

ACCOMMODATING CHILDREN WITH SPECIAL DIETARY NEEDS IN THE SCHOOL NUTRITION PROGRAMS

Confused about when food substitutions have to be made for a student? The federal regulations state that “schools shall make substitutions in foods . . . for students who are considered handicapped . . . and whose handicap restricts their diet. Schools may also make substitutions for non-handicapped students who are unable to consume the regular lunch (breakfast) because of medical or other special dietary needs.”

In simple terms, this means that if a student has a documented disability that restricts their diet, the school foodservice department **MUST** make the substitutions as listed by a licensed physician on a medical statement form.

If, however, a request for food substitutions is made for a student without a documented disability, the school foodservice department **MAY** make the substitutions listed on the medical statement form signed by a recognized medical authority.

It is the responsibility of the parent/guardian making the request to submit a properly filled out and documented medical statement form.

Two Medical Statement Forms are available for use on the MDE website when special food substitutions are requested for a student. Directions for using the Medical Statement Forms and a definition of a handicapped person are also included along with the forms.

Definition of Handicapped Person 7 CFR Subtitle A, Section 15b.3 Definitions

- (i) “Handicapped person” means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- (j) “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 impairment; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.
- (k) “Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;
- (l) “Has a record of such impairments” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits on or more major life activities.
- (m) “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 paragraph (j) of this section but is treated by a recipient as having such impairment.

Office of the Secretary, USDA

Please contact a School Meals Consultant at 517-373-3347 if any additional information is needed.

ACCOMMODATING CHILDREN WITH SPECIAL DIETARY NEEDS

The following text is taken from the USDA Guidance Manual "*Accommodating Children with Special Dietary Needs in the School Nutrition Programs*". It explains the school food service role in providing meals to students with special dietary needs. A complete copy of this USDA manual can be downloaded and printed from the following website:

http://www.fns.usda.gov/cnd/Guidance/acccommodating_children.doc

Some highlights from the Guidance Manual:

GUIDANCE FOR ACCOMMODATING CHILDREN WITH SPECIAL DIETARY NEEDS IN THE SCHOOL NUTRITION PROGRAMS

I. INTRODUCTION

In recent years, we have seen increasing emphasis on the importance of ensuring that children with disabilities have the same opportunities as other children to receive an education and education-related benefits, such as school meals.

Congress first addressed this concern in *The Rehabilitation Act of 1973*, which prohibits discrimination against qualified persons with disabilities in the programs or activities of any agency of the federal government's executive branch or any organization receiving federal financial assistance.

Subsequently, Congress passed the *Education of the Handicapped Act*, (now, the *Individuals with Disabilities Education Act*), which requires that a free and appropriate public education be provided for children with disabilities, who are aged 3 through 21, and the *Americans with Disabilities Act*, a comprehensive law which broadens and extends civil rights protections for Americans with disabilities.

One effect of these laws has been an increase in the number of children with disabilities who are being educated in regular school programs. In some cases, the disability may prevent the child from eating meals prepared for the general school population.

The U.S. Department of Agriculture's (USDA) nondiscrimination regulation (7 CFR 15b), as well as the regulations governing the National School Lunch Program and School Breakfast Program, make it clear that substitutions to the regular meal must be made for children who are unable to eat school meals because of their disabilities, when that need is certified by a licensed physician.

In most cases, children with disabilities can be accommodated with little extra expense or involvement. The nature of the child's disability, the reason the disability prevents the child from eating the regular school meal, and the specific substitutions needed must be specified in a statement signed by a licensed physician. Often, the substitutions can be made relatively easily. There are situations, however, which may require additional equipment or specific technical training and expertise. When these instances occur, it is important that school food service managers and parent(s) be involved at the outset in preparations for the child's entrance into the school.

This guidance describes some of the factors which must be considered in the early phases of planning and suggests ways in which the school food service can interact with other responsible parties in the school and the community at large to serve children with disabilities.

The guidance is based on the policy guidelines outlined in the FNS Instruction 783-2, Revision 2, *Meal Substitutions for Medical or Other Special Dietary Reasons*.

Serving children with disabilities presents school food service staff with new challenges as well as rewards. This guidance presents information on how to handle situations that may arise and offers advice about such issues as funding and liability.

The guidance was prepared in consultation with the U.S. Department of Justice and the U.S. Department of Education and will be periodically updated to reflect new scientific information or new statutory and program guidelines.

II. DEFINITIONS OF DISABILITY AND OF OTHER SPECIAL DIETARY NEEDS

A. DISABILITY

Rehabilitation Act of 1973 and the Americans with Disabilities Act

Under Section 504 of the *Rehabilitation Act of 1973*, and the *Americans with Disabilities Act* (ADA) of 1990, a "person with a disability" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

The term "physical or mental impairment" includes many diseases and conditions, a few of which may be:

- orthopedic, visual, speech, and hearing impairments;
- cerebral palsy;
- epilepsy;
- muscular dystrophy;
- multiple sclerosis;
- cancer;
- heart disease;
- metabolic diseases, such as diabetes or phenylketonuria (PKU);
- food anaphylaxis (severe food allergy);
- mental retardation;
- emotional illness;
- drug addiction and alcoholism;
- specific learning disabilities;
- HIV disease; and tuberculosis.

Please refer to the Acts noted above for a more detailed explanation. Major life activities covered by this definition include caring for one's self, eating, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Individuals with Disabilities Education Act

The term child with a "disability" under Part B of the *Individuals with Disabilities Education Act* (IDEA) means a child evaluated in accordance with IDEA as having one or more of the recognized thirteen disability categories and who, by reason thereof, needs special education and related services.

IDEA recognizes thirteen disability categories which establish a child's need for special education and related services.

These disabilities include:

- autism;
- deaf-blindness;
- deafness or other hearing impairments;
- mental retardation;
- orthopedic impairments;
- other health impairments due to chronic or acute health problems, such as asthma, diabetes, nephritis, sickle cell anemia, a heart condition, epilepsy, rheumatic fever, hemophilia, leukemia, lead poisoning, tuberculosis;
- emotional disturbance;
- specific learning disabilities;
- speech or language impairment;
- traumatic brain injury; and
- visual impairment; including blindness which adversely affects a child's educational performance, and
- multiple disabilities.

Attention deficit disorder or attention deficit hyperactivity disorder may fall under one of the thirteen categories. Classification depends upon the particular characteristics associated with the disorder and how the condition manifests itself in the student, which will determine the category.

The Individualized Education Program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with the IDEA and its implementing regulations. The IEP is the cornerstone of the student's educational program that contains the program of special education and related services to be provided to a child with a disability covered under the IDEA.

NOTE: Some states supplement the IEP with a written statement specifically designed to address a student's nutritional needs. Other states employ a "Health Care Plan" to address the nutritional needs of their students. For ease of reference, the term "IEP" is used to reflect the IEP as well as any written statement designating the required nutrition services.

When nutrition services are required under a child's IEP, school officials need to make sure that school food service staff is involved early on in decisions regarding special meals.

Physician's Statement for Children with Disabilities

USDA regulations 7 CFR Part 15b require substitutions or modifications in school meals for children whose disabilities restrict their diets. A child with a disability must be provided substitutions in foods when that need is supported by a statement signed by a licensed physician. The physician's statement must identify:

- the child's disability;
- an explanation of why the disability restricts the child's diet;
- the major life activity affected by the disability;
- the food or foods to be omitted from the child's diet, and the food or choice of foods that must be substituted.

In Cases of Food Allergy

Generally, children with food allergies or intolerances do not have a disability as defined under either Section 504 of the Rehabilitation Act or Part B of IDEA, and the school food service may, but is not required to, make food substitutions for them.

However, when in the licensed physician's assessment, food allergies may result in severe, life-threatening (anaphylactic) reactions, the child's condition would meet the definition of "disability," and the substitutions prescribed by the licensed physician must be made.

B. OTHER SPECIAL DIETARY NEEDS

The school food service may make food substitutions, at their discretion, for individual children who do not have a disability, but who are medically certified as having a special medical or dietary need.

Such determinations are only made on a case-by-case basis. This provision covers those children who have food intolerances or allergies but do not have life-threatening reactions (anaphylactic reactions) when exposed to the food(s) to which they have problems.

Medical Statement for Children with Special Dietary Needs

Each special dietary request must be supported by a statement, which explains the food substitution that is requested. It must be signed by a recognized medical authority.

The medical statement must include:

- an identification of the medical or other special dietary condition which restricts the child's diet;
- the food or foods to be omitted from the child's diet; and
- the food or choice of foods to be substituted.

III. SCHOOL ISSUES

The school food service, like the other programs in the school, is responsible for ensuring that its benefits (meals) are made available to all children, including children with disabilities. This raises questions in a number of areas:

- A. What are the responsibilities of the school food service?
- B. Where can additional funds be obtained?
- C. Who can provide more information and technical assistance?

SCHOOL FOOD SERVICE RESPONSIBILITIES

- School food service staff must make food substitutions or modifications for students with disabilities.
- Substitutions or modifications for children with disabilities must be based on a prescription written by a licensed physician.
- The school food service is encouraged, but not required, to provide food substitutions or modifications for children without disabilities with medically certified special dietary needs who are unable to eat.
- regular meals as prepared.
- Substitutions for children without disabilities, with medically certified special dietary needs must be based on a statement by a recognized medical authority.
- Under no circumstances are school food service staff to revise or change a diet prescription or medical order.
- For USDA's basic guidelines on meal substitutions and accessibility, see FNS Instruction 783-2, Revision 2, *Meal Substitutions for Medical or Other Special Dietary Reasons*, in **Appendix A**.
- It is important that all recommendations for accommodations or changes to existing diet orders be documented in writing to protect the school and minimize misunderstandings. Schools should retain copies of special, non-meal pattern diets on file for reviews.
- The diet orders do not need to be renewed on a yearly basis; however schools are encouraged to ensure that the diet orders reflect the current dietary needs of the child.

Providing Special Meals to Children with Disabilities

The school food service is required to offer special meals, at no additional cost, to children whose disability restricts their diet as defined in USDA's nondiscrimination regulations, 7 CFR Part 15b.

- If a child's IEP includes a nutrition component, the school should ensure that school food service managers are involved early on in decisions regarding special meals or modifications.
- The school food service is not required to provide meal services to children with disabilities when the meal service is not normally available to the general student body, unless a meal service is required under the child's IEP.

For example, if a school breakfast program is not offered, the school food service is not required to provide breakfast to the child with a disability, unless this is specified in the child's IEP.

However, if a student is receiving special education and has an IEP, and the IEP indicates that the child needs to be served breakfast at school, then the school is required to provide this meal to the child and may choose to have the school food service handle the responsibility. This is discussed in more detail in *Section V*, under Situation 2.

Menu Modifications for Children with Disabilities

Children with disabilities who require changes to the basic meal (such as special supplements or substitutions) are required to provide documentation with accompanying instructions from a licensed physician.

This is required to ensure that the modified meal is reimbursable, and to ensure that any meal modifications meet nutrition standards which are medically appropriate for the child.

Texture Modifications for Children with Disabilities

For children with disabilities who only require modifications in texture (such as chopped, ground or pureed foods), a licensed physician's written instructions indicating the appropriate food texture is recommended, but not required.

However, the State agency or school food authority may apply stricter guidelines, and require that the school keep on file a licensed physician's statement concerning needed modifications in food texture.

- In order to minimize the chance of misunderstandings, it is recommended that the school food service, at a minimum, maintain written instructions or guidance from a licensed physician regarding the texture modifications to be made. For children receiving special education, the texture modification should be included in the IEP.
- School food service staff must follow the instructions that have been prescribed by the licensed physician.

Serving the Special Dietary Needs of Children Without Disabilities

Children without disabilities, but with special dietary needs requiring food substitutions or modifications, may request that the school food service meet their special nutrition needs.

- The school food authority will decide these situations on a case-by-case basis. Documentation with accompanying information must be provided by a recognized medical authority.

- While school food authorities are encouraged to consult with recognized medical authorities, where appropriate, schools are not required to make modifications to meals based on food choices of a family or child regarding a healthful diet.

B. FUNDING SOURCES

Price of Meals

Meals must be served free or at a reduced price (a maximum of 40 cents for lunch and 30 cents for breakfast) to children who qualify for these benefits regardless of whether or not they have a disability.

Schools may not charge children with disabilities or with certified special dietary needs who require food substitutions or modifications more than they charge other children for program meals or snacks.

Incurring Additional Expenses

In most cases, children with disabilities can be accommodated with little extra expense or involvement. If additional expenses are incurred in providing food substitutions or modifications for children with special needs, generally the school food authority should be able to absorb the cost of making meal modifications or paying for the services of a registered dietician.

However, when the school food service has difficulty covering the additional cost, there are several alternative sources of funding which school food service managers, school administrators, parents or guardians, and teachers may consider. These sources include the school district's general fund and the additional funding sources listed below.

Any additional funding received by school food services for costs incurred in providing special meals must accrue to the nonprofit school food service account.

Directions for Using Medical Statement Forms

When a foodservice manager is asked to make a menu substitution for a student, it is the responsibility of the parent/guardian making the request to submit a properly filled out and documented medical statement form.

To assist foodservice managers in this process, staff of the School Nutrition Training and Programs Unit of the Michigan Department of Education, has developed Medical Statement Forms.

Two forms are available for use when special food substitutions are requested for a student. For a student with a handicap, the "Medical Statement for Student **With** a Disability" should be used. For a student without a handicap, the "Medical Statement for Student **Without** a Disability" should be used. Please contact a School Meals Consultant at 517-373-3347 if any additional information is needed.

Team Challenge Activity Questions Handout

Challenge 1

Question: The principal wants to provide children with disabilities a serving area separate from the one where other children are being served. Is it appropriate to do this? Why or why not?

Challenge 2

Question: The school nurse comes to the cafeteria to tell you that there is a new student with an IEP that requires a full breakfast. Your school does not participate in the school breakfast program. Do you have to provide the meal to this student? Why or why not?

Challenge 3

Question: If the licensed physician's orders are to provide portion sizes twice the amount served to other children, do you have to provide the additional quantities? Why or why not?

Challenge 4

Question: A student was in a serious accident and had to have his jaw wired shut for one month, which limits his ability to eat solid food. The doctor provides a statement of the disability that requires meals to be substituted with a specially purchased high calorie drink supplement. Are you required to accommodate this disability? Why or why not?

Challenge 5

Question: A child in your school has a documented life threatening food allergy that causes an anaphylactic reaction to peanuts. The mother requests that food service staff read all food labels for peanut ingredients to ensure a safe meal for her child. Do you have to accommodate the mother's request? Why or why not?

Challenge 6

Question: A high school student approaches you and asks if he can have a special meal since he has high cholesterol. Are you obligated to fulfill this special dietary need? Why or why not?

Challenge 7

Question: Do you have to provide a modified meal to a child whose parents are strict vegetarians and want their child to be provided with vegetarian meals because they believe it is healthier than eating meat? Why or why not?

Challenge 8

Question: A child with a disability has a licensed physician's statement, which includes a menu with specific foods. One day, while making up the menu for this child, you realize that one of the food items on the special menu is out of stock. You have something similar on hand. Is it OK to make this substitution? Why or why not?

Challenge 9

Question: You receive a medical statement from a physician concerning a child with a disability but it does not specify food substitutions. You have another child with the same disability for whom you already prepare special meals. Can you use the same meal for this new child? Why or why not?

Medical Statement for Student *With* a Disability

Requires Special Foods in Child Nutrition Programs

Student's Name: _____ Age: _____ Grade: _____

Name of parent/guardian: _____ Phone Number: _____

Name of disability: _____

Explanation of why disability restricts child's diet: _____

Major life activity affected by disability: _____

Foods to Omit:

Foods to Substitute:

Other information regarding diet or feeding: (provide additional information below or on back of form or attach to this form).

I certify that the above named student needs special school meals prepared as described above because of the student's disability or chronic medical condition.

Physician's Signature

Office Phone Number: _____ Date: _____

Medical Statement for Student *Without* a Disability

Requesting Special Foods in Child Nutrition Programs

Student's Name: _____ Age: _____ Grade: _____

Name of parent/guardian: _____ Phone Number: _____

Description of child's medical or other special dietary needs that restrict the child's diet:

Foods to Omit:

Foods to Substitute:

Other information regarding diet or feeding: (provide additional information below or on back of form or attach to this form).

Signature of Medical Authority

Office Phone Number: _____ Date: _____



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



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FOOD SERVICE

**ADMINISTRATIVE POLICY NO. 3
SCHOOL YEAR 2005-2006**

SUBJECT: Local Wellness Policy – Required by the Child Nutrition Reauthorization Act of 2004 (PL 108-265)

DATE: July 25, 2005

On June 30, 2004, Congress passed Section 204 of Public Law 108-265, of the Child Nutrition and WIC Reauthorization Act of 2004. This law requires each local education agency participating in a program, authorized by the Richard B. Russell National School Lunch Act (42 U.S.C.1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), to establish a local school wellness policy by July 1, 2006.

At a minimum, the wellness policy must:

- 1) Include goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the local education agency determines to be appropriate;
- 2) Include nutrition guidelines selected by the local education agency for all foods available on each school campus under the local education agency during the school day with the objectives of promoting student health and reducing childhood obesity;
- 3) Provide assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the Secretary of Agriculture pursuant to subsections (a) and (b) of Section 10 of the Child Nutrition Act (42 U.S.C. 1779) and Section 9(f)(1) and 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C.1758(f)(1), 1766(a), as those regulations and guidance apply to schools;
- 4) Establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the local education agency or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and
- 5) Involve parents, students, and representatives of the school food authority, the school board, school administrators, and the public in the development of the school wellness policy.

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Resources available to guide local wellness policy development:

- 1) Local Wellness Policy Web pages from USDA's Team Nutrition web site: www.fns.usda.gov/tn. Click "Local Wellness Policy."
- 2) Section 204 of Public Law 108-265: www.fns.usda.gov/tn/Healthy/108-265.pdf.
- 3) Healthy School Action Tool (HSAT) is an online assessment to help your school determine ways to create a healthier school environment. www.mihealthtools.org/healthyschools.asp.
- 4) Michigan Surgeon General's Healthy School Environment Recognition Program is designed to recognize and applaud Michigan schools that have taken significant steps to make their environments healthier: www.mihealthtools.org/healthyschools.asp.
- 5) Local Wellness Policy web pages from the School Nutrition Association web site: www.schoolnutrition.org.
- 6) Michigan Team Nutrition web site provides numerous resources designed to encourage students and their families to eat healthy and be active: www.tn.fcs.msue.msu.edu.

Please contact the School Meals Program at 517-373-3347, if you have any questions regarding this memo.



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Healthy Schools

Local Wellness Policy Requirements

On June 30, 2004, the President signed Public Law 108-265, the Child Nutrition and WIC Reauthorization Act of 2004. **Section 204 of this law** [PDF]. Each local educational agency participating in a program authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq) shall establish a local school wellness policy by School Year 2006.

Many State agencies and school districts have already recognized the need to assist their students by encouraging healthy eating and physical activity. The number of State agencies that have developed model wellness policy language continues to grow. At the local level, over 31,000 schools have enrolled as Team Nutrition Schools and are striving to have an impact on their students' eating and activity behaviors.

Changing the Scene: Improving the School Nutrition Environment provides a roadmap for assessing and improving school policies, in order to provide students with a healthy school nutrition environment. In the classroom students are taught to eat healthfully and to be active, but they also need the opportunity to practice those behaviors. Wellness policies combine education with practice to create healthful school environments and encourage healthy behavior.

- [Local Wellness Policy Requirements](#)
- [Local Process: How to Create, Implement, and Evaluate a Wellness Policy](#)
- [Examples: Local Wellness Policies](#)
- [Implementation Tools & Resources](#)
- [Funding a Local Wellness Policy](#)
- [Frequently Asked Questions](#)

Components of a Wellness Policy

As required by law, a local wellness policy, at a minimum, shall include:

- Goals for *nutrition education, physical activity and other school-based activities* that are designed to promote student wellness in a manner that the local educational agency determines is appropriate;

Sample policy language, existing state and local policies, implementation tools, and resources are available for:

- **Nutrition education**
- **Physical activity**
- **Other school-based activities designed to promote wellness**

- Nutrition guidelines* selected by the local educational agency for all foods available on each school campus under the local educational agency during the school day with the objectives of promoting student health and reducing childhood obesity;

More information is available at: **Setting nutrition guidelines** for all foods and beverages available on campuses.

- Guidelines for reimbursable school meals*, which are no less restrictive than regulations and guidance issued by the Secretary of Agriculture pursuant to Subsections (a) and (b) of Section 10 of the Child Nutrition Act (42 U.S.C. 1779) and Section 9(f)(1) and 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1), 1766(a)0, as those regulations and guidance apply to schools;

This requirement implies that districts must ensure that reimbursable school meals meet the program requirements and nutrition standards set forth under the 7 CFR Part 210 and Part 220.

- A plan for measuring implementation of the local wellness policy, including designation of 1 or more persons within the local educational agency or at each school, as appropriate, charged with operational responsibility for ensuring that each school fulfills the district's local wellness policy;

More information is available at: **Maintaining, measuring and evaluating a wellness policy**

- Community involvement*, including parents, students, and representatives of the school food authority, the school board, school administrators, and the public in the development of the school wellness policy.

More information is available at: **Identifying a policy development team**