



Massachusetts Department of Elementary and Secondary Education

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Commissioner

MEMORANDUM

To: Local Education Agencies and Sponsoring Organizations of Child Nutrition Programs.
From: Robert M. Leshin, Director, Office for Food and Nutrition Programs
Date: 2/16/2023
Subject: Meal Modifications in Child Nutrition Programs

The U.S. Department of Agriculture's (USDA) nondiscrimination regulation (7 CFR 15b), as well as the regulations governing the Child Nutrition Programs, make it clear that substitutions to the regular meal must be made, at no extra cost, for children who are unable to eat meals served in any Child Nutrition Programs (CNP) because of their disabilities. USDA's Food and Nutrition Service (FNS) has issued [SP 59-2016: Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs](#) and [CACFP 14-2017, SFSP 10-2017 Modifications to Accommodate Disabilities in the Child and Adult Care](#), which clarify that Child and Adult Care Food Program (CACFP) institutions and facilities and Summer Food Service Program (SFSP) sponsors (Program operators) and School Food Authorities (SFAs) are required to make reasonable modifications to accommodate children with disabilities. The Massachusetts Department of Elementary and Secondary Education, Office for Food and Nutrition Programs (FNP) will routinely review Program Operators/SFAs for documented compliance to these regulations during Administrative, Site and Home Reviews.

The Definition of a Disability:

The Americans with Disabilities Act (ADA) Amendments Act of 2008 made important changes to the meaning and interpretation of the term "disability." The changes demonstrated Congress's intent to restore 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 student has a disability, **Program Operators/SFAs should focus on working collaboratively with parents to ensure an equal opportunity to participate in the school meal programs and receive program benefits.**

Note: Program Operators/SFAs are encouraged but not required to consider children's cultural, religious, and ethical preferences when planning and preparing meals. Variations must be consistent with meal pattern regulations for children's meals to be eligible for reimbursement.

Program Operators/SFAs are Responsible for:

Communicating the Availability of Meal Modifications

Program Operators/SFAs must continually notify families of the process for requesting meal modifications and identify the individual responsible for coordinating modifications. As part of this notification, Program Operators/SFAs should explain when/where parents and guardians need to submit supporting documentation for their child's modification request.

- Methods of notification can include:
 - Program website / social media
 - Parent and student handbooks
 - Direct communication to households

Program Operator/SFAs response to meal modification requests should be timely. The provision of modifications should not be delayed while the parent obtains a medical statement.

Providing Access to Meals Served in CNPs to All Students

Modifications within the Meal Pattern - If a meal modification for a child's disability can be made within the CNP meal pattern, a medical statement is not necessary and the Program Operator/SFA is not required to obtain a medical statement.

Modifications Outside of the Meal Pattern - In a disability situation, meal modifications outside the meal pattern are reimbursable, provided the request is supported by a medical statement signed by a State licensed healthcare professional.

- The medical statement (template available in attachment A) must include:
 - Information about the child's physical or mental impairment that is sufficient to allow the Program Operator/SFA to understand how it restricts the child's diet,
 - An explanation of what must be done to accommodate the child's disability, and
 - The food or foods to be omitted and recommended alternatives, in the case of a modified meal.
- ***Program Operator/SFA may not require the written medical statement to provide a specific diagnosis by name or use the term "disabled" or "disability," though the State licensed healthcare professional may use these terms when submitting a medical statement.***
- If the child's IEP or 504 Plan includes the information required in the medical statement, or if the Program Operator/SFA obtains written medical verification of the impairment during the IEP/504 Plan process, it is not necessary for the Program Operator/SFA to also obtain a separate medical statement.

Serving Meals in an Integrated Setting - Program Operators/SFAs must provide all meal services in the most integrated setting appropriate to the needs of the disabled participant. Exclusion of any participant from the Program environment is not considered an appropriate or reasonable modification.

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Ensuring Information is Current and Confidential

Confidentiality - It is extremely important for schools to protect the privacy of children who have a disability. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Family Educational Rights and Privacy Act of 1974 (FERPA) require medical information to be kept confidential. This includes medical information related to a child's disability. Program Operators/SFAs are reminded that they may not request medical records or medical charts related to a child's disability as part of the medical statement. The school only needs to obtain the medical statement in order to receive Federal reimbursement for modified meals outside of the Program meal pattern. Schools also must follow confidentiality requirements under IDEA; any questions about IDEA should be directed to the Section 504/ADA Coordinator.

Ensuring Information is Current – Parents/Guardians should not be required to resubmit medical statements, but an effort should be made by Program Operators/SFAs to ask if they would like the accommodation to continue or stop either annually or in another defined period of time.

Note: Due to their larger size, SFAs must have in place certain administrative functions that are not required for smaller Program Operators. For more information about requirements that apply to your operation contact your DESE Consultant.

Reimbursement

Reimbursement for a modified meal is based on a child's eligibility for free, reduced price, or paid meals, regardless of the extent of the meal modification. Program Operators/SFAs will not receive additional reimbursement to cover the extra costs sometimes associated with providing a reasonable modification and may not charge children with disabilities an extra fee for a modified meal.

Declining Meal Modification Requests

Program Operators/SFAs generally should not decline to provide a meal modification to accommodate a child's disability that is supported by a medical statement. However, Program Operators/SFAs may decline a request for a meal modification that would fundamentally alter the nature of the CNP. A fundamental alteration is a modification so drastic that it would change the essential nature of the CNP. Program Operators/SFAs should work closely with families to prevent any misunderstandings before declining a modification request. We encourage Program Operators/SFAs to contact your DESE consultant if you plan to decline a modification request.

If a Program Operator/SFA declines a request, the Program Operator/SFA must, under the Procedural Safeguards requirements, ensure that the child's parent or guardian understands their right to file a grievance if they believe a violation has occurred regarding the request for a reasonable modification.

Procedures in place to address requests to accommodate children with disabilities in the facility/school, in compliance with Section 504 of the Rehabilitation Act of 1973 or IDEA, may be used to fulfill this requirement.

The USDA Civil Rights Complaint process may be utilized in addition to or in place of Procedural safeguards

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Note: For more information about procedural safeguards and Civil Rights Complaint Process see your program specific resources or contact your DESE Consultant.

Taking a Team Approach:

When it is possible, FNS and FNP strongly encourages Program Operators/SFAs to take a team approach when implementing the guidelines in this memorandum and providing modifications for participants with disabilities. Developing a team that includes individuals from the SFA, sponsoring organization, center, day care home, or summer site, and the Section 504 Coordinator (when there is one) will help ensure consistent decisions, implementation, and tracking of meal modifications. The most effective team may also include others with training in this area, such as a nurse or Registered Dietitian. Any request for a modification related to the meal or meal service should be reviewed by the team and forwarded to the Section 504 Coordinator, when there is one.

If you have questions about providing meal modification in Child Nutrition Programs in Massachusetts, contact the DESE FNP at Nutrition@doe.mass.edu and 781-338-6480.

Attachment A:

Limited English Proficiency Taglines Cover Page

Insert local phone numbers below where a parent who is not proficient in English and/or is hearing impaired could call to get access to program information. This should be available at the school or district level where a parent can go to get any vital information about their child’s education experience.

ATTENTION: If you speak [insert language], language assistance services, free of charge, are available to you. Call 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).

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|--|
| <p>Spanish ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).</p> |
| <p>Vietnamese CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số 1-xxxxxx-xxxx (TTY: 1-xxx-xxx-xxxx).</p> |
| <p>Mandarin Chinese 注意：如果您使用繁體中文，您可以免費獲得語言援助服務。請致電 1-xxx-xxx-xxxx (TTY : 1-xxx-xxx-xxxx)。</p> |
| <p>Portuguese ATENÇÃO: Se fala português, encontram-se disponíveis serviços linguísticos, grátis. Ligue para 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).</p> |
| <p>Russian ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните 1-xxx-xxx-xxxx (телетайп: 1-xxx-xxx-xxxx).</p> |
| <p>Haitian Creole ATANSYON: Si w pale Kreyòl Ayisyen, gen sèvis èd pou lang ki disponib gratis pou ou. Rele 1-xxx-xxx-xxxx (TTY: 1-xxx-xxx-xxxx).</p> |
| <p>[Insert language, as needed]</p> |



I Speak Statements

| | |
|--|--|
| <input type="checkbox"/> Unë flas shqip (Albanian) | <input type="checkbox"/> N̄ a po Klào Win. (Kru) |
| <input type="checkbox"/> አማርኛ እናገራለሁ (Amharic) | <input type="checkbox"/> ຂ້າພະເຈົ້າເວົ້າ ພາສາລາວ. (Lao) |
| <input type="checkbox"/> انا اتكلم اللغة العربية. (Arabic) | <input type="checkbox"/> Yie gorngv Mienh waac. (Mien) |
| <input type="checkbox"/> Ես խոսում եմ հայերեն (Armenian) | <input type="checkbox"/> म नेपाली बोल्छु (Nepali) |
| <input type="checkbox"/> আমি বাংলা ভাষী। (Bengali) | <input type="checkbox"/> Mówię po polsku . (Polish) |
| <input type="checkbox"/> Ja govorim bosanski jezik (Bosnian) | <input type="checkbox"/> Eu falo Portugês . (Portuguese) |
| <input type="checkbox"/> ကျွန်ုပ်တို့ပြောတာက ပြာသာဒ်။ (Burmese) | <input type="checkbox"/> ਇ ਸੁਖੇਅਕ ਪੰਜਾਬੀ (Punjabi) |
| <input type="checkbox"/> 我说中文 (Chinese Simplified) | <input type="checkbox"/> Cunosc limba Română . (Romanian) |
| <input type="checkbox"/> 我說中文 (Chinese Traditional) | <input type="checkbox"/> Я говорю по-русски . (Russian) |
| <input type="checkbox"/> Ja govorim hrvatski . (Croatian) | <input type="checkbox"/> Ou te tautala faaSamoa . (Samoan) |
| <input type="checkbox"/> اینجانب به زبان فارسی صحبت می کنم (Farsi) | <input type="checkbox"/> Govorim srpski . (Serbian) |
| <input type="checkbox"/> Je parle français . (French) | <input type="checkbox"/> Waxaan ku hadlaa Somali . (Somali) |
| <input type="checkbox"/> Je parle le Français haïtien (French Creole) | <input type="checkbox"/> Yo hablo español . (Spanish) |
| <input type="checkbox"/> Μιλάω ελληνικά . (Greek) | <input type="checkbox"/> أتحدث السودانية (لغوي سوداني) (Sudanese) |
| <input type="checkbox"/> ຂໍ ງຸજરાતી બોલુ છું (Gujarati) | <input type="checkbox"/> Marunong po akong magsalita ng Tagalog . (Tagalog) |
| <input type="checkbox"/> Mwen pale Kreyòl . (Haitian Creole) | <input type="checkbox"/> ข้าพเจ้าพูด ภาษาไทย (Thai) |
| <input type="checkbox"/> म हिंदी बोलता हूँ (Hindi) | <input type="checkbox"/> እነ ትግርኛ ይዘረብ እየ. (Tigrinya) |
| <input type="checkbox"/> Kuv hais lus hmoob . (Hmong) | <input type="checkbox"/> Я розмовляю українською . (Ukrainian) |
| <input type="checkbox"/> Ana m a sụ Igbo (Igbo) | <input type="checkbox"/> میں اردو بولتا/ بولتی ہوں۔ (Urdu) |
| <input type="checkbox"/> Parlo Italiano (Italian) | <input type="checkbox"/> Tôi nói tiếng Việt . (Vietnamese) |
| <input type="checkbox"/> 私は 日本語 を話します (Japanese) | <input type="checkbox"/> יִיִדִישׁ (Yiddish) |
| <input type="checkbox"/> Mi chat Jamiekan langwjjij (Jamaican Creole) | <input type="checkbox"/> Mo gbọ Yoruba (Yoruba) |
| <input type="checkbox"/> yk t kqhl b (Karen) | |
| <input type="checkbox"/> ខ្ញុំនិយាយភាសាខ្មែរ (Khmer) | |
| <input type="checkbox"/> 본인의 모국어는 한국어 입니다 (Korean) | |
| <input type="checkbox"/> ئە ز زمانێ كوردی ده ناخفم. (Kurdish) | |

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Student Name: _____
School: _____ Grade: _____

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Meal Modification Request Form

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|--|---------------------|-----------------------------------|--|
| Student Name | | School | |
| What Food(s) Should be Avoided: | | Recommended Substitutions: | |
| Brief Explanation of How Exposure to the Food(s) Effects the Child: | | | |
| Are There Any Other Modifications to the Meal Needed: | | | |
| Signature of Parent/Guardian | Printed Name | Date | |
| Signature of Medical Authority | Printed Name | Date | |

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [How to File a Complaint](#), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

mail: U.S. Department of Agriculture
 Office of the Assistant Secretary for Civil Rights
 1400 Independence Avenue, SW
 Washington, D.C. 20250-9410;

fax: (202) 690-7442; or

email: program.intake@usda.gov.

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