



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
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**FISCAL YEAR 2013  
CHILD AND ADULT CARE FOOD PROGRAM  
OPERATIONAL MEMO #23**

**TO:** Child and Adult Care Food Program Institutions

**FROM:** Kyle L. Guerrant, Director  
Office of School Support Services

**DATE:** July 9, 2013

**SUBJECT:** **Guidance Related to the ADA Amendments Act**

**ACTION:** **Note amended definition of "disability"**

The purpose of this memorandum is to provide schools, child care institutions, and sponsors participating in the Child Nutrition Programs (CNP) with additional clarifications on making dietary accommodations for children with disabilities as required under Section 9(a) of the Richard B. Russell National School Lunch Act, 42 USC 1758(a), CNP regulations and in accordance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), P.L. 110-325. The ADAAA amended the Federal definition of disability, as explained in further detail in the next paragraph below, broadening it to cover additional individuals. Because of this broader definition, it is reasonable that CNP operators may see more children identified by their licensed physician as having a food-related disability than were identified previously. Program operators should note, however, that the process for identifying children with disabilities requiring an accommodation has not changed. CNPs continue to require that participants seeking an accommodation for a food-related disability must provide the Medical Exception Statement signed by a licensed physician identifying the food-related disability and indicating the required meal accommodation. Attached is a copy of the Medical Exception Statement, which may also be found on our website at [www.michigan.gov/cacfp](http://www.michigan.gov/cacfp) under Forms & Instructions, Parent Forms.

The ADAAA broadened the list of "Major Life Activities" for purposes of identifying individuals with disabilities and added a new category called "Major Bodily Functions," 42 USC 12102(2)(B). "Major Life Activities" continues to include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking,

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standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. As amended by the ADA, "Major Life Activities" now also includes "Major Bodily Functions," such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions. It is important to point out that individuals who take mitigating measures to improve or control any of the conditions recognized as a disability are still considered to have a disability and require an accommodation.

The Food and Nutrition Service is working to update the guidance, *Accommodating Children with Special Dietary Needs in the School Nutrition Programs, Guidance for School Food Service Staff*

([http://www.fns.usda.gov/cnd/guidance/special\\_dietary\\_needs.pdf](http://www.fns.usda.gov/cnd/guidance/special_dietary_needs.pdf)) to reflect the broadened definition of disabilities. Child care institutions participating in the Child and Adult Care Food Program should also refer to this resource until more specific guidance is made available.

If you have any questions concerning this memorandum, contact CACFP at 517-373-7391.

Attachment: Medical Exception Statement for Food Substitution

(Insert Institution Name, Address and Phone Number)

## Medical Exception Statement for Food Substitution

Dear Parent/Guardian:

This institution participates in the Child and Adult Care Food Program (CACFP) and serves meals and snacks meeting the CACFP requirements. Food substitutions may be made only when supported by a physician's statement. Please ask your physician to complete and sign this form. Return the completed form to the institution. If you have any questions, please contact me at \_\_\_\_\_.

*Insert Institution's Phone Number*

Sincerely,

*Insert Institution's Contact Person*

Child's Name \_\_\_\_\_ Date \_\_\_\_\_

### Complete All Information

1. Does the child have a disability according to 7CFR Part 15?  
(see definitions on the back of this form)
  - Yes – If yes, provide the following information and complete questions 3, 4, and 5.
    - a. What is the disability?
    - b. How does the disability restrict the diet?
    - c. What major life activity is affected?
  - No – If no, proceed to question 2.
2. If a child has no disability but has special dietary needs, identify the medical problem which restricts the child's diet, and complete questions 3, 4, and 5.
3. List food/type of food to be omitted.
4. List food/type of food to be substituted.
5. \_\_\_\_\_  
Signature\* Date

\* Child with a disability – physician's signature only

\* Child without a disability – recognized medical authority signature

## **Definition of Handicapped Person (person with a disability) 7CFR Part 15b 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 oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major Bodily Functions" also now includes functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

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