

Civil Rights and Reasonable Accommodations in the CACFP

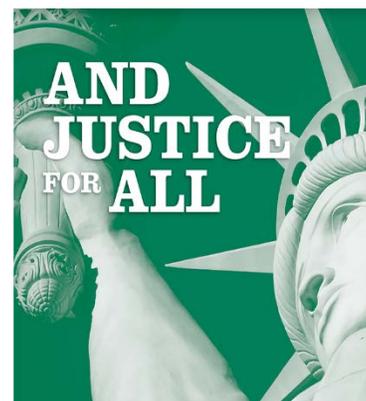
Introduction

This module provides guidance on civil rights as it relates to disabilities and accommodations in the CACFP meal pattern.

Additional Reading and Reference Material

All of the references listed below may be used to complete the menu activity in Module 2.

1. [Food Allergies, Dietary Disabilities and Reasonable Accommodations](#); David Youngblood, FNS, USDA; Nov. 2-5, 2015
2. FNS Instruction 783-2 Meal Substitutions for Medical or Other Special Dietary Reasons
3. USDA FNS Memo: CACFP #14 – 2014;
4. Independent Child Care Centers; A Child and Adult Car Food Program Handbook, USDA FNS, May, 2014;
5. [Accommodating Children with Special Dietary Needs in the School Nutrition Programs](#)



Civil Rights Nondiscrimination Statement

The first paragraph of the new 'Justice for All' nondiscrimination statement for Child Nutrition Programs states:

'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.'

The nondiscrimination statement provides legal protection from discrimination based on race, color, national origin, sex, disability and age. Four civil rights legal authorities that back the nondiscrimination statement include:

- Title VI of the Civil rights Act of 1964 (Race, color and national origin)
- Title IX of the Education Amendments of 1972 (Sex)
- Age Discrimination Act of 1975 (Age)
- Sections 504 and 508 of the Rehabilitation Act of 1973 and The Americans With Disabilities Act 1990 (disability)

The Americans with Disabilities Act



MEDICAL STATEMENT TO REQUEST
SPECIAL MEALS AND/OR
ACCOMMODATIONS Child and Adult Care
Food Program

In 1986, the National Council on Disability recommended enactment of an Americans with Disabilities Act (ADA) and drafted the first version of the bill which was introduced in the House and Senate in 1988. The final version of the bill was signed into law on

July 26, 1990, by President George H. W. Bush. Similar to the Civil Rights Act of 1964, the ADA establishes that discrimination of persons with disabilities is illegal. In addition, the ADA requires covered employers to provide reasonable accommodations to employees with disabilities, and imposes accessibility requirements on public accommodations. Watch the video [“The Americans with Disabilities Act, Signing Ceremony, July 26, 1990.”](#)

The ADA was later amended in 2008 and signed by President George W. Bush with changes effective as of January 1, 2009. The ADA Amendments Act of 2008 did not change the definition of ‘Disability’ or change the expectation of a ‘Reasonable Accommodation’.

The ADA definition of disability is:

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 list of ‘major life activities’ includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. The ADA Amendment of 2008 added a new list of ‘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.

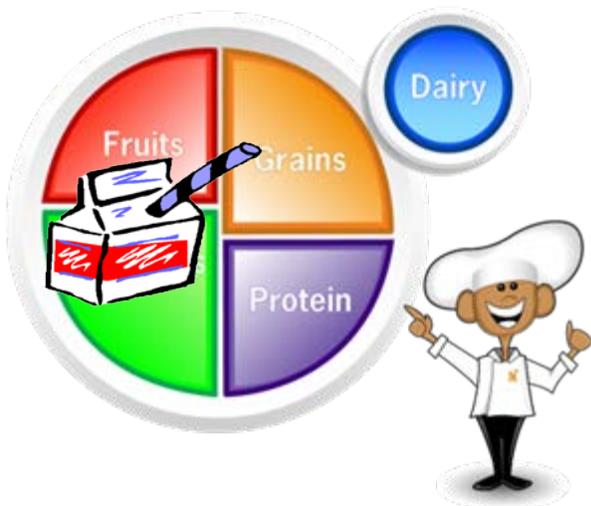
Reasonable Accommodations

A reasonable accommodation is any change to the way things are usually done that allows an individual with a disability to enjoy equal access to benefits available to other individuals. Current regulations and guidance require Child Nutrition Program operators to provide reasonable meal and snack accommodations for children whose disability restricts their diet when supported by a medical statement signed by a licensed health care professional who is authorized to write medical prescriptions under State law. The medical statement must identify the disability, why the disability restricts the child’s diet, the major life activity affected by the disability, the foods to be omitted, and the foods that can be substituted.

Institutions are required by law to provide reasonable accommodation to qualified individuals with disabilities, unless doing so would impose an undue hardship to the institution. ‘Reasonable’ is the key word. In many cases, children with disabilities can be accommodated with little extra expense or difficulty. Accommodations that are so expensive or difficult that they would cause the institution undue hardship are not expected; however some burden is always expected. If the institution believes the accommodation would cause undue hardship, there must be documentation of the hardship. Best practice is to work with the parents of the child to determine a reasonable solution.

Food Substitutions and Modifications to the CACFP Meal Pattern

Requests for substitutions and modifications to the CACFP meal pattern occur for various reasons including personal preferences (cultural, religious dietary), food allergies, intolerances, medical conditions, and disabilities. Exclusion of specific foods or food groups is not an FNS policy, but could be appropriate depending on the circumstances. Decisions to modify the CACFP meal pattern are based on certain facts. The evaluation of requests for modifications to the CACFP meal pattern should be made on a case by case basis.



Parental requests for a substitution to the meal pattern for non-medical reasons may occur because of religious reasons, dietary (vegetarian, vegan), cultural, or personal preference. For example, a child does not eat pork for religious reasons or because they follow a vegetarian diet. The institution decides, according to their policy, if they will provide the accommodation. Accommodations not related to a disability are not required. If the facility provides food items within the same meal component such as beans instead of pork, the meal is reimbursable. Documentation of the parent request along with foods to avoid and foods to be substituted should be on file.

Food substitutions may be necessary for children with allergies or intolerances. For children with food allergies or food intolerances that do not rise to the level of a disability, substitutions to the CACFP meal pattern may be made by the provider, but are not required. The institution decides, according to their policy, if they will provide the accommodation. Any substitution must follow CACFP meal pattern requirements for the meal to be reimbursable. For example, a facility may provide peaches instead of strawberries for a child who is allergic to strawberries. Documentation from a recognized medical authority of the allergy or food intolerance must be on file along with foods to avoid and foods to substitute.

If a physician determines a food allergy is severe enough to result in a life-threatening reaction or if the child has a physical or mental impairment which substantially limits one or more major life activities, they are considered to have a disability. The institution must provide substitutions to the CACFP meal pattern, including milk, unless the substitution would create undue hardship for the institution. Documentation by a recognized medical authority must be on file with information regarding the person's disability, how it restricts the diet, the major life activity affected, foods/beverages to be omitted, food/beverages to be substituted, and signature of the medical authority.

Milk Substitutions to the CACFP Meal Pattern

Milk substitutions may be made to the CACFP meal pattern by parent request because of diet, religious, cultural preferences, or due to medical reasons such as allergies, intolerances, and disabilities. For children who do not have a disability, the institution decides, according to their policy, if they will provide the accommodation. Institutions must provide the accommodation when the person is determined to have a disability. The parental request or documentation from a recognized medical

authority must be on file with signatures along with the milk to be omitted and the milk to be substituted. Non-dairy milk substitutes must meet USDA Nutrient Standards in order for the meal to be reimbursable except in the case of a disability.

Conclusion

Persons with disabilities are one of the six protected classes identified in the non-discrimination statement for child nutrition programs. Disability is defined as any person with a physical or mental impairment that substantially limits one or more major life activities. CACFP institutions must make reasonable accommodations in policies and practices to accommodate persons with disabilities. Substitutions and modifications to the CACFP meal pattern may be necessary because of a disability, a medical condition or parental request. A signed statement from a recognized medical authority must be on file to claim a meal that does not conform to the CACFP meal pattern.

This module satisfies the federal requirement for civil rights training provided by the State agency to each institution

Activity Four

Create a policy that describes your center's rule for requests for modifications of the CACFP meal pattern. Please upload this policy for review.

The policy should include, at a minimum, the following;

1. General description of meal service/times.
2. How the center handles special food/milk requests by parents.
3. How the center handles accommodations for children with a medical note or a disability.
4. Forms that need to be completed.
5. Rules for bringing in food from the outside.

Quiz Four

1. Which legal authority protects persons with disabilities from discrimination?
 - a. The Age Discrimination Act of 1975
 - b. Title IX of the Education Amendments Act
 - c. Sections 504 and 508 of the Rehabilitation Act of 1973
 - d. The Constitution

2. Which of the following would qualify as a disability?
 - a. An intolerance to strawberries
 - b. A life threatening allergy to peanuts
 - c. Parent request for a diet with no hydrogenated oils
 - d. A cultural preference for kosher foods only

3. When is a substitute for fluid milk NOT reimbursable?
 - a. When the substitute is requested by a parent
 - b. When the substitute is nutritionally equivalent to fluid milk, but is lactose free
 - c. When the substitute is a soy milk that is nutritionally equivalent to milk
 - d. When the substitute does not meet USDA nutrient standards

4. The institution MUST provide the accommodation in which of the following situations?
 - a. Parental request for a specific formula
 - b. Parental preference
 - c. The child has a medical condition
 - d. The child has disability

5. An example of a meat alternate is...
 - a. Black beans
 - b. Oatmeal
 - c. Spinach
 - d. Milk

6. In which of the following situations is a statement from a licensed health care professional NOT required?
 - a. The child has Celiac's Disease (intolerance to gluten)
 - b. The child has a severe allergy to fish
 - c. Parental request due to cultural preference
 - d. The child must be served a liquid only diet

7. Institutions must provide accommodations to persons with disabilities except when...
 - a. The accommodation requires modification of the CACFP meal pattern
 - b. The disability affects a major life function
 - c. The accommodation is for non-dairy milk
 - d. The accommodation would cause undue hardship

8. When the CACFP meal pattern is altered for participants with medical conditions or disabilities what document must be on file?
 - a. An Income Eligibility Form
 - b. A signed statement from a licensed health care professional
 - c. The sign in/sign out record
 - d. A meal participation record

9. What year was the Americans with Disabilities Act signed into law?
 - a. 1990
 - b. 1964
 - c. 1975
 - d. 2008

10. Which one of the following situations violates the Non-discrimination civil rights statement?
 - a. The parent provides one meal component for their child.
 - b. The provider has a policy that foods prepared outside the facility are not allowed.
 - c. The provider has a policy that the facility does not provide substitutions for parental requests.
 - d. The provider charges extra money for meals served to a child with a medical condition.