

## **APPEALS OF ELIGIBILITY FOR FREE OR REDUCED-PRICE BENEFITS**

**R 761**

In connection with any child's eligibility for free or reduced-price benefits that are provided through the District's participation in the National School Lunch Program, the federal School Breakfast Program, and the federal Special Milk Program, a household may appeal either the denial of benefits or a change in the level of benefits for which a child or the household has been approved. Specifically, a household may use these appeal procedures if the District determines that:

1. An individual student or household is ineligible for free or reduced-price benefits based on a review of an application or other permissible documentation that has been submitted; or
2. Free or reduced-price benefits must be discontinued following a verification process in which the District determines eligibility for benefits. A change in benefit level from free to reduced-price following the verification process is appealable.

These procedures cannot be used to appeal a discontinuation of benefits that occurs when the carryover period of eligibility from the prior school year has expired and the household has failed to submit an application for the current school year.

### **Overview**

The District offers both an optional opportunity for a pre-hearing informal conference and the opportunity to resolve an appeal via a formal hearing. A household may choose to use both the informal process and the formal hearing procedure. If a household chooses to use both processes, the informal conference will occur prior to any formal hearing.

### **Giving Sufficient Notice of Intent to Appeal**

The District will notify the household of any adverse District decision with respect to the household's application for benefits or the current eligibility of any child in the household. The notification of the decision will include the information that is

required under the federal regulations that are applicable to the specific adverse action (see [7 C.F.R. Part 245](#)), including but not limited to notice of the right to appeal and instructions on how to file an appeal.

To file an appeal, a household with an appealable issue must either (1) submit a written request for a hearing by letter or by electronic mail; or (2) make an oral request for a hearing in person or by a person-to-person telephone contact. The request must be submitted to one of the District's appeal coordinator(s):

- The District's primary appeal coordinator is the Director of Food Service.
- Unless otherwise specified in the written notice of denial or adverse action received by the household, the District's secondary appeal coordinator is the Director of Finance and Operations.

**IMPORTANT:** A person who seeks to initiate an appeal should be as clear as possible that they are seeking to appeal a notice of denial or other adverse action under the appeal procedures referenced in the notice of adverse action. Merely contacting a District employee or other District representative to generally discuss or ask questions about a denial or discontinuation of benefits is not a sufficient notice of intent to appeal.

Upon receipt of notice of intent to appeal, a District official will contact the person filing the appeal and determine whether the individual wishes to participate in an informal conference prior to any possible hearing, or whether the individual prefers to initiate the formal hearing procedure without a pre-hearing conference.

If applicable, the District official will notify the household that the current benefit level will be continued during the appeal process. If, for any reason, a person initiating an appeal is not notified about benefit continuation and the household is expecting benefits to continue, the household should immediately contact one of the appeal coordinators listed above.

After the end of the eligibility period to which the notice of denial or discontinuation of benefits applied, these appeal procedures no longer apply and any request for an appeal under these procedures shall be denied. Instead, the household should submit a new application.

## **The Optional Informal Conference**

Prior to any formal hearing held under these procedures, a parent, guardian, or other adult responsible for the care of a child (e.g., a foster parent) who wishes to appeal the denial or discontinuation of benefits (including a change in the level of benefits) may request or agree to participate in an informal conference.

The informal conference is a meeting that includes at least the person who is appealing a District decision under these procedures and a District official who is familiar with the specific situation and who is authorized to make eligibility determinations. The conference provides an opportunity for the person who is appealing the District's decision to discuss the situation and the decision(s) that were made by the District, to provide an explanation of information in the application, and to present any clarifying or additional information that may be available.

At the end of the informal conference, but no later than within three (3) business days of the meeting, a District official shall inform the household if the District has modified any prior decision regarding eligibility. A District official and the person filing the appeal will determine whether the household wishes to proceed to a formal hearing. If the household chooses to abandon their appeal after the informal conference, written confirmation of that decision will be issued to the household.

Any informal conference shall not prejudice the formal hearing process nor diminish the right to a fair hearing.

## **Formal Hearing Procedures**

If any appeal proceeds to a formal hearing, the following shall apply:

1. The hearing shall be held with reasonable promptness and convenience, and adequate notice shall be given as to the time and place of the hearing;

2. The hearing shall be conducted and the decision made by a Hearing Official who did not participate in making the decision under appeal or in any previously held conference. The Director of Finance and Operations shall appoint the Hearing Official for any specific hearing.
3. Separate from the Hearing Official, the District may designate one or more officials and representatives to appear at the hearing to present information, evidence, and argument and to respond to questions about the decision that is under appeal.
4. The person initiating the hearing and the District shall each have the opportunity:
  - a. To be assisted or represented by an attorney or other person;
  - b. To examine, prior to and during the hearing, any documents and records presented to support the decision under appeal;
  - c. To present oral or documentary evidence and arguments supporting a position without undue interference; and
  - d. To question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses.
5. The decision of the Hearing Official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record.
6. The parties to the hearing and any designated representative shall be notified in writing of the decision of the Hearing Official.
7. A written record shall be prepared with respect to each hearing, which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the Hearing Official, including the reasons therefore, and a copy of the notification to the parties concerned of the decision of the Hearing Official.
8. The written record of each hearing shall be preserved for a period of three (3) years and shall be available for examination by the parties concerned

or their representatives at any reasonable time and place during that period.

### **Formal Hearings Initiated by the District**

Pursuant to applicable federal regulations, the above-identified formal hearing procedures may, under certain circumstances, be initiated by the District to obtain a Hearing Official's determination of the continued eligibility of any child for free or reduced-price benefits. If the hearing procedure is used in this manner, the request for a hearing shall be initiated by the District's Director of Food Services, or by another individual who is authorized to make eligibility determinations on behalf of the District, with the consent of the Director of Finance and Operations and with written notice to the household that a such hearing has been requested. The Director of Finance and Operations shall attempt to identify and appoint a qualified Hearing Officer who is neither an employee of the District nor an employee of any food service management company that is under contract with the District, provided that the appointment of such an individual is permitted by the Department of Public Instruction (DPI).

**Adopted:**           **10/19/21**

### **USDA Nondiscrimination Statement and Complaint Information**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html), (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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