CACFP will contact sponsoring organizations if documentation of licensing status is not available in the CDPHE-CACFP office or in the CHEARS application packet.

Please contact the CDPHE-CACFP office at (303) 692-2330 with any questions pertaining to this memorandum.