




STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



TO: Sponsors of the National School Lunch and Breakfast Programs

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

DATE: August 4, 2017

SUBJECT: Operational Memorandum No. 13-17
Requirements for Meal Modifications in the School Nutrition Programs

On April 25, 2017, the U.S. Department of Agriculture (USDA) issued policy memo [SP 26-2017, Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers \(Q&As\)](#), as a follow-up to policy memo [SP 59-2016, Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs](#). On July 25, 2017, the USDA released the guide, [Accommodating Children with Disabilities in the School Meal Programs](#). These USDA memos and guide **significantly change** the requirements and process for meal modifications for children with disabilities in the school nutrition programs, including the National School Lunch Program (NSLP), Afterschool Snack Program (ASP) of the NSLP, School Breakfast Program (SBP), Special Milk Program (SMP), and Fresh Fruit and Vegetable Program (FFVP).

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 school food authorities (SFAs). For detailed guidance, review the CSDE's guide, [Accommodating Special Diets in School Nutrition Programs](#).

REVISED RESOURCES

The CSDE has recently revised the following documents to reflect the USDA's policy guidance in SP 26-2017 and SP 59-2016:

- [Accommodating Special Dietary Needs in School Nutrition Programs](#)
- [Allowable Milk Substitutes for Children without Disabilities](#)
- [Medical Statement for Meal Modifications in School Nutrition Programs](#)
- [Guidance and Instructions for the Medical Statement for Meal Modifications in School Nutrition Programs](#)
- [Self-assessment of Local Practices for Special Diets in School Nutrition Programs](#)
- [Summary of Requirements for Accommodating Special Diets in School Nutrition Programs](#)

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

LEGISLATION

- [Section 504 of the Rehabilitation Act of 1973](#) (Section 504) prohibits all programs and activities receiving federal financial assistance, including public schools, from discriminating against children with disabilities, as defined in the law.
- 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. It requires each public agency to take steps to ensure children with disabilities have an equal opportunity to benefit from extracurricular services and activities, including meals.
- 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. 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 regulations for school nutrition programs ([7 CFR 210.10\(m\)](#) and [7 CFR 220.8\(m\)](#)) require reasonable meal modifications for children whose disability restricts their diet, based on written medical statement signed by a recognized medical authority.

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 school nutrition programs, but is **not** inclusive of all USDA requirements and guidance. For detailed guidance, SFAs should review the CSDE’s guide, [Accommodating Special Diets in School Nutrition Programs](#), and the USDA’s guide, [Accommodating Children with Disabilities in the School Meal Programs](#).

Requirements for Meal Modifications

- SFAs 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.
- SFAs 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 meal patterns.**

What Constitutes a Disability

- SFAs and local educational agencies (LEAs) 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 school nutrition programs.
- 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 SFA 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 SFA 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 SFA 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 because the parent believes it is healthier for the child, are not disabilities and do not require meal modifications.

Requirements for Medical Statement

- SFAs must have documentation on file for all meal modifications that do not comply with the meal patterns. The USDA does not require SFAs to obtain a medical statement for modified meals that meet the meal patterns, but for children with disabilities, strongly recommends that SFAs 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 SFAs about the appropriate meal modifications for each child.
- For children whose disability requires a modification that does not meet the meal patterns, the USDA requires that the medical statement must include: 1) information about the child’s physical or mental impairment that is sufficient to allow the SFA 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.
- SFAs can use the CSDE’s sample medical statement form, *Medical Statement for Meal Modifications in School Nutrition Programs*, to obtain the information that the USDA requires to document meal modifications for children with disabilities. For guidance on meal accommodations and instructions for completing the medical statement, see the CSDE’s handout, *Guidance and Instructions for the Medical Statement for Meal Modifications in School Nutrition Programs*.
- If SFAs choose to use an alternate medical statement form for children with disabilities, it must include the three USDA requirements: 1) information about the child’s physical or mental impairment that is sufficient to allow the SFA 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 SFA’s medical statement cannot require a specific diagnosis by name or use the term “disabled” or “disability.”

Reviewing the Meal Modification Request

- SFAs 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 SFA 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 SFA from providing a meal modification for the child. While obtaining additional information, the SFA should follow the portion of the medical statement that is clear and unambiguous to the greatest extent possible.
- If the meal modification request is related to the child's disabling condition, it is almost never appropriate for the SFA to decline the meal modification. The exception is a modification request that would fundamentally alter the nature of the USDA school nutrition programs. This is extremely rare.
- SFAs may consider expense and efficiency in choosing an appropriate approach to accommodate a child's disability. SFAs must offer a reasonable modification that effectively accommodates the child's disability and provides equal opportunity to participate in or benefit from the school nutrition programs. SFAs are generally not required to provide a specific brand of food, unless it is medically necessary. In most cases, a generic brand is sufficient. The SFA could check with the family to see if it would be safe and appropriate for the SFA to provide a different brand.
- The USDA regulations do not require a specific number of alternate meals to meet the dietary needs of children with disabilities. SFAs 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

- LEAs must establish a procedural safeguards process that provides notice and information to parents and guardians regarding how to request a reasonable meal modification and their procedural rights for grievance procedures. These procedures include the 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, i.e., right to appeal the hearing's decision.
- LEAs must work with school food service personnel to implement procedures for parents or guardians to request meal modifications for children with disabilities and to resolve grievances. LEAs may fulfill this requirement by using existing procedures to address requests to accommodate students with disabilities in the classroom, in compliance with Section 504 or the IDEA.
- At a minimum, the LEA must notify parents and guardians of the process for requesting meal modifications to accommodate a child's disability, and arrange for an impartial hearing

process to resolve grievances related to requests for meal modifications based on a disability. The hearing process must include the opportunity for the child’s parent or guardian to participate, be represented by counsel, and examine the record. It must also include notice of the final decision and a procedure for review.

- LEAs employing at least 15 individuals must ensure their procedural safeguards process provides for a prompt and equitable resolution of grievances, and must designate at least one person to coordinate compliance with disability requirements. This individual is often referred to as the Section 504 Coordinator. In many cases, the Section 504 Coordinator is responsible for addressing requests for accommodations in the school in general, and may also be responsible for ensuring compliance with disability requirements related to meals and the meal service.
- LEAs are not required to have a separate 504 Coordinator who is only responsible for meal modifications. However, LEAs should ensure that school food service personnel understand the procedures for handling requests for meal modifications and know how to contact the Section 504 Coordinator.

Questions may be directed to your school nutrition consultant.

Consultants for School Nutrition Programs	
County	Consultant
<ul style="list-style-type: none"> • Fairfield County (Includes Region 9) • Litchfield County (Includes Regions 1, 6, 7, 12 and 14) 	<p>Fionnuala Brown fionnuala.brown@ct.gov 860-807-2129</p>
<ul style="list-style-type: none"> • Hartford County (Includes Region 10) 	<p>Teri Dandeneau teri.dandeneau@ct.gov 860-807-2079</p>
<ul style="list-style-type: none"> • Middlesex County (Includes Regions 4, 13 and 17) • New London County • Tolland County (Includes Regions 8 and 19) • Windham County (Includes Region 11) 	<p>Susan Alston susan.alston@ct.gov 860-807-2081</p>
<ul style="list-style-type: none"> • New Haven County (Includes Regions 5, 15 and 16) 	<p>Jackie Schipke jackie.schipke@ct.gov 860-807-2123</p>

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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 School Nutrition Programs](#) webpage.