

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

SPORTZ CENTER ACADEMY, INC,
Petitioner,

v.

**GEORGIA DEPARTMENT OF EARLY
CARE AND LEARNING,**
Respondent.

Docket No.: 2406222
2406222-OSAH-DECAL-CAFP-44-Teate

Agency Reference No.: 08466

FINAL DECISION

I. Introduction

Petitioner Sportz Center Academy, Inc., by and through its Program Contact Jackson Cosey, requested a hearing after the Department of Early Care and Learning (DECAL) proposed to terminate and disqualify Sportz Center Academy, Inc. and its responsible principals and/or responsible individuals from operating a Child and Adult Care Food Program (CACFP).

Sportz Center Academy, Inc. and its responsible principals and/or Responsible Individuals became ineligible to operate another federally funded program, the Summer Food Stamp Program (SFSP) because they had been terminated per Final Decision issued on March 16, 2023 (OSAH Docket No. 2321405). Consequently, CACFP regulations required issuance of a serious deficiency notice and only authorize an Abbreviated Administrative Review consisting of a review of the written submissions concerning the accuracy of DECAL's determination.¹ In such an abbreviated review, the only issue is whether DECAL was accurate in its determination that Sportz Center, Inc. and its responsible principals and/or responsible individuals, after being terminated and disqualified from participating SFSP should be terminated and disqualified in the operation of CACFP.

¹ See 7 C.F.R. § 226.6(c)(3)(i), (ii)(S), 226.6(k)(9)(iii), 226.6(b)(xiii)(A).

In a Notice of Review issued on August 23, 2023, the parties were directed to file written submissions no later than September 5, 2023.² Having reviewed all submissions, DECAL's termination and disqualification of Sportz Center Academy, Inc. and its responsible principals and/or responsible individuals from the operation of a CACFP is **AFFIRMED**.

II. Findings of Fact

1. Petitioner Sportz Center Academy, Inc. is a participant in CACFP. It was formerly a participant in SFSP.³
2. Sportz Center Academy, Inc.'s participation in the SFSP ended following an evidentiary hearing on March 16, 2023, when the Court affirmed DECAL's issuance of a reclaim for meals and determination of disallowed costs totaling \$593,933.29 and the proposed termination and disqualification of Sportz Center Academy, Inc. as well as its responsible principals and individuals, Ms. Constance Chatmon, Ms. Cherity Chatmon, and Mr. Dewon Greer.⁴
3. In accordance with the March 16, decision, on April 21, 2023, DECAL issued a Notice of Termination and Disqualification in the SFSP to Sportz Center Academy, Inc., and its responsible principals and/or responsible individuals, Ms. Constance Chatmon, Ms. Cherity Chatmon, and Mr. Dewon Greer. This Notice advised that Sportz Center Academy, Inc.'s SFSP agreement to participate was terminated effective March 16, 2023, and that Sportz Center Academy, Inc. and its responsible principals and responsible individuals were disqualified from the SFSP.⁵
4. Any future renewal application would be prohibited from being approved by DECAL for Sportz Center, Academy, Inc., because the institution was terminated effective March 16, 2023,

² See 7 C.F.R. § 226.6(k)(5)(v).

³ See Affidavit of Robyn Parham at p.8, paragraphs 26-27, Attachment E; see also Respondent 's Exs. 4, 7.

⁴ See *Sportz Center Academy, Inc. v DECAL*, Docket No. 2324105-SFSP-44-Teate; Respondent's Ex. 10; Affidavit of Robyn Parham at pp. 9-10, para. 31, Attachment E).

⁵ Respondent's Ex. 12; see also Affidavit of Robyn Parham at p. 10, para. 32, Attachment E.

and some of its principals (Dwon Greer, Cherity, and Constance Chatmon) were declared ineligible for participation in any other publicly funded program by reason of violating the SFSP's program's requirements.⁶

5. As a result of the termination and disqualification from the SFSP, Sportz Center Academy, Inc. and its responsible principals and individuals, Ms. Constance Chatmon, Ms. Cherity Chatmon, and Mr. Dewon Greer, were placed on the Georgia Disqualified List (GDL).⁷

6. On June 15, 2023, DECAL served a Notice of Serious Deficiency in their operation of a CACFP. Service included Sportz Center Academy, Inc., its newly selected principals and individuals along with Mr. Jackson Cosey who had replaced Constance Chatmon as Program Contact for the CACFP.⁸

7. Although terminated and disqualified from the SFSP program, Sportz Center Academy, Inc. reorganized and submitted a Sponsor Update Form dated June 20, 2023, indicating that the new chairman of the board was Chaven Goree, the new managing members were Helene Buchanan and Jasyme Moxley, and the new secretary of the board was Shanika Johnson.⁹

8. In its evaluation of Sportz Center Academy, Inc. on August 7, 2023, DECAL determined that records with the Georgia Corporations Division of the Secretary of State's Office indicated that the institution was still registered with Connie Chatmon as the registered agent and CEO, and Cherity Chatmon as the Secretary. Constance Chatmon and Cherity Chatmon were still in control of the corporation and still benefactors of the remaining CACFP.¹⁰

9. Pursuant to 7 C.F.R. § 226.6(c)(3)(iii)(A)(3), a corrective action was required to be

⁶ See 7 C.F.R. § 226.6(b)(xiii)(A); *see also* 7 C.F.R. § 226.6(k)(9)(iii), (c)(3)(ii)(S).

⁷ Respondent's Ex. 17; *see also* Affidavit of Robyn Parham at p. 10, paragraph 33-Attachment E; DECAL Policy SFSP 03-9 at Attachment D2.

⁸ Respondent's Ex.13; *see also* Affidavit of Robyn Parham at pp. 10-11, paragraphs 34-37, Attachment E; DECAL Policy 9, Attachment D.

⁹ Respondent's Ex.18; Attachments B1, B2, and B3.

¹⁰ *See* Attachment C; *see also* Affidavit of Robyn Parham at pp. 20-21, paragraphs 58-60, Attachment E.

submitted. Petitioner submitted a corrective action plan on June 23, 2023.¹¹ The Petitioner's corrective action was reviewed by the Nutrition Services Policy Administrator and found to be inadequate.¹² Further, Petitioner's submissions failed to indicate the satisfaction of the disallowed costs totaling \$593,933.29 determined in the Final Decision on March 16, 2023.¹³

10. On August 2, 2023, Petitioner received a Notice of Proposed Termination and Proposed Disqualification from the CACFP, along with abbreviated Appeal Procedures.¹⁴ On August 15, 2023, through a new Program Contact, Petitioner submitted a Notice of Appeal.¹⁵

III. Conclusions of Law

1. The CACFP is a federally funded program intended to provide aid to child and adult participants and family or group daycare homes for provision of nutritious foods that contribute to the health and wellness of children, older adults, and chronically impaired persons.¹⁶ In Georgia, DECAL is responsible for the administration of the CACFP.¹⁷ For each fiscal year based on funds provided to the Department of Agriculture, Federal Nutrition Services must make funds available to DECAL to reimburse institutions for their costs in connection with food service operations, including administrative expenses.¹⁸ DECAL must provide sufficient consultative, technical, and managerial personnel to (a) administer the program; (b) provide sufficient training and technical assistance to institutions; (c) monitor program performance; (d) facilitate expansion

¹¹ Respondent's Ex. 14; *see also* Affidavit of Robyn Parham at pp. 12-13, paragraphs 38-39, Attachment E.

¹² *See* Affidavit of Robyn Parham at pp. 1, 12-13 at paragraphs 3, 38-41, Attachment E; *see also* Respondent's Ex. 15.

¹³ Petitioner Exs. 1-5.

¹⁴ Respondent's Ex. 15.

¹⁵ Respondent's Ex. 16; *see also* Affidavit of Robyn Parham at pp. 13-14 at paragraphs 41-44, Attachment E.

¹⁶ *See* 7 C.F.R. § 226.1.

¹⁷ *See* 7 C.F.R. § 226.3(b)-(c).

¹⁸ 7 C.F.R. § 226.4(a).

of the program in low income and rural areas; and (e) ensure effective operation of the program by participating institutions.¹⁹

2. The SFSP is also a federally funded, state-administered program. It was established to ensure children receive nutritious meals when school is not in session. The program operates through sponsors that utilize sites approved by DECAL to feed children free of charge. DECAL is administrator of SFSP in the State of Georgia, and oversees SFSP reimbursements to program operators who have been authorized to serve meals and snacks to children and teens.²⁰

3. In addition to overseeing program compliance and administering both CACFP and SFSP applications and trainings, DECAL also administers the serious deficiency process. The Serious Deficiency, Suspension, & Appeals for State Agencies & Sponsoring Organizations USDA Handbook advises

the serious deficiency process has six steps that start when a state agency identifies a serious deficiency. The resolution will be either the correction of the problem and the issuance of a temporary deferment of the serious deficiency, or the institution's termination and disqualification from the Program.²¹

4. If the State agency determines that a participating institution has committed any of the serious deficiencies identifies in a list of serious deficiencies for participating institutions, the State agency must initiate action to terminate the agreement of a participating institution and initiate action to disqualify the institution and any responsible principals and responsible individuals.²² If the institution or any of the institution's principals have violated a program's requirement, they are ineligible to participate in any other publicly funded program.²³ As applied, Sportz Center

¹⁹ 7 C.F.R. § 226.6(a).

²⁰ See 7 C.F.R. § 225.1.

²¹ UNITED STATES DEP'T OF AGRIC., SERIOUS DEFICIENCY, SUSPENSION & APPEALS FOR STATE AGENCIES & SPONSORING ORGANIZATIONS HANDBOOK [hereinafter SERIOUS DEFICIENCY HANDBOOK], p. 10.

²² 7 C.F.R. § 226.6(c)(3)(i)-(ii).

²³ 7 C.F.R. § 226.6(c)(3)(ii)(S).

Academy, Inc. itself as well as Ms. Constance Chatmon, Ms. Cherity Chatmon, and Mr. Dewon Greer, were all placed on the Georgia Disqualified List (GDL) and are ineligible to participate in the CACFP.²⁴

5. An institution can never be seriously deficient without the improper action of a person.²⁵

As defined in 7 C.F.R. § 226.2, a responsible principal or responsible individual means

- (a) a principal, whether compensated or uncompensated, who the State agency or FNS determines to be responsible for an institution's serious deficiency;
- (b) any other individual employed by, or under contract with, an institution or sponsored center, who the State agency or FNS determines to be responsible for an institution's serious deficiency; or
- (c) an uncompensated individual who the State agency or FNS determines to be responsible for an institution's serious deficiency.

Specifically, the regulations require in every instance, both the chairperson of the institution's board of directors as well as the executive director or owner, or other person responsible for the CACFP be determined seriously deficient and receive the notice of serious deficiency. In response to a serious deficiency notice, an institution must submit in writing what corrective action it has taken. The corrective action plan details the internal controls implemented to ensure that the serious deficiencies are fully and permanently corrected. Neither DECAL's decision to deem an institution seriously deficient nor DECAL's determination that the Petitioner's corrective action is inadequate are appealable issues which can be addressed by administrative review.²⁶

²⁴ The State Agency Disqualification List means an actual paper or electronic list, or retrievable records maintained by the State Agency that includes a synopsis of information concerning seriously deficient institutions and providers terminated for cause in the State. *See* 7 C.F.R. § 226.2. The List is useful for an analytic purpose because it captures information that is necessary for State Agencies and the FNS to assess the effectiveness of the serious deficiency process. The National Disqualification List provides a complete picture of institutions, individuals and providers that have been disqualified and are ineligible for Program participation. Respondent's Exhibit 19; Serious Deficiency Handbook, pp. 16, 74-75.

²⁵ SERIOUS DEFICIENCY HANDBOOK, pp. 16, 75

²⁶ *See* 7 C.F.R. § 226.6(k)(3)(ii)-(iii).

IV. Decision

Having reviewed all submissions, DECAL's termination and disqualification of Sportz Center Academy, Inc. and its responsible principals and/or responsible individuals from the operation of a CACFP is **AFFIRMED**.

SO ORDERED, this 25th day of September, 2023.



Steven W. Teate
Administrative Law Judge