




STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



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

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

DATE: October 20, 2017

SUBJECT: Operational Memorandum No. 2C-18 and 2H-18
Requirements for Meal Modifications in CACFP Child Care Centers and Family Day Care Homes

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 children with disabilities in CACFP child care centers (including Head Start centers, at-risk afterschool care centers, and emergency shelters) and family day care homes.

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 child care centers and family day care homes. For detailed guidance, review the CSDE's guide, [Accommodating Special Diets in CACFP Child Care Programs](#).

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 Child Care Programs](#);
- [Allowable Milk Substitutes for Children without Disabilities in the CACFP](#);
- [Medical Statement for Meal Modifications in CACFP Child Care Programs](#);
- [Guidance and Instructions: Medical Statement for Meal Modifications in CACFP Child Care Programs](#) (new resource); and
- [Summary of Requirements for Accommodating Special Diets in the CACFP](#) (new resource).

Please discard any old versions of these documents and replace with the revised versions. **CACFP sponsors must carefully review these resources to ensure compliance with the USDA requirements for meal modifications for children with disabilities in the CACFP.**

Please note that there is only **one** medical statement for all meal modification requests for children with and without disabilities. This form replaces the previous two forms (medical statement for children with disabilities and medical statement for children 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 [Individuals with Disabilities Education Act](#) (IDEA) is a federal grant program that provides financial assistance to states in the provision of special education and related services for eligible children. Under section 619 of the IDEA, preschool children with disabilities are entitled to a free and appropriate public education through special education and related services that comply with the child's individualized education program. Under Part C of the IDEA, appropriate early intervention services are made available to all eligible infants and toddlers (ages 1-2) with disabilities, and their families, through an individualized family service plan.
- 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 child care centers, emergency shelters, and family day care homes. 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 children 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 sponsors, centers, and family day care homes, 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 children 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 a child'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 children 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 facilities should review the CSDE's guide, [*Accommodating Special Diets in CACFP Child Care Programs*](#).

Requirements for Meal Modifications

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

What Constitutes a Disability

- CACFP facilities 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 children 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. A child whose digestion is impaired by a food intolerance may be a person with a disability, regardless of whether consuming the food causes the child severe distress.
- If a child'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 a child 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 children with autism will only eat certain foods due to their repetitive and ritualistic behavior patterns. Any physical or mental impairment preventing a child 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 facility must provide a reasonable modification for the child. 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 a child 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 child 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 parent’s preference that a child eats a gluten-free diet or organic foods because the parent believes it is healthier for the child, 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 children 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 Children without Disabilities in the CACFP*](#).

Requirements for Medical Statement

- For children with disabilities, CACFP facilities must have documentation on file for all meal modifications that do not comply with the CACFP meal patterns. The USDA does not require a medical statement for children with disabilities if the modified meals meet the CACFP meal patterns, such as meals modified only for texture. However, the USDA strongly recommends that CACFP facilities keep documentation on file acknowledging the child’s disability. The CSDE recommends obtaining a medical statement for all meal modifications to ensure clear communication between families and CACFP facilities about the appropriate meal modifications for each child.

- For children whose disability requires a modification that does not meet the CACFP meal patterns, the USDA requires that the medical statement must include three components: 1) information about the child’s physical or mental impairment that is sufficient to allow the CACFP facility to understand how it restricts the child’s diet; 2) an explanation of what must be done to accommodate the child’s disability; and 3) if appropriate, the food or foods to be omitted and recommended alternatives.
- The CSDE strongly recommends that CACFP facilities use the CSDE’s sample medical statement form, *Medical Statement for Meal Modifications in CACFP Child Care Programs*, to obtain the information that the USDA requires to document meal modifications for children 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 Child Care Programs*.
- If CACFP facilities choose to use an alternate medical statement form for children with disabilities, it **must** include the USDA’s three components: 1) information about the child’s physical or mental impairment that is sufficient to allow the CACFP facility to understand how it restricts the child’s diet; 2) an explanation of what must be done to accommodate the child’s disability; and 3) if appropriate, the food or foods to be omitted and recommended alternatives. The CACFP facility’s medical statement cannot require a specific diagnosis by name or use the term “disabled” or “disability.”

Reviewing the Meal Modification Request

- CACFP facilities 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 child. If the medical statement is unclear or lacks sufficient detail, the CACFP facility should work with the child’s parent or guardian 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 child. 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 child’s parent or guardian to submit additional information or a revised medical statement for a child with a disability, the USDA allows CACFP facilities to claim reimbursement for modified meals that do not comply with the CACFP meal patterns.
- If the meal modification request is related to the child’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 facilities 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 center or family day care home. For example, providing an expensive medical infant formula to accommodate an infant’s disability may be so financially burdensome for a CACFP family day care home with one staff member that it would make operating the CACFP unfeasible, and consequently would fundamentally alter the nature of the CACFP. In this example, the CACFP family day care home is not required to provide the requested medical infant formula.

- CACFP facilities may consider expense and efficiency in choosing an appropriate approach to accommodate a child’s disability. CACFP facilities must offer a reasonable modification that effectively accommodates the child’s disability and provides equal opportunity to participate in or benefit from the CACFP. The USDA does not require CACFP facilities to provide the exact substitution or other modification requested in the child’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 children with disabilities. CACFP facilities are obligated to offer children 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 facilities to implement procedures for parents or guardians to request modifications to the meal service for children with disabilities and resolve grievances. These procedures should include providing a written final decision on each request. CACFP facilities should notify parents or guardians of the procedure for requesting meal modifications. At a minimum, CACFP facilities must provide notice of nondiscrimination and accessible services, as outlined in [7 CFR 15b.7](#). CACFP facilities and sponsors should also ensure that center or family day care home staff understands the procedures for handling requests for meal modifications.
- CACFP facilities that **employ 15 or more individuals** must designate at least one person to coordinate compliance with disability requirements (often referred to as the Section 504 Coordinator), 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 15b.6](#). The USDA recommends that procedures include:
 - allowing 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 participant or the participant’s representative regarding the grievance; and
 - ensuring that the decision includes the official USDA nondiscrimination statement, which advises the 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 does not require a separate Section 504 Coordinator who is only responsible for meal modifications. The USDA recommends that CACFP facilities employing less than 15 individuals have someone on staff who can provide technical assistance to centers and family day care homes when they are making meal modifications for children with disabilities.

SUMMARY

CACFP facilities must make reasonable meal modifications on a case-by-case basis for children whose disability restricts their diet. Meal modifications for a child with a disability may or may not comply with the CACFP meal patterns.

- If a modification for a child with a disability does **not comply** with the CACFP meal patterns, the CACFP facility must obtain a medical statement for the child that is signed by a recognized medical authority, and that includes the following three components:
 - information about the child’s physical or mental impairment that is sufficient to allow the CACFP facility to understand how it restricts the child’s diet;
 - an explanation of what must be done to accommodate the child’s disability; and
 - if appropriate, the food or foods to be omitted and recommended alternatives.
- If a modification for a child 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 families and CACFP facilities about the appropriate meal modifications for each child.

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

The CSDE’s medical statement form assists CACFP facilities with obtaining the required information to document meal modifications for children with and without disabilities. The CSDE strongly recommends that CACFP facilities use the CSDE’s medical statement form for all meal modification requests for children. If a CACFP facility chooses to use an alternate medical statement form for children 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.