

Accommodations for Special Dietary Needs

mdek12.org

Mississippi Department of Education
Office of Child Nutrition



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DEPARTMENT OF
EDUCATION



Presentation Objectives



**Statutory
Authority**



**Definition
&
Background**



**Physician
Statement
&
Modifications**



**Food
Allergies
&
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**Shared
Responsibility
&
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Statutory Authority

Why do we make Accommodations?



- It's the **right** thing to do
- It's the law and USDA **requires** it.
- ***Schools that fail to make appropriate meal modifications for children without disabilities could be found in violation of Federal Civil Rights laws.***
- Schools can **lose federal funding**

***This is outlined in 7 CFR 15b.**

All federal child nutrition programs are subject to providing special diet modifications.

- National School Lunch Program
- School Breakfast Program
- Fresh Fruit and Vegetable Program
- Special Milk Program
- Afterschool component of NSLP
- Seamless Summer Options
- National School Lunch Program
- Child and Adult Care Food Program

Governing Students with Disabilities

1. The Rehabilitation Act of 1973:

Prohibits discrimination on the basis of disability in any Federal Government program that receives Federal financial assistance.

2. Individuals with Disabilities Education Act (IDEA):

Governs how states and public agencies provide services to children.



Governing Students with Disabilities

3. Americans with Disabilities Act:

- Recipients of Federal financial assistance must make reasonable modifications to accommodate children with disabilities.
- No individual shall be discriminated against on the basis of disability (applies to both public and private schools).
- Provides definition of disability
- Clarifies that a disability does not have to be life threatening to require modification



Governing Students with Disabilities

4. Individuals with Disabilities Education Act

- Requires children with disabilities have equal opportunity to receive meals.
- Any nutrition-related services in a child's IEP plan must be provided at the public's expense.

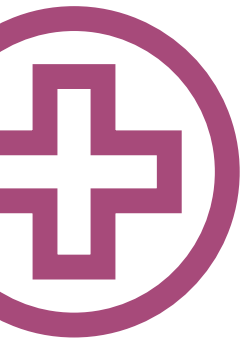


The requirement to accommodate children with disabilities is also included in Program regulations at 7 CFR 210.10 (m) and 7 CFR 220.8 (m):

“Schools must make substitutions in lunches and afterschool snacks for students who are considered to have a disability under 7 CFR 15b.3 and whose disability restricts their diet.” [7 CFR 210.10(m)]

Definition of Disability

Disability Related Modifications are Required



- A person may be considered to have a disability using the following criteria:
 - A physical or mental impairment that substantially limits one or more major life activities of an individual.
 - A record of such an impairment.
 - Being regarded as having such an impairment.

Definition of Disability

- A person may have a disability if one or more major life activities are impacted. The following are examples or major life activities but are not a comprehensive list:

Caring for Oneself	Lifting
Performing Manual Tasks	Bending
Seeing	Speaking
Hearing	Breathing
Eating	Learning
Sleeping	Reading
Walking	Concentrating
Standing	Thinking
Communicating	Working



- A person may have a disability if one or more major life activities are impacted. The following major bodily functions are also considered major life activities:



Functions of the Immune System	Respiratory Functions
Normal Cell Growth	Circulatory Functions
Digestive Functions	Endocrine Functions
Bowel Functions	Reproductive Functions
Bladder Functions	Neurological Functions
Brain Functions	Etc.

Physician Statements

& Modifications

Modifications Within Meal Pattern 15



- SFA can receive reimbursement for a modification request without a medical statement when the modification can be made within the Meal Pattern.
- Example: child has an allergy to a specific fruit or vegetable – substitute with another Fruit or Vegetable.
- FNS strongly encourages SFAs to make note of the actions taken to accommodate a child's disability.

Modifications outside the meal pattern are reimbursable, provided the request is supported by a Physician's Statement which must include all required elements:

1. Explanation of the medical **impairment** or the allergen to be avoided. Does not have to include specific diagnosis.
2. Explanation of how it **impacts** the child
3. What **modifications** need to be made including foods to be omitted and recommended alternatives
4. Signature of a state licensed healthcare professional.

SFAs must retain copies of medical statements when making modifications outside of the regular meal pattern **to receive Federal reimbursement for the modified meals.**



Medical Statement

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- Limited to individuals **authorized by state law to write prescriptions**
- **MUST** be clear and address all issues.
- **DO NOT** interpret or revise physician's statement.
- Changes **SHOULD** be made in writing.
- Food Service staff **MUST** have a copy of medical statement.

This is an example of what should be included in the medical statement:

- 1. Impairment:** “condition that prevents swallowing” (*note, this did not mention specifically the name of the condition, as this is not necessary*)
- 2. Impacts:** “choking hazard”
- 3. Modifications:** “foods should be blended”

This is an example of what should be included in the medical statement:

1. **Impairment:** “allergy to peanuts”
2. **Impacts:** “causes anaphylaxis”
3. **modifications** “avoid all foods containing peanuts or produced on shared equipment, any alternative food is acceptable”

Individual Education Plan



- If the child's IEP or 504 Plan includes the information required in the medical statement, or if the SFA obtains written medical verification of the impairment during the IEP/504 Plan process, it is not necessary for the SFA to also obtain a separate medical statement.
- Using a team approach may help ensure the IEP includes the information needed to fulfill FNS requirements for the medical statement.
 - If more information is needed from a child's doctor or family, do not delay meal modification as you wait on clarification.

The need for meal modification due to medical reasons is required by law to be kept confidential.

- The Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- Family Educational Rights and Privacy Act of 1974 (FERPA)
- Keep in mind that a school may not request medical charts or records to be included with a medical statement.

School Food Service Scenario

Question: A child who previously required a meal modification outside the Program meal pattern no longer requires modified meals. Must the SFA obtain an amended medical statement prior to ending the child's meal modification?

Response: FNS does not require SFAs to obtain written documentation from a State licensed healthcare professional rescinding the original medical order prior to ending a meal modification. However, FNS recommends that SFAs maintain documentation when ending a meal modification. For example, an SFA could ask the child's parent or guardian to sign a statement indicating their child no longer needs a meal modification before ending the modification.

School Food Service Scenario

Question: A child required a modification outside the Program meal pattern for her food allergy in the previous school year. Must the SFA obtain an updated medical statement at the start of the next school year?

Response: FNS does not require SFAs to obtain updated medical statements on a regular basis. Once the medical statement is accepted, SFAs will continue to receive reimbursement as long as the medical statement is on file. However, SFAs are responsible for ensuring that medical statements on file reflect the current dietary needs of participating children and may require updates as necessary to meet their responsibilities. SFAs should carefully consider the burden obtaining additional medical statements could create for parents and guardians when establishing such requirements.

Generally not a good idea if Medical Statement is on File

- However, SFAs may decline a request for a meal modification that would fundamentally alter the nature of the Program. A fundamental alteration is a modification so drastic that it would change the essential nature of the Program.
 - *Ex: you cannot seek reimbursement for a meal consumed at home*





- If a modification request indicates a brand name item, in most instances, a generic brand is sufficient, **unless the brand name item is medically necessary.**
- This can be determined through the interactive process with the child's parent or guardian.

Generally not a good idea if Medical Statement is on file.

- If a modification request is declined, the SFA must ensure the child's parent or guardian knows their right to:
 - File a grievance if they believe a violation has occurred regarding the request for a reasonable modification
 - Receive a prompt and equitable resolution of the grievance
 - Request and participate in an impartial hearing to resolve their grievances
 - Be represented by counsel at the hearing
 - Examine the record; and
 - Receive notice of the final decision and a procedure for review

Situations where a requested modification is not granted

- Provide notice of: Process for requesting modification, Decision, and Procedural rights
- Opportunity to examine the record and **file a grievance**
- An **impartial hearing** with parental participation and legal representation (if desired)
- A **review procedure** (avenue for appeal)

***NOTE:** Your review procedures can be the same as your 504 review procedures.*



Covering the Cost

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NO ADDITIONAL REIMBURSEMENT!

- SFAs may not charge children with disabilities more than they charge other children for Program meals.
- Funding Streams to offset additional costs can include:
 - nonprofit school food service account
 - the general fund
 - special education funds (if specified in the child's IEP)

Do not delay modification.

- Document initial interaction where school officials first learned of the modification request.
- Provide reasonable modification for the child while waiting on the statement.
- Follow up with family to obtain medical statement.
- Maintain records of contacting family for statement.

35. Are SFAs required to accommodate a meal modification request for a child who does not have a disability but has a food preference

No. However, SFAs may make meal modifications for children who do not have disabilities. When providing a substitution for a child with a disability, the substitution must be consistent with the meal pattern requirements specified in program regulations for the meal to be reimbursable (7 CFR 210.10(m)(3))

36. If an SFA provides meal modifications for non-disability reasons (e.g. food preferences for religious reasons or a child's vegetarianism) are the modified meals eligible for Federal reimbursement?

FNS encourages schools to provide a variety of foods for children to select from to accommodate food preferences. Meal modifications to accommodate a food preference for religious, ethnic, moral, or other reasons *may be* reimbursed, provided these meals adhere to the standards found in Program regulations (7 CFR 210.10(m)(3)).

Variations for Ethnic, Religious, or Economic Reasons 32

7 CFR 210.10 (m) (3)



Schools **should** consider ethnic and religious preferences when planning and preparing meals. Variations on an experimental or continuing basis in the food components for the meal pattern in paragraph (c)* of this section **may be allowed** by FNS. Any variations must be consistent with the food and nutrition requirements specified under this section and needed to meet ethnic, religious, or economic needs.

**meal pattern*

Food Allergies



- When the body reacts to ingesting a particular food or ingredient. The food that causes the reaction is called an allergen.
- **Anaphylaxis** is a serious allergic reaction that has rapid onset and may cause **DEATH**.



- Increased approximately 50% between 1997–2011.
- **15 million Americans have food allergies**, including 5.9 million children under age 18 (1 in 13 children)
- 38.7% of food allergic children have a history of severe reactions (**Death**).
- Food or digestive allergies, skin allergies and respiratory allergies are the most common among children.

Big 9 Allergens

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1. Peanuts
2. Tree Nuts
3. Milk
4. Eggs
5. Fish
6. Soy
7. Wheat
8. Shellfish
9. Sesame*

**recently added*



- There are more than **160 different foods** that cause allergic reactions.
- Eight foods cause 90% of all reactions and are considered the **9 Major Allergens**



- **MOUTH:** Swelling of lips/mouth
- **SKIN:** Hives, Rash, Eczema
- **DIGESTIVE TRACT:** Stomach Cramps, Vomiting, Diarrhea
- **AIRWAYS:** Wheezing, Breathing problems
- **DROP IN BLOOD PRESSURE**

Why is an Allergy Considered A Disability? 39

It's just a food allergy, after all!



1. It can cause a physical impairment that limits one or more major life activities.
2. Anaphylaxis is a major impairment; and eating and breathing is a major life activity.

Steps for Success

Create Policies and Procedures

- Form a team to write a food allergy policy.
- Develop an emergency plan.
- Notify parents about any reactions or exposures.
- Keep information about children confidential.
- Limit outside foods to pre-packaged foods with complete ingredient lists.



Create an Individual Food Allergy Plan

- Include medical statement from physicians.
- Work with parents to create a plan to treat a reaction if it occurs.
- Keep the plan where you can refer to it as needed.
- Obtain any necessary medications from parents and understand when and how to give the medication.
- Keep medications in a location that is secure.



Train Your Staff

- The school's food allergy policy and each child's individual plan.
- Common allergens and symptoms of an allergic reaction.
- Coordinate a professional development training with the school nurse on when and how to give medications



Avoid Exposure to Food Allergens

- Prepare allergy free foods first.
- Store allergy free foods in a safe foods zone.
- Wash hands before and after each task.
- Wash, rinse, and sanitize all utensils and cookware.
- Clean and sanitize tables and chairs before and after meals.



Know how to Read Food Labels



- Food labels list the top eight allergenic foods (**milk, eggs, peanuts, tree nuts, wheat, soy, fish, and shellfish**).
- Check labels for warning statements such as “may contain,” “produced on shared equipment,” or “produced in a plant that uses.”
- Check ingredients label for allergens on every product each time food is purchased.

Fluid milk substitutes. If a school chooses to offer one or more substitutes for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide the nutrients listed in the following table. Fluid milk substitutes must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school need only offer the nondairy beverage(s) that it has identified as allowable fluid milk substitutes according to the following chart.

Nutrient	Per cup (8 fl oz)
Calcium	276 mg.
Protein	8 g.
Vitamin A	500 IU.
Vitamin D	100 IU.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

School Food Service Scenario

Question: The “regular” menu item for lunch at the local middle school is whole grain rich pasta with cheese and vegetable toppings. Must the school food service director prepare whole grain rich pasta with *lactose-free cheese* and vegetable toppings for a child with lactose intolerance?

Response: No. In a disability situation, the meal modification or meal item substituted does not need to mirror the menu item offered each day. The SFA’s responsibility is to serve the child a safe meal that accommodates their disability, not to mirror the Program meal served that day. In the example used in this question, the SFA would not be required to serve a whole grain rich pasta dish, and could instead serve a different meal that meets the child’s modification request, such as a sandwich with whole grain rich bread.

This resource is intended to help school food service administrators and their staff plan menus and prepare meals to meet the nutrition standards of the USDA Food and Nutrition Service National School Breakfast and Lunch Programs. It cannot be used to treat medical conditions, food allergies or intolerances or dietary restrictions.



A medical statement may require that portion sizes be changed.



1. If specifically prescribed in a medical statement, an SFA must provide larger portions when needed.
2. In some situations, SFAs may be directed in a medical statement to serve smaller portions. That is also acceptable.

OVS & Meal Modifications 50



SFAs **cannot** accommodate a child's disability by asking the child to **exclude** a food component/item from their selection.

Example: a child who has Celiac disease or a gluten intolerance must have a choice of a bread/grain item that is gluten-free. The SFA may not use OVS to eliminate a specific food component for a child with a disability; in this case, the SFA must offer a grain substitute for a child who cannot consume gluten.

When a meal modification is needed, FSMCs are required to make one.



1. Disability discrimination through contractual means is prohibited.
2. Modifications for children with disabilities must be included in FSMC contracts.

Special Seating Arrangements

Program benefits should be provided in the most integrated setting appropriate to a the person’s needs”.

- School officials must not segregate children with disabilities based on convenience.
- In some instances, a child may need more room for assistance from aides or need an allergen free space that is cleaned more closely than other areas.
 - Children without food allergies may be permitted to join in “allergy free zones” if they do not bring allergen containing foods.



Shared Responsibility

& Accountability



- Notify participants, beneficiaries, and applicants that they do not discriminate based on disability.
- Identify the individual responsible for assisting with special diet modifications.
- Explain process of submitting data/when to submit
- Methods of notification can include:
 - Posting notices
 - Placement of notices in relevant publications
 - Radio announcements
 - The use of visual and auditory media



- LEAs employing 15 or more individuals must designate at least one person to coordinate compliance with disability requirements.
- LEAs are encouraged to have a 504/ADA Team



- Meet with school staff.
- Provide medication dosage and how to administer.
- Submit all school required medical forms.



- Follow all federal/state laws and district policies.
- Have written physician statement prior to school.
- Establish a core team of: Parents, Nurse, Food Service Administrator, Cafeteria Manager, Principal, Teacher and Student.
- Provide in-service training for all staff (demonstrate how to use epi-pen).



- Staff should not post lists of student names and their allergies or accommodations in the cafeteria, even if the list is seemingly only visible to food service staff. These lists should be kept on site, but in a more secure location.
- Staff should not overtly identify student conditions when labeling trays. Recommended practices include:
 - Color coded systems for common allergies
 - Labeling with student name only, not the condition or allergy
 - POS alerts visible to cashiers only



- Understand how to determine where allergens are found.
- Keep classrooms as allergen-free as possible.
- Be prepared to follow student's Plan of Action.
- Notify parents (and principal) by written communication of any school related activities that require the use of food.



- Be proactive in care and management of their food allergies.
- Understand the importance of hand washing before and after eating.
- Notify an adult immediately if they eat something that may contain a food allergy.

- **Trade** food with other students.
- **Share** drinks and utensils with others.
- Eat anything with **unknown** ingredients.





- It takes a **TEAM** to ensure the **BEST** for our students.
- Educate, Educate, Educate!!!
- Due Diligence goes a long way!
- **BE SAFE, NOT SORRY!** Take all complaints from children with food allergies very, very seriously.

- <https://theicn.org/>
- www.foodallergy.org
- www.understanding-anaphylaxis.com/
- <https://www.fns.usda.gov/school-meals/2017-edition-accommodating-children-disabilities-school-meal-programs>



Questions





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