POLICY ALERT

Date: April 23, 2009
Reference: # CACFP DCH 2009-12
To: Child and Adult Care Food Program-Day Care Homes (CACFP DCH) Sponsors
Subject: Revision to CACFP DCH Handbook Item 8212, Appeal Process
Effective Date: March 1, 2009

Purpose
INFORM sponsors of a change to the appeal process.

REPLACE CACFP DCH Handbook Item 8212, Appeal Process

Implementation
Effective with appeals received March 1, 2009 or later

Procedure
Replace Item 8212 with the following:

Requests for an appeal must be received by TDA within 15 days of receipt of notification of an adverse action. The appeal must:

- Be in writing;
- State the basis for the appeal of the adverse action;
- Include a legible copy of the adverse action letter.

If you wish to have an in-person hearing, you must request a hearing at the time you file your written appeal. If you do not include a written hearing request in your appeal, you waive the right to a hearing and the appeal will be decided upon review of the documents in the record, unless the Administrative Review Official (ARO) determines that the failure to make a timely request was due to circumstances beyond the control of the appellant.

TDA has the discretion to refer a request for a hearing to the State Office of Administrative Hearings (SOAH) for resolution. Should you wish to have your hearing held by the State Office of Administrative Hearings (SOAH), you must make that request at the time of your written appeal. Otherwise, the ARO at TDA will hold your hearing.

Your appeal must be mailed or faxed to:

FOOD AND NUTRITION APPEALS
TEXAS DEPARTMENT OF AGRICULTURE
LEGAL DIVISION
ATTN: JOHN WILEY, DOCKET CLERK
PO BOX 12847
AUSTIN TEXAS 78711
FAX (800) 909-8520

continued

This Policy Remains in Effect Until Further Notice
You may hand-deliver or submit your appeal via overnight/special delivery service to the following street address:

**TEXAS DEPARTMENT OF AGRICULTURE**  
**LEGAL DIVISION**  
**1700 NORTH CONGRESS, 11TH FLOOR**  
**AUSTIN TEXAS 78701**

The rules regarding the appeal procedures for CACFP are found in Title 4 of the Texas Administrative Code Sections 1.1000 – 1.1004.

**Note:** Documentation you wish to have considered for your appeal must be submitted to the address above within 30 days of receipt of an adverse action. You can submit the document with your request for an appeal, or separately.

If you have any questions or wish to confirm receipt of your appeal request you may contact the Legal Division at (512) 463-4075.

**Exception:** If you wish to appeal an adverse action that we based on the findings of a federal audit, you must request a hearing by USDA, by written request to:

**ADMINISTRATIVE REVIEW DIVISION**  
**USDA – FNS RM. 523**  
**3101 PARK CENTER**  
**ALEXANDRIA, VIRGINIA 22031**

The USDA Administrative Review Division must receive your request for an appeal within 15 days after your receipt of notification of adverse action. You must include a copy of the notification you received.

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