Requirements for Procedural Safeguards for Meal Modifications in the School Nutrition Programs

This document summarizes the U.S. Department of Agriculture's (USDA) requirements for procedural safeguards for meal modifications to accommodate a child's disability in the school nutrition programs. These requirements apply to all public schools, private schools, and residential child care institutions (RCCIs) that participate in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program (ASP) of the NSLP, Seamless Summer Option (SSO) of the NSLP, Special Milk Program (SMP), Fresh Fruit and Vegetable Program (FFVP), and Child and Adult Care Food Program (CACFP) At-risk Supper Program implemented in schools.

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Introduction to Procedural Safeguards

Under the Individual with Disabilities Education Act (IDEA), procedural safeguards protect the rights of parents and guardians, and their child with a disability, and provide families and school systems with processes to resolve disputes. In addition, the USDA requires that LEAs must establish a procedural safeguards process for meal modifications to accommodate a child's disability in the school nutrition programs. This process must provide notice and information to parents and guardians regarding:

- how to request a reasonable meal modification for children whose disability restrict their diet; and
- their procedural rights for grievance procedures.

These requirements are part of the USDA's nondiscrimination regulations (7 CFR 15b) and civil rights protections. School food authorities (SFAs) must work with their LEA's Section 504 Coordinator to ensure that the LEA's procedural safeguards process includes the provisions required by the USDA's nondiscrimination regulations.



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Required Meal Modifications for Disability Reasons

The USDA's nondiscrimination regulations (7 CFR 15b) and regulations for the school nutrition programs (7 CFR 210.10(m) and 7 CFR 220.8(m)) require that SFAs must make reasonable meal modifications on a case-by-case basis for children whose disability restricts their diet, based on written documentation from a state licensed healthcare professional or registered dietitian. Meal modifications must be related to the disability or limitations caused by the disability.

- A **reasonable modification** is a change or alteration in policies, practices, and/or procedures to accommodate a disability that ensures children with disabilities have equal opportunity to participate in or benefit from a program. The general guideline in making a reasonable modification is that children with disabilities must be able to participate in and receive benefits from programs that are available to children without disabilities.

- **Case-by-case basis** means that the meal modifications are specific to the individual medical condition and dietary needs of each child, based on the specific information provided by the state licensed healthcare professional or registered dietitian in the child's medical statement or, if applicable, the child's Section 504 plan or Individualized Education Program (IEP).

- A **state licensed healthcare professional** is an individual who is authorized to write medical prescriptions under state law. The Connecticut State Department of Public Health (DPH) defines these individuals as physicians (MD), physician assistants (PA) and certified physician assistants (PAC), doctors of osteopathy (DO), and advanced practice registered nurses (APRN).

- A **registered dietitian** (RD) or registered dietitian nutritionist (RDN) is an individual with a minimum of a graduate degree from an accredited dietetics program and who completed a supervised practice requirement, passed a national exam, and completes continuing professional educational requirements to maintain registration. For more information, visit the Academy of Nutrition and Dietetics' (AND) Registered Dietitian Nutritionist Fact Sheet website.

For detailed guidance on the requirements for meal modifications in the school nutrition programs, refer to the Connecticut State Department of Education's (CSDE) *Guide to Meal Modifications in the School Nutrition Programs* and visit the CSDE's Special Diets in School Nutrition Programs webpage.

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Responsibility for Procedural Safeguards

The USDA nondiscrimination regulations (7 CFR 15b.25) require local educational agencies (LEAs) to establish a procedural safeguards process that provides notice and information to parents and guardians regarding how to request a reasonable meal modification to accommodate a child's disability, and their procedural rights for grievance procedures (7 CFR 15b.6(b)). These grievance procedures include the right for parents and guardians to:

- file a grievance if they believe a violation has occurred regarding the request for a reasonable modification;
- receive a prompt and equitable resolution of the grievance;
- request and participate in an impartial hearing to resolve their grievances;
- be represented by counsel at the hearing;
- examine the record; and
- receive notice of the final decision and a procedure for review, i.e., right to appeal the hearing's decision.

LEAs must work with school food service staff to implement procedures for parents and guardians to request meal modifications for disability reasons and to resolve grievances. LEAs may meet this requirement by using existing procedures that address requests to accommodate students with disabilities in the classroom, in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504) or the IDEA.

Minimum requirements

The LEA must notify parents and guardians of the process for requesting meal modifications to accommodate a child's disability and arrange for an impartial hearing process to resolve grievances related to requests for meal modifications based on a disability. The hearing process must include the opportunity for the child's parent or guardian to participate, be represented by counsel, and examine the record. It must also include notice of the final decision and a procedure for review.

Requirements for LEAs employing at least 15 individuals

LEAs employing at least 15 individuals must ensure their procedural safeguards process provides for a prompt and equitable resolution of grievances and must designate at least one person to coordinate compliance with disability requirements. This individual is often referred to as the Section 504 Coordinator. In many cases, the Section 504 Coordinator is responsible for

addressing accommodation requests for the school in general and may also be responsible for ensuring compliance with meal modifications for disability reasons.

LEAs are not required to have a separate Section 504 Coordinator who is only responsible for meal modifications. However, LEAs should ensure that school food service staff understand the procedures for handling requests for meal modifications and know how to contact the Section 504 Coordinator.

Resources

Accommodating Children with Disabilities in the School Meal Programs: Guidance for School Food Service Professionals (USDA):
https://www.fns.usda.gov/cn/2017-edition-accommodating-children-disabilities-school-meal-programs

Guide to Meal Modifications in the School Nutrition Programs (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/specdiet/guide_meal_modifications_snp.pdf

Individuals with Disabilities Education Act (IDEA) Section 1415: Procedural safeguards:
https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1415

Individuals with Disabilities Education Act (U.S. Department of Education):
https://sites.ed.gov/idea/

Medical Statements (CSDE's Special Diets in School Nutrition Programs webpage):
https://portal.ct.gov/sde/nutrition/special-diets-in-school-nutrition-programs/medical-statements

Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities (U.S. Department of Education, Office for Civil Rights):
https://www2.ed.gov/about/offices/list/ocr/504faq.html

Sample Standard Operating Procedure (SOP) for Meal Modifications in the School Nutrition Programs (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/specdiet/sample_sop_meal_modifications_snp.docx

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Section 504 of the Rehabilitation Act of 1973 (U.S. Department of Health and Human Service):
https://www.hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/504.pdf

Self-assessment of Local Practices for Meal Modifications in the School Nutrition Programs (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/specdiet/assessment_meal_modifications_snp.pdf

Special Diets in School Nutrition Programs (CSDE webpage):
https://portal.ct.gov/sde/nutrition/special-diets-in-school-nutrition-programs

Summary Charts of the Requirements for Meal Modifications in the School Nutrition Programs (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/specdiet/summary_chart_meal_modifications_snp.pdf

USDA Memo SP 26-2017: Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers (Q&As):
https://www.fns.usda.gov/cn/accommodating-disabilities-school-meal-programs-guidance-qas

USDA Memo SP 59-2016: Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs:
https://www.fns.usda.gov/policy-memorandum-modifications-accommodate-disabilities-school-meal-programs

USDA Nondiscrimination Regulations (7 CFR B):
https://www.ecfr.gov/current/title-7/subtitle-A/part-15b

USDA NSLP Regulations (7 CFR 210):
https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-210

USDA SBP Regulations (7 CFR 220):
https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-A/part-220

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For more information, visit the CSDE's Special Diets in School Nutrition Programs webpage or contact the school nutrition programs staff at the Connecticut State Department of Education, Bureau of Child Nutrition Programs, 450 Columbus Boulevard, Suite 504, Hartford, CT 06103-1841.This document is available at https://portal.ct.gov/-/media/sde/nutrition/nslp/specdiet/procedural_safeguards_snp.pdf.

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To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/defaultfiles/documents/ad-3027.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail: U.S. Department of Agriculture
   Office of the Assistant Secretary for Civil Rights
   1400 Independence Avenue, SW
   Washington, D.C. 20250-9410; or
2. fax: (833) 256-1665 or (202) 690-7442; or
3. email: program.intake@usda.gov

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