Date: June 1, 2009
Reference: # CACFP ADC 2009-09
To: Child and Adult Care Food Program-Adult Day Care (CACFP ADC) Contractors
Subject: Removal from the National Disqualified List (NDL)
Effective Date: Immediately

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**Purpose**

REPLACE CACFP-ADC Handbook Item 8140, *Removal from the National Disqualified List (NDL)*

**Implementation**

Immediately

**Procedure**

Replace Item 8140 with the following:

If a contracting organization, responsible principal and/or responsible individual has been placed on the NDL and wishes to be removed, the contractor, responsible principal and/or responsible individual must submit the following to their F&N FOO:

- A letter requesting that the organization, responsible principal and/or responsible individual be removed from the NDL.

- Corrective action that includes:
  - **An acceptable corrective action plan (CAP):** The contracting organization, responsible principal and/or responsible individual must submit an acceptable CAP outlining how the deficiencies that caused the organization, responsible principal and/or responsible individual to be placed on the NDL have been or will be corrected. If FND rejects the requestor’s CAP, the contractor, responsible principal and/or responsible individual may not appeal this decision.
  
  - **Any outstanding audits:** If the organization’s serious deficiencies included failure to submit an acceptable audit, an audit that is in compliance with the Single Audit Act standards that were in effect at the time the audit was originally due must be submitted. Corrective action must also include a plan to address any deficiencies identified in the audit.
  
  - **All outstanding funds owed:** If the organization owes funds to FND because of a previous CACFP claim, amended claim, advance overpayment or audit finding, the outstanding funds must be repaid.

continued

This Policy Remains in Effect Until Further Notice
**Procedure**

Continued

- **Written explanation or statement:**

<table>
<thead>
<tr>
<th>If the person or persons identified as being responsible for the serious deficiencies are …</th>
<th>Then the contractor, responsible principal and/or responsible individual will need to provide FND…</th>
</tr>
</thead>
<tbody>
<tr>
<td>Still a part of the organization and involved with the operation or administration of the CACFP,</td>
<td>An explanation of why the person or persons identified as being responsible for the serious deficiencies should now be eligible to participate in the CACFP.</td>
</tr>
<tr>
<td>Still part of the organization, but will <strong>not</strong> be involved with the operation or administration of the CACFP,</td>
<td>A statement that the person or persons identified as being responsible for the serious deficiencies will not be involved in the operation or administration of the CACFP.</td>
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<tr>
<td>No longer employed by the organization,</td>
<td>A statement that the person or persons identified as being responsible for the serious deficiencies is/are no longer employed by the organization.</td>
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</tbody>
</table>

When FND determines the contractor, responsible principal and/or responsible individual has taken acceptable corrective action, FND will forward an assessment to USDA. USDA will determine, in consultation with FND, if the contractor’s organization and/or the individuals named will be removed from the NDL. FND will notify the contractor, responsible principal and/or responsible individual of USDA’s decision.

If USDA determines that the contractor’s organization, responsible principal and/or responsible individual will be removed from the NDL, the organization may apply for participation in the CACFP and the responsible principal and/or responsible individual may perform CACFP duties. If USDA decides to retain the contractor’s organization, responsible principal and/or responsible individual on the NDL, the decision may **not** be appealed and the contractor’s organization, as well as the persons identified as responsible for the serious deficiencies, will continue to be ineligible to participate in the CACFP.

**Contact**

If you have any questions please contact your Food and Nutrition Field Operations Office.