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# ACCOMMODATING SPECIAL DIETARY NEEDS

IN THE CHILD AND ADULT CARE FOOD PROGRAM

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# Agenda

- Disability Policy
- Procedure Safeguards
- Grievance Procedures
- Non-Disability Special Dietary Needs
- Special Dietary Needs Form
- Compliance Checklist
- Resources



Food and  
Nutrition  
Service  
  
Park Office  
Center

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DATE: June 22, 2017

SUBJECT: Policy Memorandum on Modifications to Accommodate Disabilities in the Child and Adult Care Food Program and Summer Food Service Program

TO: Regional Directors  
Special Nutrition Programs  
All Regions

State Directors  
Child Nutrition Programs  
All States

The attached policy memorandum, CACFP 14-2017, SFSP 10-2017 "*Modifications to Accommodate Disabilities in the Child and Adult Care Food Program and Summer Food Service Program*," includes important updates to the requirements related to accommodating children and adults (participants) with disabilities receiving meals through the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP). This memorandum is the companion piece to SP 59-2016 "*Modifications to Accommodate Disabilities in the School Meal Programs*" published on September 27, 2016.

Previous Food and Nutrition Service (FNS) guidance on this issue was included in FNS Instruction 783-2, Rev. 2, "*Meal Substitutions for Medical or other Special Dietary Reasons*." The attached memorandum and SP 59-2016 supersede that instruction. With the release of this memorandum, FNS Instruction 783-2, Rev. 2 has been rescinded.

The Americans with Disabilities Act (ADA) Amendments Act of 2008 made important changes to the meaning and interpretation of the term "disability." The changes restored the broad scope of the ADA by making it easier for an individual to establish that he or she has a disability. After the passage of the ADA Amendments Act, most physical and mental impairments constitute a disability. Therefore, rather than focusing on whether or not a participant has a disability, CACFP institutions and facilities and SFSP sponsors (Program operators) should focus on working collaboratively with parents, guardians, participating adults, or a person acting on behalf of an adult participant to ensure an equal opportunity to participate in the CACFP and SFSP and receive Program benefits. The attached memorandum clarifies changes made by the ADA Amendments Act and reflects the position FNS will take in compliance reviews and enforcement actions.

# Governing Statutes

- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act (ADA) of 1990
- ADA Amendments Act of 2008
- 7 CFR Part 15b
- FNS 113-1 and its Appendices
- Executive Order 12250 (Disability)
- 28 CFR 41 (Government-wide 504 Regulation)

# Definition of Disability

- Need not prevent or severely restrict a major life activity, but “substantially limit”
- New category of major life activities: major bodily functions
  - Digestive
  - Immune system
  - Respiratory
  - Circulatory
  - Neurological



# Disability Discrimination Examples

- Denying benefits or opportunity to participate
- Segregating individuals with disabilities
- Aiding, perpetuating or contracting with others that discriminate
- Failure to provide a reasonable modification
- Ineffective communications
- Inaccessible facilities



# Medical Statements

- Require 3 essential components:
  - Description of the impairment
  - Foods to be avoided/dietary restrictions
  - Appropriate substitutes/needs
- Must be signed by a licensed physician, physician's assistant or nurse practitioner
- Statement is valid as long as it is accurate, require updates only for changes
- Should provide sufficient information to make accommodations
- Not required for substitutions that would meet the meal pattern requirements
- If not provided, accommodate while awaiting medical statement

# Assessing Requests



- Reasonable modification
  - Change in policy, practice
  - Duty to negotiate modification, denying is almost never appropriate
  - Appropriate modifications, exact substitutions not required
- Consider age, maturity, mental capacity, physical ability
- Expense
- Efficiency

# Serving Meals in an Integrated Setting

- Provide most integrated setting appropriate
- Exclusion is generally not reasonable or appropriate
- Universal exclusions of specific foods-not an FNS policy, but a local decision
- Balance safety vs. stigma
- Consider age, ability, and severity of disability



# Reimbursement

- Modified meals due to a disability are reimbursable
- No additional funds are provided through CACFP for accommodations
- Accommodations that meet the meal pattern do not require a medical statement to be reimbursable



# Accessibility

- Program operators are responsible for accessibility of food service areas
  - Accessible facility
  - Use of aides
- Costs for adaptive feeding equipment or aides are allowable
- No additional reimbursement is available

# Procedural Safeguards

- Procedure for requesting meal modifications
- Steps for determining accommodation and notifying family
- For use by staff and participants/families
- Procedure template provided by IDOE
- Grievance procedures required for institutions with 15 or more employees

## Meal Modification Procedures

### Requests

To request a meal modification, a child's parent, adult participant, or participant's guardian shall submit the below information to:

*Enter name, 504 Coordinator*

*Enter email address*

For a request related to a medical special dietary need, submit a medical statement to the 504 Coordinator that includes:

- Description of the impairment
- Foods to be avoided/dietary restrictions
- Appropriate substitutes/needs

The medical statement must be signed by licensed physician, physician's assistant or nurse practitioner

For a request related to a special dietary need that is not medical, submit the following information to the 504 Coordinator:

- Description of the impairment
- Foods to be avoided/dietary restrictions
- Appropriate substitutes/needs

Updates to an existing accommodation require a new request.

### Determinations

All requests for reasonable accommodations that relate to a disability will be approved as required by USDA regulation. Prior to denying any request related to a disability, the request will be reviewed by the Indiana Department of Education and United States Department of Agriculture's Regional Civil Rights Director.

While requests that are unrelated to a disability are not required to be accommodated, our institution will consider them on a case by case basis to provide accommodations to the best of our ability.

A prompt written final decision will be provided to the child's parent, adult participant, or participant's guardian

### Grievances

A child's parent, adult participant, or participant's guardian may submit a written complaint with any supporting documentation for consideration to: *enter name and email address*

A meeting will be scheduled with the complainant to discuss the complaint and possible resolutions. Following the meeting, a written decision will be rendered with an explanation of the position of our institution.

# 504 Coordinator


- Institutions with 15 or more employees must have 504 Coordinator
- Coordinates compliance with disability requirements
  - Addresses requests
  - Provides technical assistance with making meal modifications
  - Ensures disability compliance with meals/meal service
- Encouraged for institutions with fewer than 15 employees

# Non-Disability Special Dietary Needs

- Must meet the meal pattern to be claimed for reimbursement
- Are encouraged, but not required to be accommodated
- Should make determinations in a uniform manner
- Include things like ethnic or lifestyle preferences

# Milk Substitutions

- When nutritionally equivalent to cow's milk, they meet the meal pattern
- Must be approved by IDOE
- List of approved milks maintained on IDOE's CACFP website
- Milk policy (CACFP 17-2016): [https://fns-prod.azureedge.net/sites/default/files/cacfp/CACFP17\\_2016os.pdf](https://fns-prod.azureedge.net/sites/default/files/cacfp/CACFP17_2016os.pdf)



Low-fat milk 1%	
	% Daily Value
Total Fat	4
Saturated Fat	8
Total Carbohydrates	4
Protein 8 g	16 ✓
Vitamin A	10 ✓
Vitamin C	0
Vitamin D	30 ✓
Vitamin B <sub>12</sub>	20 ✓
Riboflavin	25 ✓
Phosphorus	25 ✓
Folate	4
Calcium	30 ✓
Sodium	4
Potassium	10 ✓

100 CALORIES      0 tsp ADDED SUGARS

Milk substitutes that are offered without a physician's statement must be nutritionally equivalent to milk. The following chart outlines the requirements for milk substitutes.

**Milk Substitute Nutrition Standards 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 – .44 mg
- Vitamin B-12 – 1.1 mcg

Currently, the Indiana Department of Education has identified six products that meet the Milk Substitute Nutrition Standards. As more products are developed and identified, we will update our list accordingly.

**Creditable For Ages 1-5:**

- 8<sup>th</sup> Continent Soymilk – Regular Original
- SunOpta Soymilk – Original (Shelf Stable)
- Pacific Soymilk, Ultra – Plain (Shelf Stable)
- Great Value Soymilk – Original
- Silk Soymilk – Original

**Creditable For Ages 6 And Older:**

- 8<sup>th</sup> Continent Soymilk – Regular Original and Vanilla
- SunOpta Soymilk – Original and Vanilla (Shelf Stable)
- Pearl Organic Soymilk – Chocolate and Vanilla (Shelf Stable)
- Pacific Soymilk, Ultra – Plain and Vanilla (Shelf Stable)
- Great Value Soymilk – Original
- Silk Soymilk – Original



# Parent Provided Components

- Disability – facility must offer to accommodate
  - Parent may decline and provide some meal components (not all)
- Not a disability
  - Parent may provide 1 meal component
- Institutions may develop policies limiting parent provided components
- Seek approval from other agencies first

# Updates or Stopping a Request

- No time limit for medical statements
- Updates required only as necessary
- Institution created time limits are acceptable
- To stop a modification, no documentation required
  - Recommended to get parent's signed statement

# Other Considerations

- Temporary disabilities
- Limited variety
- Different portion sizes
- Texture modification
- Meals outside of CACFP

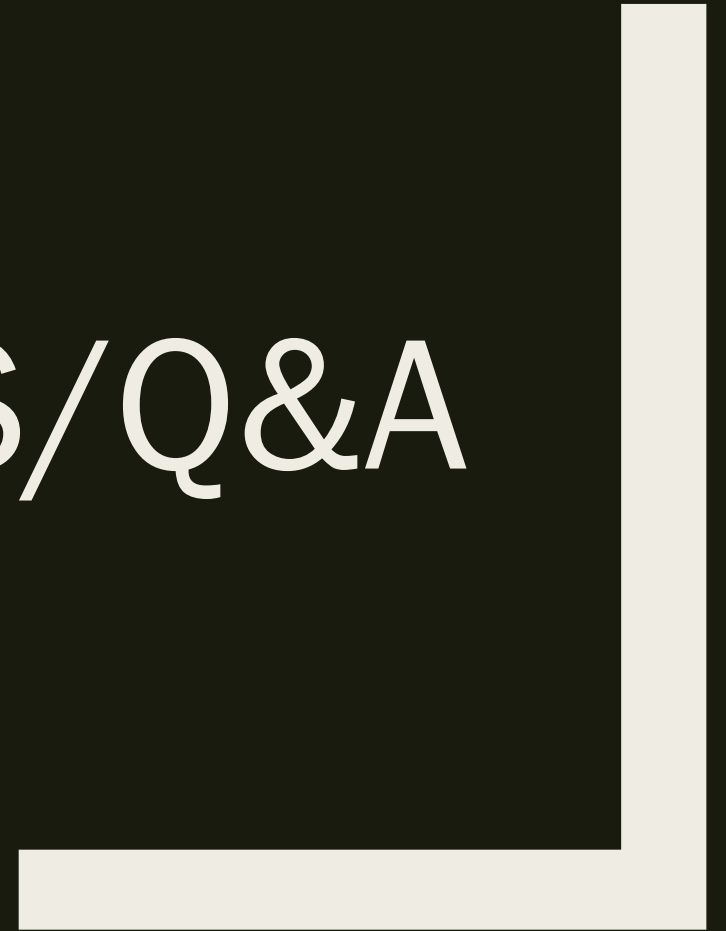
# Compliance Checklist

- Procedural Safeguards, including grievance procedures
- 504 Coordinator (if 15 or more employees)
- Staff training
- System for maintaining and tracking requests, medical statements and decisions
- Substitution documentation

# Resources

- Disability Policy: <https://www.fns.usda.gov/modifications-accommodate-disabilities-cacfp-and-sfsp>
- Special Dietary Needs Q&A Policy: coming soon
- Civil Rights Instruction 113-1: <https://fns-prod.azureedge.net/sites/default/files/113-1.pdf>
- IDOE Special Dietary Needs Webpage (with forms and templates):  
<https://www.doe.in.gov/nutrition/special-dietary-needs-child-and-adult-care-food-program>
  - Meal modification procedure
  - Medical statement
  - Approved milk substitutes

CASE STUDIES/Q&A



# Case Studies

- Sally hasn't been feeling well lately. Her doctor wonders if she has an allergy.
- An allergy test is scheduled
- Before the test, Sally must limit her diet
- What is required to follow Sally's diet needs?

# Case Studies

- Ben has a peanut allergy.
- As an infant, Ben consumed mostly formula and minimal solid foods.
- He recently turned one, and the center is ready to start him on the 1 year old menu.
- He is too young for an EPI pen, so the mother is especially concerned about his food.
- The mother wants Ben to limit his solid foods and slowly introduce them, while remaining on formula.
- The doctor's statement on file only includes information about not serving peanut-containing foods, but nothing about formula.
- Can formula be offered? Can his food components be limited?



# Case Studies

- A mother has a severe allergy to fish
- She requests her son not have fish at day care
- She doesn't want to come into contact with any fish on her son
- Is this a required accommodation?
- What are the options?

# Case Studies

- Lisa's family provided a medical statement that says she can't have peas, beans, or nuts.
- The statement clarifies ingredients that come from these that must be limited too, such as guar gum.
- The provider uses their bread to meet the whole grain requirement often, but can't find a whole grain bread without guar gum for Lisa.
- Is Lisa required to have the same item as everyone else?
- Does Lisa's substitute have to be whole grain?

# Questions to Discuss

Is autism a disability?

# Questions to Discuss

Is obesity considered a disability?

# Questions to Discuss

When is a medical statement required?

# Questions to Discuss

What must a medical statement include?

# Questions to Discuss

Can an institution decline a requested meal modification?

# Questions to Discuss

Can offer vs serve or family style meal service be used to accommodate a meal modification?



# Questions to Discuss

If a medical statement does not provide sufficient information to accommodate a disability, what should an institution do?

# Questions to Discuss

What if the information needed to provide a participant with a safe meal is not on the food label?

# Questions to Discuss

If a child has a disability and a specific brand name substitute is requested, does it have to be provided?

# Questions to Discuss

May the participant bring in their own food to accommodate their diet? Would the meal be reimbursable?

# Questions?

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