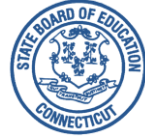





STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



TO: Child and Adult Care Food Program (CACFP) Adult Day Care Centers

FROM: John D. Frassinelli, Chief 
Bureau of Health/Nutrition, Family Services and Adult Education

DATE: October 20, 2017

SUBJECT: Operational Memorandum No. 2A-18
Requirements for Meal Modifications in CACFP Adult Day Care Centers

On June 22, 2017, the U.S. Department of Agriculture (USDA) issued policy memo [CACFP 14-2017 SFSP 10-2017: Modifications to Accommodate Disabilities in CACFP and SFSP](#). This operational memorandum **significantly changes** the requirements and process for meal modifications for adult participants with disabilities in CACFP adult day care centers.

This operational memorandum provides an overview of the key requirements for meal modifications, including relevant legislation and definitions, and summarizes the Connecticut State Department of Education's (CSDE) special diets implementation resources for CACFP adult day care centers. For detailed guidance, review the CSDE's guide, [Accommodating Special Diets in CACFP Adult Day Care Centers](#).

REVISED RESOURCES

The CSDE has recently revised the following documents to reflect the USDA's policy guidance in CACFP 14-2017 SFSP 10-2017:

- [Accommodating Special Diets in CACFP Adult Day Care Centers](#);
- [Allowable Milk Substitutes for Adults without Disabilities in the CACFP](#);
- [Medical Statement for Meal Modifications in CACFP Adult Day Care Centers](#); and
- [Guidance and Instructions: Medical Statement for Meal Modifications in CACFP Adult Day Care Centers](#) (new resource).

Please discard any old versions of these documents and replace with the revised versions.

CACFP adult day care centers must carefully review these resources to ensure compliance with the USDA requirements for meal modifications for adult participants with disabilities in the CACFP.

Please note that there is only **one** medical statement for all meal modification requests for adult participants with and without disabilities. This form replaces the previous two forms (medical statement for adult participants with disabilities and medical statement for adult participants without disabilities).

LEGISLATION

- [Section 504 of the Rehabilitation Act of 1973](#) (Section 504) prohibits discrimination on the basis of a disability in programs and activities that receive federal financial assistance, such as the Child Nutrition Programs.
- The [Americans with Disabilities Act \(ADA\) of 1990](#) guarantees equal opportunity and access for individuals with disabilities in employment, public accommodations, transportation, state and local governments, and telecommunications.
- The [ADA Amendments Act of 2008](#) prohibits discrimination based on disability in the provision of state and local government services, including services provided by public schools, and prohibits discrimination based on disability by private entities offering public accommodations, including private schools. Title II of the ADA Amendments Act prohibits discrimination based on a disability in the provision of state and local government services, such as public schools. Title III of the ADA Amendments Act prohibits discrimination based on a disability by private entities that provide public accommodations, including adult day care centers. The ADA Amendments Act greatly expands the concept of who is disabled. It requires that a disability must be viewed more broadly to encompass more impairments that limit a major life activity and therefore require an accommodation.
- The USDA nondiscrimination regulations ([7 CFR 15b](#)) prohibit discrimination against adult participants with disabilities in any USDA program or activity. The USDA nondiscrimination regulations 7 CFR 15b.26(d) require recipients of federal financial assistance, such as CACFP adult day care centers, to serve special meals at no extra charge to participants whose disability restricts their diet.
- The USDA regulations for the CACFP ([7 CFR 226.20\(g\)](#)) require reasonable meal modifications for adult participants whose disability restricts their diet, based on a written medical statement signed by a recognized medical authority. Requests for a reasonable meal modification must be related to an adult's disabling condition.

DEFINITIONS

- A “person with disability” is any person who has a physical or mental impairment that substantially limits one or more “major life activities,” has a record of such impairment, or is regarded as having such impairment” ([7 CFR 15b](#)).
 - “physical or mental impairment” means 1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or 2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

- “major life activities” are broadly defined and include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activities” also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- “has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- “is regarded as having an impairment” means 1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; 2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairments; or 3) has none of the impairments defined in “physical and mental impairment” but is treated by a recipient as having such an impairment.
- A “reasonable modification” is a change or alteration in policies, practices, and/or procedures to accommodate a disability that ensures adult participants with disabilities have equal opportunity to participate in or benefit from a program.
- A “recognized medical authority” is defined by the Connecticut State Department of Public Health as a physician, physician assistant, doctor of osteopathy, or advanced practice registered nurse (APRN). APRNs include nurse practitioners, clinical nurse specialists, and certified nurse anesthetists who are licensed as APRNs.

OVERVIEW OF REQUIREMENTS

The following information highlights the key requirements for meal modifications in the CACFP, but is **not** inclusive of all USDA requirements and guidance. For detailed guidance, CACFP adult day care centers should review the CSDE’s guide, [Accommodating Special Diets in CACFP Adult Day Care Centers](#).

Requirements for Meal Modifications

- CACFP adult day care centers must make reasonable meal modifications on a case-by-case basis for adult participants whose disability restricts their diet, based on a medical statement signed by a recognized medical authority.
- CACFP adult day care centers are encouraged, but not required, to provide meal modifications on a case-by-case basis for adult participants without disabilities who have special dietary needs. **All meal modifications for adult participants without disabilities must comply with the CACFP adult meal patterns.**

What Constitutes a Disability

- CACFP adult day care centers should not engage in weighing medical evidence against the legal standard to determine whether a particular physical or mental impairment is severe enough to qualify as a disability. The primary concern is ensuring equal opportunity for all adult participants to participate in or benefit from the CACFP.
- Under the ADA Amendments Act, most physical and mental impairments will constitute a disability. This includes conditions that impair immune, digestive, neurological, and bowel functions, as well as many others. All disability considerations must be reviewed on a case-by-case basis.
- Under the ADA Amendments Act, a physical or mental impairment does not need to be life threatening to constitute a disability. It is sufficient that it limits a major life activity. For example, a food intolerance, such as lactose intolerance or gluten intolerance, may be considered a disability if it substantially limits digestion, a bodily function that is a major life activity. An adult participant whose digestion is impaired by a food intolerance may be a person with a disability, regardless of whether consuming the food causes the adult participant severe distress.
- If an adult participant's condition is not listed under the ADA's categories of diseases and conditions, it cannot be assumed that the condition is not a disability. The ADA's categories of diseases and conditions are not all-inclusive; there are more conditions that meet the definition of disability than are listed in the law.
- The determination of whether a physical or mental impairment constitutes a disability must be made without regard for whether mitigating measures may reduce the impact of the impairment. An impairment may be covered as a disability even if medication or another mitigating measure may reduce the impact on the impairment. For example, the fact that an adult participant may be able to control an allergic reaction by taking medication should not be considered in determining whether the allergy is a disability.
- A food allergy is generally considered a disability. Under the ADA Amendments Act, a food allergy does not need to be life-threatening or cause anaphylaxis to be considered a disability. A non-life-threatening food allergy may be considered a disability and require a meal modification if it impacts a major bodily function or other major life activity, such as digestion, respiration, immune response, and skin rash.
- Autism is considered a disability and may require a reasonable modification if it substantially limits a major life activity such as eating. For example, some individuals with autism will only eat certain foods due to their repetitive and ritualistic behavior patterns. Any physical or mental impairment preventing an adult participant from consuming a meal is considered a disability.
- Phenylketonuria (PKU), diabetes, and celiac disease are considered disabilities and may require reasonable meal modifications.
- Obesity is recognized by the American Medical Association as a disease and may be considered a disability if the condition of obesity substantially limits a major life activity.

- If a disability is episodic and substantially limits a major life activity when active, the CACFP adult day care center must provide a reasonable modification for the adult participant. Whether a temporary impairment is a disability must be determined on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual. If the condition is temporary, but severe and lasts for a significant duration, the CACFP facility must provide a reasonable modification for the duration of the condition. An example of a temporary disability is an adult participant who had major oral surgery due to an accident and is unable to consume food for a significant period of time unless the texture is modified. The CACFP facility must make the meal modification, even though the adult participant is not “permanently” disabled. Temporary illness or injury, such as a cold, the flu, or a minor broken bone, are generally not considered conditions that require reasonable meal modifications.
- General health concerns and personal preferences, such as a preference that an adult participant eats a gluten-free diet or organic foods because the adult participant or their family believes it is healthier, are not disabilities and do not require meal modifications. This also applies to preferences for nondairy milk substitutes (such as rice milk and almond milk) that do not comply with the USDA’s Nutrition Standards for Fluid Milk Substitutes. CACFP facilities can never serve noncompliant milk substitutes to adult participants without disabilities, even with a medical statement signed by a recognized medical authority. For more information, see the CSE’s handout, *Allowable Milk Substitutes for Adults without Disabilities in the CACFP*.

Requirements for Medical Statement

- For adult participants with disabilities, CACFP adult day care centers must have documentation on file for all meal modifications that do not comply with the CACFP adult meal patterns. The USDA does not require a medical statement for adult participants with disabilities if the modified meals meet the CACFP adult meal patterns, such as meals modified only for texture. However, the USDA strongly recommends that CACFP adult day care centers keep documentation on file acknowledging the adult participant’s disability. The CSDE recommends obtaining a medical statement for all meal modifications to ensure clear communication between families and CACFP adult day care centers about the appropriate meal modifications for each adult participant.
- For adult participants whose disability requires a modification that does not meet the CACFP adult meal patterns, the USDA requires that the medical statement must include: 1) information about the adult participant’s physical or mental impairment that is sufficient to allow the CACFP facility to understand how it restricts the adult participant’s diet; 2) an explanation of what must be done to accommodate the adult participant’s disability; and 3) if appropriate, the food or foods to be omitted and recommended alternatives.
- The CSDE strongly recommends that CACFP adult day care centers use the CSDE’s sample medical statement form, *Medical Statement for Meal Modifications in CACFP Adult Day Care Centers*, to obtain the information that the USDA requires to document meal modifications for adult participants with disabilities. For guidance on meal modifications and instructions for completing the medical statement, see the CSDE’s handout, *Guidance*

and Instructions: Medical Statement for Meal Modifications in CACFP Adult Day Care Centers.

- If CACFP adult day care centers choose to use an alternate medical statement form for adult participants with disabilities, it **must** include the USDA's three components: 1) information about the adult participant's physical or mental impairment that is sufficient to allow the CACFP facility to understand how it restricts the adult participant's diet; 2) an explanation of what must be done to accommodate the adult participant's disability; and 3) if appropriate, the food or foods to be omitted and recommended alternatives. The CACFP adult day care center's medical statement cannot require a specific diagnosis by name or use the term "disabled" or "disability."

Reviewing the Meal Modification Request

- CACFP adult day care centers should not deny or delay a requested meal modification because the medical statement does not provide sufficient information, for example, the medical statement does not provide recommended alternatives or fully explain the needed modification for the adult participant. If the medical statement is unclear or lacks sufficient detail, the CACFP facility should work with the adult participant, or a person acting on behalf of an adult participant, to obtain an amended medical statement. However, clarification of the medical statement should not delay the CACFP facility from providing a meal modification for the adult participant. While obtaining additional information, the CACFP facility should follow the portion of the medical statement that is clear and unambiguous to the greatest extent possible. While waiting for the adult participant, or a person acting on behalf of an adult participant, to submit additional information or a revised medical statement for an adult participant with a disability, the USDA allows CACFP facilities to claim reimbursement for modified meals that do not comply with the CACFP adult meal patterns.
- If the meal modification request is related to the adult participant's disabling condition, it is almost never appropriate for the CACFP facility to decline the meal modification. The exception is a modification request that would fundamentally alter the nature of the CACFP. The USDA does not require CACFP adult day care centers to make modifications that would result in a fundamental alteration to the nature of the CACFP, such as expensive meal modifications that would make continued operation of the CACFP unfeasible. The expense of a modification is measured against the total resources available to the individual CACFP adult day center.
- CACFP adult day care centers may consider expense and efficiency in choosing an appropriate approach to accommodate an adult participant's disability. CACFP adult day care centers must offer a reasonable modification that effectively accommodates the adult participant's disability and provides equal opportunity to participate in or benefit from the CACFP. The USDA does not require CACFP adult day care centers to provide the exact substitution or other modification requested in the adult participant's medical statement, such as a specific brand of food. In most cases, a generic brand is sufficient.

- The USDA regulations do not require a specific number of alternate meals to meet the dietary needs of adult participants with disabilities. CACFP adult day care centers are obligated to offer adult participants with disabilities a medically appropriate and reasonable meal modification based on the medical statement signed by a recognized medical authority. Each request must be assessed on a case-by-case basis to determine the specific and appropriate modification.

Procedural Safeguards

- The USDA encourages CACFP adult day care centers to implement procedures for adult participants or a person acting on behalf of an adult participant to request modifications to the meal service for adult participants with disabilities and resolve grievances. These procedures should include providing a written final decision on each request. CACFP adult day care centers should notify the adult participant, or a person acting on behalf of an adult participant, of the procedure for requesting meal modifications. At a minimum, CACFP adult day care centers must provide notice of nondiscrimination and accessible services, as outlined in [7 CFR 15b.7](#). CACFP adult day care centers should also ensure that center staff understands the procedures for handling requests for meal modifications.
- CACFP adult day care centers that **employ 15 or more individuals** must designate at least one person to coordinate compliance with disability requirements, as required by [7 CFR 15b.6](#); and must also establish grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints, as required by [7 CFR 15.b.6](#). The USDA recommends that procedures include:
 - allowing adult participants or their representatives to submit a grievance (complaint with any supporting documentation) for consideration by the CACFP facility;
 - providing that a prompt decision by the CACFP facility be rendered to the adult participant or the adult participant's representative regarding the grievance; and
 - ensuring that the decision includes the official USDA nondiscrimination statement, which advises the adult participant how to file a complaint with the USDA's Food and Nutrition Service (FNS). The CSDE's document, [CACFP Civil Rights Requirements](#), contains the official USDA nondiscrimination statement.
- The USDA recommends that CACFP adult day care centers employing less than 15 individuals have someone on staff who can provide technical assistance regarding meal modifications for adult participants with disabilities.

SUMMARY

CACFP adult day care centers must make reasonable meal modifications on a case-by-case basis for adult participants whose disability restricts their diet. Meal modifications for an adult participant with a disability may or may not comply with the CACFP adult meal patterns.

- If a modification for an adult participant with a disability does **not comply** with the CACFP meal patterns, the CACFP adult day care center must obtain a medical statement for the adult participant that is signed by a recognized medical authority, and that includes the following three components:
 - information about the adult participant’s physical or mental impairment that is sufficient to allow the CACFP facility to understand how it restricts the adult participant’s diet;
 - an explanation of what must be done to accommodate the adult participant’s disability; and
 - if appropriate, the food or foods to be omitted and recommended alternatives.
- If a modification for an adult participant with a disability **complies** with the CACFP meal patterns, the USDA does not require a medical statement. However, the CSDE recommends obtaining a medical statement to ensure clear communication between the adult participant, their families, and CACFP adult day care centers about the appropriate meal modifications for each adult participant.

For **adult participants without disabilities**, the USDA does not require CACFP adult day care centers to provide meal modifications. CACFP adult day care centers may choose to make meal accommodations for adult participants without disabilities on a case-by-case basis. **All meal modifications for adult participants without disabilities must comply with the CACFP adult meal patterns.**

The CSDE’s medical statement form assists CACFP adult day care centers with obtaining the required information to document meal modifications for adult participants with and without disabilities. The CSDE strongly recommends that CACFP adult day care centers use the CSDE’s medical statement form for all meal modification requests for adult participants. If a CACFP adult day care center chooses to use an alternate medical statement form for adult participants with disabilities, it **must** include the three USDA components above and it cannot require a specific diagnosis by name or use the term “disabled” or “disability.”

Questions may be directed to the CACFP consultants below.

Day Care Center Sponsors	Day Care Home Sponsors:
Susan Boyle at 860-807-2074 Celia Cordero at 860-807-2076 Benedict Onye at 860-807-2080	Celia Cordero at 860-807-2076

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Important: This is a numbered Connecticut State Department of Education (CSDE) operational memorandum that contains important program information. Please read carefully and retain in a binder for future reference. All CSDE operational memoranda are posted on the CSDE’s [Operational Memoranda for the CACFP](#) webpage.