

## **National School Lunch Program/School Breakfast Program Meal Substitutions for Students with Disabilities or Medical or Other Special Dietary Needs**

Federal Child Nutrition regulations require participating school districts to offer to all participants' breakfasts, lunches, after school snacks and milk that meet the meal requirements identified in the program regulations.

Federal regulations further **require** schools to make substitutions to the standard meal requirements for students who are considered disabled and whose disability restricts their diet. See "Disabled Participants," below. CFR 210.10 (g)(1) and CFR 220.8 (d)

A school district may, **at its discretion**, make substitutions for individual participants who are not "disabled persons" but are unable to consume a food item because of medical or other special dietary needs (see "Participants With Medical or Other Special Dietary Needs," page 3)

Generally, participants with food allergies, intolerances or obese participants are not "disabled persons," and school districts are not required to make substitutions for them. However, if a physician assesses that food allergies may result in severe, life-threatening reactions (anaphylactic reactions) or the obesity is severe enough to substantially limit a major life activity, the participant may then meet the definition of "disabled person," and the foodservice personnel must make the substitutions prescribed by the physician.

### **Disabled Participants**

"Disabled person" is defined as any person who has "a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment." "Major life activities" are defined as "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working." School districts participating in the Child Nutrition Programs are required to make substitutions or modifications to the meal requirements for those participants with disabilities who are unable to consume the meals offered to non-disabled participants.

Determinations of whether a participant has a disability that restricts his or her diet are to be made on an individual basis by a licensed physician. The physician's medical statement of the participant's disability must be based on the regulatory criteria for "disabled person" and contain a finding that the disability restricts the participant's diet. A participant whose disability restricts his or her diet shall be provided substitutions in foods only when supported by a statement signed by a licensed physician. The medical statement shall identify:

1. The participant's disability and an explanation of why the disability restricts the participant's diet;
2. The major life activity affected by the disability; and

3. The food or foods to be omitted from the participant's diet, and the food or choice of foods that must be substituted. If the disability would require caloric modifications or the substitution of a liquid nutritive formula, for example, this information must be included in the statement. If the disability participant requires only textural modification(s) to the regular program meal, as opposed to a meal requirement modification, the medical statement is recommended but not required. In such cases, the purpose of the statement is to assist the school district in providing the appropriate textural modification(s). Unless otherwise specified by the physician, the meals modified for texture will consist only of food items and quantities specified in the regular menus.

The school district should provide parents or guardians with 7 CFR Part 15b.3 so that their physicians may correctly assess whether an individual's disability meets the regulatory criteria. It is suggested that school districts consider the use of the services of a Registered Dietitian to assist in implementing the medical statement, as appropriate.

The provisions requiring substitutions for disabled participants respond to the requirements of Section 504 of the Rehabilitation Act of 1973 and to the U.S. Department of Agriculture's implementing regulations, 7 CFR Part 15b.3, which provide that no otherwise qualified disabled individuals shall, solely on the basis of disability, be excluded from participation, be denied benefit of or subjected to discrimination under any program or activity receiving federal financial assistance.

NOTE: School districts should be aware that the Individuals with Disabilities Education Act (IDEA) imposes requirements on states that may affect them, including the service of meals even when such service is not required by the Child Nutrition Programs. For example, the individualized education program developed for a student under the IDEA may require a meal to be served outside of the regular meal schedule for program meals or may require a breakfast to be served in a school that does not participate in the School Breakfast Program. While the school may not claim these meals as program meals, it may use the same foodservice facilities or foodservice management company to provide these meals as it uses to provide program meals, and program funds may be used to pay for the costs associated with the IDEA-required meals.

### **Participants With Medical or Other Special Dietary Needs**

School districts may, at its discretion, make substitutions for individual participants who are not "disabled persons" but are unable to consume a food item because of medical or other special dietary needs. Such substitutions may only be made on a case-by-case basis when supported by a statement signed by a recognized medical authority. In Oregon, recognized medical authorities include physicians, physician assistants, registered

dietitians, and nurse practitioners.

For those **non-disabled** participants, the supporting statement by the recognized medical authority shall include:

1. an identification of the medical or other special dietary need that restricts the participant's diet; and
2. the food or foods to be omitted from the participant's diet and the food or choice of foods that may be substituted.

School districts are **not** required to make substitutions for participants whose conditions do not meet the definition of "disabled person." For example, individuals who have elevated blood cholesterol generally do not meet the definition of disabled person, and thus school districts are not **required** to make meal substitutions for them. In fact, in most cases, the special dietary needs of non-disabled participants may be managed within the normal program meal service when a well-planned variety of nutritious foods is available to students, and/or offer versus serve is available and implemented.

### **USDA Reimbursement and Meal Changes**

Reimbursement for meals served with an authorized substitute food to disabled participants or to participants with other special dietary needs shall be claimed at the same reimbursement rate as meals that meet meal requirements. Furthermore, there shall not be a supplementary charge for the substituted food item(s) to either a disabled participant or to a participant with other special dietary needs.

In providing foodservices, recipients of federal financial assistance "may not discriminate on the basis of disability" and "shall serve special meals, at no extra charge, to students whose disability restricts their diet." While any additional costs for substituted foods are considered allowable program costs, no additional Child Nutrition Program reimbursement is available. Sources of supplemental funding may include special education funds (if the substituted food is specified in the student's individualized education program), the general account of the school district, or the nonprofit school foodservice account.

### **Cooperation**

When implementing meal substitutions, foodservice personnel should work closely with the parent(s) or responsible family member(s) and with all other school, medical and community personnel who are responsible for the health, well-being and education of participants with disabilities or with other special dietary needs to ensure that reasonable accommodations are made to allow such individuals' participation in the meal service.