

ROSEBUD SIOUX TRIBE
Resolution No. 2022-166

- WHEREAS,** The Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and pertinent amendments thereof; and
- WHEREAS,** The Rosebud Sioux Tribe is governed by a Tribal Council made up of elected representatives who act in accordance with the powers granted to it by its Constitution and By-laws; and
- WHEREAS,** the Constitution and By-laws of the Rosebud Sioux Tribe Article IV Section 1 (a) authorizes the Tribal Council to negotiate with the Federal, State and local governments on behalf of the Tribe; and
- WHEREAS,** The Rosebud Sioux Tribal Council has enacted RST Ordinance No. 94-01, creating the Tribal Social Services Committee, to operate with the participation of individual tribal members representing all communities of the Reservation and representatives of responsible agencies in order to develop and coordinate all welfare, social and home improvement services related programs and to improve the social conditions for the welfare of the people of the Rosebud Sioux Reservation; and
- WHEREAS,** The RST Social Services Committee is delegated the duty and responsibility to review and coordinate all tribal and related social service and home improvement programs affecting social services issues; and
- WHEREAS,** the Rosebud Sioux Tribe Elderly Nutrition Program has proposed Summer Food Service Program ("SFSP") Permanent Agreement Between the Sponsor State of South Dakota Department of Education Child and Adult Nutrition Services of the South Dakota Department of Education (the "Agreement") for reimbursement of meals served to children participating in accordance with regulations applicable to SFSP at approved sites; and
- WHEREAS,** The Agreement requires the participating sponsor/agency to agree to comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by the regulations of the Department of Agriculture, (7 CFR Part 15), Department of Justice (28 CFR Parts 42 and 50) and FNS regulations issued pursuant to that Act; and
- WHEREAS,** The sponsor/local agency will arrange to conduct an audit in accordance with the provisions of 2 CFR Part 200 Subpart F if receiving \$750,000.00 or more from all federal sources, which must be completed within 9 months after the end of the organization's fiscal year; and
- WHEREAS,** The Agreement requires the applicant to assure and certify that they will comply with the laws, regulations, instructions, policies, guidelines, and requirements as they relate to the applications, acceptance and use of federal funds for this Program; and
- WHEREAS,** the Rosebud Sioux Tribe Social Services Committee has reviewed and recommended the Rosebud Sioux Tribal Council adopt and approve the Summer Food Service Program ("SFSP") Permanent Agreement; and
- THEREFORE BE IT RESOVLED,** that the Rosebud Sioux Tribe adopts the recommendation of the RST Budget and Finance Committee and approves the Summer Food Service Program ("SFSP") Permanent Agreement; and

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BE IT ALSO RESOVLED, that the President of the Rosebud Sioux Tribe or his authorized delegate is authorized and directed to sign and execute the Summer Food Service Program ("SFSP") Permanent Agreement and any other necessary and/or related documents on behalf of the Rosebud Sioux Tribe.


CERTIFICATION

This is to certify that the above Resolution No. 2022-166 was duly passed by the Rosebud Sioux Tribal Council in session on May 26, 2022, by a vote of thirteen (13) in favor, zero (0) opposed and zero (0) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:



Nicole Marshall, Secretary
Rosebud Sioux Tribe



Scott Herman, President
Rosebud Sioux Tribe

Summer Food Service Program (SFSP) Permanent Agreement Between the Sponsor and the Child and Adult Nutrition Services of the South Dakota Department of Education

Name and Mailing Address of Sponsor (Include ZIP code):	Local Agency/Sponsor Number:
Rosebud Sioux Tribe PO Box 430 Rosebud, SD 57570	

In order to carry out the purpose of Section 13 of the National School Lunch Act, (42 U.S. C. 1761) as amended, and the Regulations governing the Summer Food Service Program issued thereunder 7 Code of Federal Regulations CFR Part 225(hereinafter referred to as "SFSP"), Child and Adult Nutrition Services (hereinafter referred to as "State Agency") and the Local Agency, whose name and address appear in the iCAN application and above hereinafter referred to also as "sponsor", covenant and agree as follows:

A. ASSURANCES

THE STATE AGENCY AGREES:

1. To reimburse the sponsor, to the extent of funds available, for meals served to children participating in accordance with the regulations applicable to the SFSP at the approved sites listed on the iCAN SFSP Application Packet Site Application during the effective period of this agreement. Children means (a) persons 18 years of age and under, and (b) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public or non-profit school program established for the mentally or physically handicapped.
2. To terminate a sponsor's participation in the SFSP by written notice whenever it is determined by the State Agency that the sponsor has failed to comply with the rules of the program.
3. To inform the sponsor of its right to request a review of decisions made by the State Agency which affect the participation of a sponsor in the SFSP or the sponsor's claim for reimbursement.
4. To comply with and meet all responsibilities and requirements set forth in 7 CFR Part 225, Summer Food Service Program regulations.

THE SPONSOR/LOCAL AGENCY AGREES THAT:

1. If it is a unit of local, municipal, county, tribal, or state government, or a private nonprofit organization, it will directly operate the program in accordance with 7 CFR 225.14(d) below:
 - Requirements specific to sponsor types.
 - (1) If the sponsor is a camp, it must certify that it will collect information on participants' eligibility to support its claim for reimbursement.
 - (2) If the sponsor administers the Program at sites that provide summer school sessions, it must ensure that these sites are open to children enrolled in summer school and to all children residing in the area served by the site.
 - (3) Sponsors which are units of local, municipal, county or State government, and sponsors which are private nonprofit organizations, will only be approved to administer the Program at sites where they have direct operational control. Operational control means that the sponsor shall be responsible for:

- (i) Managing site staff, including the hiring, terminating, and determining conditions of employment for site staff; and
 - (ii) Exercising management control over Program operations at sites throughout the period of Program participation by performing the functions specified in §225.15.
 - (4) If the sponsor administers homeless feeding sites, it must:
 - (i) Document that the site is not a residential child-care institution as defined in paragraph (c) of the definition of 'School' contained in §210.2 of this chapter;
 - (ii) Document that the primary purpose of the homeless feeding site is to provide shelter and meals to homeless families; and
 - (iii) Certify that these sites employ meal counting methods to ensure that reimbursement is claimed only for meals served to homeless and non-homeless children.
 - (5) If the sponsor administers NYSP sites, it must ensure that all children at these sites are enrolled participants in the NYSP.
 - (6) If the sponsor is a private nonprofit organization, it must certify that it:
 - (i) Exercises full control and authority over the operation of the Program at all sites under the sponsorship of the organization;
 - (ii) Provides ongoing year-round activities for children or families;
 - (iii) Demonstrates that the organization has adequate management and the fiscal capacity to operate the Program;
 - (iv) Is an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code; and
 - (v) Meets applicable State and local health, safety, and sanitation standards.
2. It will retain final administrative and financial responsibility for total program operations at all approved sites listed in iCAN SFSP Application Packet Site Application(s) in accordance with the responsibilities and requirements specified under 7 CFR 225.6(e) which includes:
- (1) Operate a nonprofit food service during the period specified, as follows:
 - (i) From May through September for children on school vacation;
 - (ii) At any time of the year, in the case of sponsors administering the Program under a continuous school calendar system; or
 - (iii) During the period from October through April, if it serves an area affected by an unanticipated school closure due to a natural disaster, major building repairs, court orders relating to school safety or other issues, labor-management disputes, or, when approved by the State agency, a similar cause.
 - (2) For school food authorities, offer meals which meet the requirements and provisions set forth in §225.16 during times designated as meal service periods by the sponsor, and offer the same meals to all children;
 - (3) For all other sponsors, serve meals which meet the requirements and provisions set forth in §225.16 during times designated as meal service periods by the sponsor, and serve the same meals to all children;
 - (4) Serve meals without cost to all children, except that camps may charge for meals served to children who are not served meals under the Program;
 - (5) Issue a free meal policy statement in accordance with §225.6(c);
 - (6) Meet the training requirement for its administrative and site personnel, as required under §225.15(d) (1);
 - (7) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period, except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who meet the Program's income standards. The agreement shall specify the approved levels of meal service for the sponsor's sites if such levels are required under §225.6(d) (2). No permanent changes may be made in the serving time of any meal unless the changes are approved by the State agency;
 - (8) Submit claims for reimbursement in accordance with procedures established by the State agency, and those stated in §225.9;
 - (9) In the storage, preparation and service of food, maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations;
 - (10) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;
 - (11) Have access to facilities necessary for storing, preparing, and serving food;
 - (12) Maintain a financial management system as prescribed by the State agency;
 - (13) Maintain on file documentation of site visits and reviews in accordance with §225.15(d) (2) and (3);

(14) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. The records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;

(15) Maintain children on site while meals are consumed; and

(16) Retain final financial and administrative responsibility for its program.

3. It will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist, or qualify as a camp.
4. The sites at which summer school is in session are open both to children enrolled in summer school, and to all children residing in the area serviced by the site.
5. All sites will be monitored before program operations to ensure that all sites have the capability and the facilities to provide the meal service for the planned number of children.
6. It will provide capable supervisory and operational personnel for overall monitoring and management at each site.
7. Provide meals that meet the meal patterns requirements of 7 CFR 225.16 and most current USDA Policy Memorandum referencing meal requirements. SFAs participating in SFSP are allowed the flexibility of following NSLP or SBP meal pattern requirements instead of the SFSP meal patterns.
8. Abide by the management plan in the approved iCAN SFSP application unless amendments are submitted and approved.
9. Submit a new pricing policy statement to CANS for approval when making changes to the pricing policy (i.e. switching from a non-pricing program to a pricing program or vice versa).
10. Use the free and reduced price meal application attachments provided by the State or to seek approval prior to using any modifications other than those noted.
11. Maintain appropriate records to document compliance with Program requirements, approved applications (including amendments), accounting records, and appropriate records on facility operations such as site visits outlined in 225.15(d) (2) and (3)

(d) *Training and monitoring.*

(1) Each sponsor shall hold Program training sessions for its administrative and site personnel and shall allow no site to operate until personnel have attended at least one of these training sessions. The State agency may waive these training requirements for operation of the Program during unanticipated school closures during the period from October through April (or at any time of the year in an area with a continuous school calendar). Training of site personnel shall, at a minimum, include: the purpose of the Program; site eligibility; recordkeeping; site operations; meal pattern requirements; and the duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors, and sponsors shall provide training throughout the summer to ensure that administrative personnel are thoroughly knowledgeable in all required areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities. Each site shall have present at each meal service at least one person who has received this training.

(2) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

(3) Sponsors shall review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. Sponsors shall complete a monitoring form developed by the State agency during the conduct of these reviews.

12. When a sponsor's staff person identifies a problem, he/she will notify the site supervisor and/or authorized representative immediately for major infractions and by the end of the next operating day for minor infractions (see below for definition of major and minor infractions). The person notified will begin implementing corrective action immediately for major infractions and by the end of the next operating day (from time of notification) for minor infractions.

Upon request, all accounts and records pertaining to its Summer Food Service Program will be made available to the State Agency or its designee(s), to USDA Food and Nutrition Services, and to the Office of Inspector General for audit or review at a reasonable time and place. These representatives shall be provided reasonable private space accommodation to assure confidentiality to complete a review of documents and records.

Sponsors will be advised of state agency identified deficiencies with written notification following a review. Sponsors will begin implementing corrective action immediately for major infractions and by the end of the next operating day for minor infractions.

If an outside party notifies the state agency of a problem, state agency staff will follow the same criteria for notification as the sponsor's staff, and would expect the same follow-up.

In any of the above cases, the authorized representative or his/her designee will conduct a follow-up review within two operating days (from implementation of corrective action) for major infractions and within five operating days for minor infractions.

The sponsor will send the state agency a written response outlining the action taken for any deficiency brought to their attention by the state agency. This response will be sent within ten working days unless the state agency has granted an extension due to extenuating circumstances.

Major infractions include:

- any circumstance that
 - is/could be detrimental to the health and/or well-being of participating children;
 - denies eligible children access to the program
- claiming meals:
 - that do not meet meal pattern requirements;
 - served to adults;
 - in excess of number served;
 - for unapproved:
 - sites
 - meal types
 - dates
- claiming disallowed and/or unsubstantiated expenses;
- not reporting income to the program;
- submission of false information on SFSP forms;
- any infraction so identified by the state agency;

Minor infractions include:

- a few meals taken off site by children;
- a few meals with insufficient portion sizes;
- service of meals outside the approved meal time(s), with no resultant disruption of the entire meal service;
- records lacking sufficient detail and/or that occasionally are not kept up-to-date.

13. WARNING STATEMENT OF CRIMINAL PROVISIONS AND PENALTIES: 7 CFR 225.6(4) (i & ii)

As established in Section 13 (o) of the National School Lunch Act (42 U.S.C. 1761 (o)): The criminal penalties and provisions established in section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)) that states substantially:

a. Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the Program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the Program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (7 CFR 226.25 e)

b. Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the Program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this Program, or any money, funds, assets, or property derived from benefits provided by this Program, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over \$200, than the penalty shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both).

c. If two or more persons conspire or collude to accomplish any act described in paragraphs (a) (4)(i) of Section 225.6, and one or more of such persons do any act to effect the object of the conspiracy or collusion, or property are of value of \$100 or more, be fined not more than \$25,000 or imprisoned not more than five years, or both, or if such funds, assets, or property are of a value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

14. Civil Rights Assurances.

(a) This sponsor/local agency agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the Regulations of the Department of Agriculture (7 CFR Part 15), Department of Justice (28 CFR Parts 42 and 50), and FNS directives or regulations issued pursuant to that Act, and the Regulations to the effect that, no person in the United States shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program applicant received Federal financial assistance from the USDA and hereby gives assurance that it will immediately take any measures necessary to fulfill the requirements to:

- Annually train all program staff in their civil rights requirements.
- Display the nondiscrimination poster developed and provided by FNS.
- Have a way of providing information about benefits of the SFSP in an appropriate translation, if needed.
- Make available to all participants and upon request from the public, beneficiaries or potential beneficiaries information regarding the SFSP.
- Use the current nondiscrimination statement on any materials and/or advertising done by the local agency that makes reference to the SFSP and/or admissions.

(b) This assurance given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the

furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to recipient, or any improvements made with Federal financial assistance extended to the Program applicant by the Department. This includes any Federal agreement, arrangement, or other contract, which has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

- (c) By accepting this assurance, the sponsor/local agency agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws, and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, Food and Nutrition Service FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.
15. The State of South Dakota, USDA, and other State and Federal officials have the right to make announced or unannounced reviews of the local agency operations. These reviews will be held during the local agency's normal hours of summer food service program operations. Anyone making such reviews must show photo identification and identification that they are employees of one of these entities.
 16. Upon request, all accounts and records pertaining to its Summer Food Service Program must be made available to the State of South Dakota, USDA, the Office of Inspector General, and other State and Federal officials for audit or review at a reasonable time and place. The records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved.
 17. Reasonable accommodations must be provided to the State of South Dakota, USDA, and other State and Federal officials for the purpose of reviewing all accounts and records pertaining to its Summer Food Service Program operations.
 18. Any food program related publications by the local agency may be freely copied by the State Agency or by other local agencies under the Summer Food Service Program.
 19. The sponsor/local agency will arrange to have an audit conducted in accordance with the provisions of 2 CFR Part 200 Subpart F if receiving \$750,000 or more from all federal sources.
 - All public and private nonprofit and for profit organizations that receive federal assistance must comply with audit requirements under 2 CFR Part 200 Subpart F which include SFSP standards compliance. The chart below should be useful in determining the audit requirements for the organization.
 - Organizations are responsible for scheduling the required audit, which must be completed within 9 months after the end of the organization's fiscal year. A copy of the audit must be submitted to Child and Adult Nutrition Services within 30 days after the organization receives the audit, but no later than 10 months after the end of the organization's fiscal year.

*Federal Financial Assistance (FFA)	Public Entities	Private / Public Nonprofit Entities	For Profit Center
Under \$750,000	No audit requirement, but records must be	No audit requirement, but records must be available for review or	No audit requirement, but records must be available for review or

	available for review or audit by appropriate State or Federal officials.	audit by appropriate State or Federal officials.	audit by appropriate State or Federal officials.
Over \$750,000	Organization-wide audit	Organization-wide audit or if all federal assistance comes from one program, either an organization-wide audit or program-specific audit	Organization-wide audit or if all federal assistance comes from one program, either an organization-wide audit or program-specific audit
*FFA means all federal funds, including the value of USDA Donated Foods			

B. CHILD AND ADULT NUTRITION SERVICES AND THE LOCAL AGENCY MUTUALLY AGREE:

To comply with and meet all responsibilities and requirements set forth in 7 CFR Part 225, Summer Food Service Program Regulations.

No monies or other benefits may be paid out under this Program unless this Agreement is completed and filed as required by existing Regulations 7 CFR Part 225.

In conducting administrative reviews or audits for any fiscal year, CANS, FNS or OIG may disregard overpayment which does not exceed \$100. Likewise, the CANS will disregard an underpayment of \$100 to the sponsor/local agency. No overpayment shall be disregarded, however, when there are unpaid claims for the same fiscal year from which the overpayment can be deducted or when there is substantial evidence of violation of criminal law or civil fraud statutes, 7 CFR 225.10 (c).

C. AUTHORITIES

The applicant hereby assures and certifies that they will comply with the laws, regulations, instructions, policies, guidelines, and requirements as they relate to the applications, acceptance and use of Federal funds for this Program including

- Statutes of The Richard B Russell National School Lunch Act (NSLA), as amended, The Child Nutrition Act (CNA) of 1966, as amended
- Program regulations found in 7 CFR Part 245 (Determining Eligibility for free and Reduced Price School Meals), 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 400 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), 2 CFR Part 415 (General Program Administrative Regulations, 2 CFR Part 416 (General Program Administrative Regulations for Grants And Cooperative Agreements to State and Local Governments, and 2 CFR Part 418 (New Restrictions on Lobbying)

D. SIGNATURES

The Applicant named below agrees to and understands the Sponsor/Local Agency responsibilities listed above set forth in 7 CFR 225, SFSP regulations. These assurances, certifications, and attestations are binding on the Sponsor/Local Agency, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from the Department. I certify that I am duly authorized to sign this agreement on the behalf of the Program applicant.

I understand that this information is being given in connection with the receipt of federal funds and that State Agency officials may, for cause, verify information, and that deliberate misrepresentation will subject me to prosecution under applicable state and federal criminal statutes.

I certify that the information supplied in the ICAN application is true and correct to the best of my knowledge; and that the Board of Directors/Governing Body is informed of, and in accord with all terms and conditions of the ICAN application.

This agreement is effective summer 2016 until such time as it is amended or replaced.

Local Agency Rosebud Sioux Tribe

By: Authorized Representative Signature

Name: Scott Herman

(Print or Type)

Title: President Rosebud Sioux tribe

Date: 05/19/22

Approval of this application is granted provided the applicant complies with the terms and conditions set out in this application.

Department of Education / Child and Adult Nutrition Services

By: Signature

Name: Cheriee Watterson

Title: Office Administrator

Date: _____

E. NOTICE OF APPEAL PROCEDURES

1) Actions Which Can Be Appealed.

In accordance with 7 CFR 225.13, a sponsoring organization or a food service management company as applicable, may appeal the following actions made by Child and Adult Nutrition Services hereinafter referred to as the State Agency (SA):

- a) denial of an organization's application for participation;
- b) denial of an application submitted by a sponsoring organization for a site;
- c) termination of the participation of a sponsor or a site;
- d) denial of a sponsor's request for advance payment;
- e) denial of all or a part of a sponsor's claim for reimbursement (except for late submission under 225.9 (d)(6));
- f) claim against a sponsor for the remittance of a payment;

- g) refusal by the State Agency to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;
- h) denial of a food service management company's application for registration; or
- i) revocation of a food service management company's registration.

2) STATE AGENCY RESPONSIBILITIES

The sponsor or food service management company shall be advised in writing of the grounds upon which the State Agency based the action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the sponsor or food service management company has the right to appeal the action of the State Agency.

3) FILING AN APPEAL

- a) The appellant shall have an opportunity to review any information upon which the action was based.
- b) The appeal must be postmarked no later than two weeks from the date of receipt of the notice of action.
- c) The appeal request must state whether the appellant desires the hearing office to review records only or if the appellant desires a hearing before the review official/hearing officer.
- d) The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven (7) days of submitting the appeal, must clearly identify the State Agency action being appealed, and must include a photocopy of the notice of action issued by the State Agency.
- e) Mail the request to the Secretary, Department of Education, 800 Governors Drive, Pierre, SD 57501-2235.
- f) The appellant may retain legal counsel or may be represented by another person.

4) PROCEDURES FOR HANDLING REVIEW

- a) A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter requesting the appeal the action.
- b) 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.
- c) A representative of the State Agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official.
 - (1) If the appellant has requested a hearing, the appellant and the State Agency shall be provided with at least (5) days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.
 - (2) The hearing shall be held within fourteen (14) days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraphs (4) and (5) of 225.13.
 - (3) The review official shall be independent of the original decision making process.
 - (4) A record regarding each review shall be kept by the State Agency for a period of three years following the date of the final determination of the appeal. Records may be kept in their original form or on microfilm. The record shall document the State Agency's compliance with these regulations and shall include the basis for the decision.

5) DETERMINATION OF THE REVIEW OFFICER

- (1) The review official shall make a determination based on information provided by the State Agency and the appellant, and in consistency with Summer Program regulations and policy.

- (2) Within five (5) working days after the appellant's hearing, or within five (5) working days after receipt of written documentation if no hearing is held, the reviewing official must make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested.

6) PROCEDURE PRIOR TO REVIEW

The State Agency's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue operating under the Summer Program during an appeal or termination, and if the appeal results in overturning the State Agency's decision, reimbursement shall be paid for eligible meals served during the appeal process. However, such continued summer program operation shall not be allowed, if the State Agency's action is based on imminent danger to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State Agency shall so specify in its notice of action.

7) FINAL DETERMINATION

The determination by the State review official is the final administrative determination to be afforded to the appellant.

8) TERMINATION PROCEDURES

As established by 7 CFR 225.11 (c) of the SFSP Regulations:

- a. The State Agency CANS shall not enter into an agreement with any applicant sponsor/local agency identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program and was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any sponsor/local agency which it determines to be seriously deficient. However, the State agency shall afford a sponsor/local agency reasonable opportunity to correct problems before terminating the sponsor/local agency for being seriously deficient.
- b. The State agency may approve the application of a sponsor/local agency, which has been disapproved or terminated in prior years, if the sponsor demonstrates to the satisfaction of the State agency that the sponsor/local agency has taken appropriate corrective actions to prevent recurrence of the deficiencies. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:
 - (1) Noncompliance with the applicable bid procedures and contract requirements of Federal child nutrition program regulations.
 - (2) Private Non-profit organizations with IRS tax-exempt status revoked are immediately terminated and found serious deficient. SFSP04-2017
 - (3) The submission of false information to the State agency.
 - (3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving meals in accordance with Part 225, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sponsor's sites. Such violations include, but are not limited to, the following:

- (a) Noncompliance with the meal service time restrictions set forth in Section 225.16(c).
- (b) Failure to maintain adequate records.
- (c) Failure to adjust meal orders to conform to variations in the number of participating children.
- (d) The simultaneous service of more than one meal to any child.
- (e) The claiming of Program payments for meals not served to participating children.
- (f) Service of a significant number of meals which did not include required quantities of all meal components.
- (g) Excessive instances of off-site meal consumption.
- (h) Continued use of food service management companies that are in violation of health codes.

c. Sponsors or sites which have been terminated in accordance with the provisions above shall be allowed to appeal in accordance with 7CFR 225.13; see 7 CFR 225.6 (4) (ii)).



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Rosebud Agency

Post Office Box 228

Mission, South Dakota 57555

IN REPLY REFER TO:

Office of the Superintendent

JUN 02 2022

The Honorable Scott Herman
President, Rosebud Sioux Tribe
Post Office Box 430
Rosebud, South Dakota 57570

Attention: Nicole Marshall, Rosebud Sioux Tribe Secretary

Dear President Herman:

Our office is in receipt of the following Rosebud Sioux Tribal Resolutions:

2021-311 Amended: 5/25/22, 2017-101 Amended: 5/25/2022, 2022-128, 2022-129, 2022-130, 2022-131, 2022-153, 2022-154, 2022-155, 2022-156, 2022-158, 2022-160, 2022-162, 2022-163, 2022-164, 2022-165, 2022-166.

All Tribal Resolutions have been reviewed by this office.

Sincerely,

Ira Dean Wilson,
Superintendent

cc: Self-Determination