



State of New Jersey

DEPARTMENT OF AGRICULTURE
Division of Food & Nutrition
PO Box 334
TRENTON NJ 08625-0334

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DOUGLAS H. FISHER
Secretary

SCHOOL NUTRITION PROGRAMS APPEAL PROCEDURE

A. PURPOSE: TO ALLOW ANY SCHOOL FOOD AUTHORITY (“SFA”) PARTICIPATING IN THE NEW JERSEY DEPARTMENT OF AGRICULTURE (“NJDA”) SCHOOL NUTRITION PROGRAMS (“SNP”) AN AVENUE OF APPEAL WHEN:

1. The SFA is denied all or part of a claim for reimbursement;
2. Payment to an SFA is withheld or a remittance is requested.

B. METHOD: THE APPEAL WILL BE FORWARDED TO THE NEW JERSEY OFFICE OF ADMINISTRATIVE LAW FOR AN ADMINISTRATIVE HEARING. THE ADMINISTRATIVE LAW JUDGE (REVIEW OFFICIAL) ASSIGNED TO THE APPEAL WILL BE SOLELY RESPONSIBLE FOR MAKING A FINAL DETERMINATION. THIS REVIEW OFFICIAL WILL BE IMPARTIAL AND INDEPENDENT OF THE ORIGINAL DECISION-MAKING PROCESS.

**C. PROCEDURE:
NOTIFICATION OF DENIAL OR DECISION TO WITHHOLD**

Whenever the SNP makes a determination specified in Section A above, the SNP will inform the SFA in writing via certified mail, return receipt requested, or by electronic mail, receipt of delivery requested, of the grounds upon which the SNP based the action. Any SFA has the right to appeal.

HOW TO OBTAIN AN APPEAL

1. Upon receipt of the SNP’s notice of action, the SFA (hereinafter, the “Appellant”) must submit a written request for an appeal postmarked within fifteen (15) calendar days from the date on which the notice of action is received. The request for appeal must be sent via certified mail, return receipt requested, directly to the Legal Specialist/ Administrative Practices Officer, and a copy must be sent to the Director, Division of Food and Nutrition.

All requests for appeals must be sent via certified mail to:

LEGAL SPECIALIST/ADMINISTRATIVE PRACTICES OFFICER
NEW JERSEY DEPARTMENT OF AGRICULTURE
JOHN FITCH PLAZA
MARKET AND NEW WARREN STREETS
P.O. BOX 330
TRENTON, NJ 08625-0330

All copies of requests for appeals must be sent to:

DIRECTOR
DIVISION OF FOOD AND NUTRITION
NEW JERSEY DEPARTMENT OF AGRICULTURE
P.O. BOX 334
TRENTON, NJ 08625-0334

2. Within ten (10) calendar days of receipt of the request for an appeal, SNP shall acknowledge to the SFA that the request has been received. Thereafter, the request for appeal, and any other documents submitted by Appellant along with the request for appeal, will be forwarded to the Office of Administrative Law for an administrative hearing.
3. Any information upon which the SNP's action was based will be available to the Appellant for inspection and review any time after the date on which the request for appeal is received.

The Appellant may refute the claims contained in the notice of action by appearing in person at the hearing or by mailing written documentation to the review official for a review of the record. Appellant must specify in its request for appeal the method of review that it is requesting. In order to be considered, written documentation must be filed with the review official not later than thirty (30) days after the Appellant received the notice of action, must clearly identify the SNP action being appealed, and must include a photocopy of the notice of action issued by the SNP.

4. The hearing will be conducted in accordance with the New Jersey Uniform Administrative Procedure Rules.
5. The appellant may retain legal counsel or may be represented by a non-lawyer as set forth in N.J.A.C. 1:1-5.4.
6. If the appellant has requested a hearing, both the appellant and the SNP will be given at least ten (10) days advance written notice, sent by certified mail, return receipt requested, of the date, time and place of the hearing.
7. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing.

8. A representative of the SNP will be allowed to attend the hearing to respond to the Appellant's testimony and written information and to answer questions posed by the review official.

D. EFFECT OF STATE AGENCY ACTION: The SNP's action shall remain in effect during the appeal process.

E. FINAL DETERMINATION: The review official will make a determination based on information provided by the SNP and the Appellant and on the Federal and State laws, regulations, policies and procedures governing the SNP. The review official will make a determination within sixty (60) to one hundred twenty (120) days of the SNP's receipt of the request for appeal. This final determination shall take effect upon receipt by the SFA of the written notice of the final decision.

THE DETERMINATION OF THE OFFICE OF ADMINISTRATIVE LAW IS THE FINAL ADMINISTRATIVE DETERMINATION TO BE AFFORDED TO THE SFA.