

Food Service Facts Table of Contents

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15. Reviews & Audits

Each sponsor that participates in Child Nutrition Programs is subject to review by the Kansas State Department of Education (KSDE), the United States Department of Agriculture (USDA) and in some situations, by independent auditors.

Reviews

KSDE is responsible for oversight of Child Nutrition Programs (CNP) in Kansas. Review findings may result in corrective and/or fiscal action. Reviews are completed by KSDE's child nutrition consultants and/or USDA personnel.

In addition to the formal review process, the KSDE staff provides training and technical assistance to school food service employees and administrators upon request. Audits of CN Programs are completed by KSDE's Fiscal Auditing staff or by Certified Public Accountants.

Administrative Review (AR)

The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) amended the Richard B. Russell National School Lunch Act requiring a unified accountability system designed to ensure that participating sponsors comply with National School Lunch Program (NSLP) and School Breakfast Program (SBP) requirements. The new Administrative Review provides a comprehensive evaluation of school nutrition programs, and includes both Critical and General Areas of Review. Also, included in the review are the new HHFKA program requirements and other Federal programs. The following is a breakdown of the review sections:

- ◆ Meal Access and Reimbursement (Critical Area – Performance Standard 1)
 - Certification and Benefit Issuance
 - Verification
 - Meal Counting and Claiming

- ◆ Nutritional Quality and Meal Pattern (Critical Area - Performance Standard 2)
 - Meal Components and Quantities
 - Offer or Serve
 - Dietary Specifications and Nutrient Analysis

- ◆ Resource Management (General Areas)
 - Maintenance of Non-Profit School Foodservice Account
 - Allowable Costs
 - Paid Lunch Equity (PLE)
 - Revenue from Non-Program Foods
 - Indirect Costs

- ◆ General Program Compliance (General Areas)
 - Civil Rights
 - Sponsor On-site Monitoring
 - Local School Wellness Policy
 - Competitive Food Services
 - Water
 - Food Safety
 - Reporting and Recordkeeping
 - School Breakfast Program and Summer Food Service Program Outreach

- ◆ Other Federal Program Reviews (Critical and General Areas)
 - Afterschool Care Snack Program
 - Fresh Fruit and Vegetable Program
 - Special Milk Program

KSDE must conduct Administrative Reviews of all sponsors participating in the NSLP and/or SBP at least once during each three-year review cycle period. The Administrative Review process is designed to allow KSDE to conduct specified aspects of the review off-site and other aspects on-site. Under an off-site component, KSDE will collect information from what we have available or directly from the sponsor. This process allows KSDE to gain a better understanding of a sponsor's operations prior to the on-site review, thus providing for a more robust on-site review while decreasing KSDE's on-site review time. The on-site portion of the Administrative Review is intended to validate the information collected off-site and provide an opportunity for KSDE to observe the operation of the school nutrition program in selected schools. The objectives of the Administrative Review are: to determine whether the sponsor meets program requirements; provide technical assistance; secure any needed corrective action; and assess fiscal action, if applicable.

Q *How often will an AR be conducted?*

A An AR will be conducted at least once every three years.



Q *What if a sponsor fails to meet the nutrition goals of the School Meals Initiative?*

A If the nutrient analysis of one week's menus shows that one or more of the nutrition goals were not met, a KSDE Child Nutrition Consultant will provide assistance to ensure progress is made toward meeting the established targets. Sponsors will be required to implement an improvement plan if any of the goals are not met.

Technical Assistance

KSDE will provide technical assistance to sponsors upon request. Technical assistance may be provided during an on-site visit, over the phone, using e-mail, or by sending resources through regular mail. KSDE's regional child nutrition consultants may be reached at the office addresses and phone numbers listed in Chapter 1 of *Food Service Facts* or contact the Topeka office at 785-296-2276.

Procurement Review

KSDE is responsible for oversight of Sponsor's procurement procedures as required in Program regulations at 7 CFR 210.21, 215.41a, 220.16, as applicable, and the government-wide regulations in 2 CFR 200.318-326. Sponsors that contract with a Food Service Management Company (FSMC) are required by 7 CFR 210.19(a)(5) to be reviewed at least once during each three-year cycle. USDA provided State Agencies discretion to conduct all Procurement Reviews on the same three-year cycle or an alternate cycle. KSDE currently is conducting Procurement Reviews on a six-year cycle (every other three-year AR cycle) except for Sponsors who contract with a FSMC who will continue to have a review every 3 years as required. KSDE may initiate a Procurement Review at any time if risk is identified during an AR and will continue to collect and review Procurement Plans and Standards of Conduct for all Kansas Sponsors annually at Program Renewal and provide technical assistance as needs are identified.

Audits

Fiscal audits are required for Child Nutrition Programs and provide a factual, objective and systematic review and appraisal of programs and operations to determine whether:

- ◆ Program operations are effective and desired results and objectives are being achieved.
- ◆ Policies, plans, systems, and procedures are adequate, conform to applicable laws and regulations, and are being followed.
- ◆ Resources are fully accountable, adequately safeguarded, protected from fraud and abuse, and managed and used in an economical and efficient manner.
- ◆ Cash management practices and financial operations are properly conducted and financial reports are presented fairly.
- ◆ Appropriate internal accounting and administrative controls have been established and effectively implemented.

Sponsors that spend more than \$750,000 per year in federal funds from all sources are required to have an A133 audit conducted by a Certified Public Accountant (CPA). Sponsors that spend \$750,000 or less annually in federal funds will have a limited scope audit conducted by a KSDE fiscal auditor.

When the audit has been completed, the auditor discusses any findings, questioned costs, recommendations and other concerns of the audit with the authorized representative of the sponsor. If necessary, the auditor requests a corrective action plan.

The *School Nutrition Program Audit Guide* is available on the KSDE web site, www.ksde.org.

Appeals of Review and Audit Findings

Sponsors that disagree with review or audit findings have the right to appeal. Please refer to the following procedures for instructions on how to appeal.

School Nutrition Programs Appeal Procedures

Step 1 - Notice of Action (Audits and Review with Fiscal Action):

KSDE will send a Notice of Action to the Sponsor by certified mail, return receipt requested or email with read receipt requested. The notice will state the grounds for the action and that the Sponsor has the right to appeal the action.

Step 2 - Request for Review:

The Sponsor may appeal the action by mailing or delivering a written Request for Review to KSDE not later than 15 calendar days from receipt of the Notice of Action. The request must be mailed to or be filed with the KSDE Office of General Counsel with another copy mailed to KSDE Child Nutrition & Wellness at the following:

- ◆ Kansas State Department of Education Office of General Counsel, 900 SW Jackson St., Topeka, KS 66612-1212.
- ◆ Kansas State Department of Education, Child Nutrition & Wellness, 900 SW Jackson, Suite 251, Topeka, KS 66612-1212

The Request for Review must specify whether the Sponsor wants to refute the charges: (1) by submitting written documentation and/or (2) through a hearing. A hearing will be held ONLY if requested by the Sponsor. KSDE will acknowledge receipt of the Request for Review within 10 calendar days.

Step 3 - Review/Hearing Process:

Any information on which KSDE's Notice of Action was based will be available to the Sponsor for inspection from the date of receipt of the Request for Review.

KSDE will appoint a review/hearing official (Official). The Official will be an employee or officer of KSDE who is not accountable to any KSDE employee responsible for operation of the School Nutrition Programs.

The Official's determination will be based on information provided by KSDE and the Sponsor; and on SNP regulations and policies.

- ◆ **Review of Written Documentation:**
The Sponsor may refute the charges contained in the Notice of Action by providing written documentation to the Official not later than 30 calendar days after the Sponsor receives the Notice of Action.
- ◆ **Hearing:**
If the Sponsor requests a hearing, at least 10-calendar days advance written notice of the time and place of the hearing will be sent by certified mail, return receipt requested.

The Sponsor's representative(s) may attend the hearing in person. The Sponsor may retain legal counsel or may be represented by another person. Failure of the Sponsor's representative to appear at a scheduled hearing will constitute the Sponsor's waiver of the right to a personal appearance before the Official, unless the Official agrees to reschedule the hearing.

Representative(s) of KSDE shall be allowed to attend the hearing to respond to the Sponsor's testimony and to answer questions posed by the Official.

KSDE’s action shall remain in effect during the appeal process. However, the participating Sponsor and facilities may continue to operate under the SNP during an appeal of termination, unless the action is based on imminent dangers to the health or welfare of participants. If a Sponsor or facility has been terminated for this reason, KSDE must so specify in its Notice of Action. A Sponsor electing to continue operating while appealing an intent to terminate will be reimbursed for any allowable administrative costs and any eligible meals served during the period of the appeal.

Step 4 - Determination:

Within 60 calendar days of KSDE’s receipt of the Request for Review, the Official must inform KSDE and the Sponsor of the determination of the review of written documentation and/or the hearing. The determination by the Official is the **final administrative determination** afforded the Sponsor.

Appeal Process Time-Line

Calendar Days	Actual Date	The Sponsor will....
Day 1		Receive KSDE’s Notice of Action.
No later than Day 15		Mail or deliver to KSDE a written Request for Review and/or a hearing. The request must be mailed to or be filed with the KSDE Office of General Counsel with another copy mailed to KSDE Child Nutrition & Wellness at the following: <ul style="list-style-type: none"> • Kansas State Department of Education Office of General Counsel, 900 SW Jackson St., Topeka, KS 66612-1212. • Kansas State Department of Education, Child Nutrition & Wellness, 900 SW Jackson, Suite 251, Topeka, KS 66612-1212
No later than Day 30		Provide written documentation to the KSDE Official.
****		Send Notice of Action certified mail, return receipt requested or email with read receipt requested.
No later than 10 days from receipt of Request for Review		Confirm to Sponsor the receipt of Request for Review.
Upon receipt of Request for Review		Make available to Sponsor for inspection any information on which KSDE’s Notice of Action was based.
10 days prior to hearing		Provide Sponsor with written notice of hearing time and place.
No later than 60 days from receipt of Request for Review		KSDE Official informs KSDE and Sponsor of the review/hearing determination.