

Accommodating Children With Special Dietary Needs

Does the child have a disability? According to Section 504 of the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act (ADA)* of 1990, a “**person with a disability**” means 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.

Disability

United States Department of Agriculture (USDA) regulations 7 CFR Part 15b, 210 and 220 **require** that substitutions and modifications in school meals be made for children whose disabilities restrict their diets.

A child with a disability must be provided food substitutions or a special diet when the need is supported by a **written statement** or **diet order** which is **signed** by a **licensed physician**.

The **special diet statement** or **diet order** must include all of the following:

- The child’s disability.
- An explanation of how the disability restricts the child’s diet.
- The major life activity affected by the disability.
- The food(s) to be omitted and the food(s) that must be substituted.
- The physician’s signature.

Note: A physician may indicate that a specific brand of food be purchased and served. The school is obligated to supply the specific food(s) to the child at no additional cost to the family. However, the school can negotiate the special food requests with the physician if product availability is a problem.

Additional requirements:

- When a school provides dietary accommodations per the physician’s diet order, the meal is considered reimbursable whether it meets USDA meal pattern requirements or not.
- Special diet statements or diet orders do not need to be renewed on a yearly basis but they must reflect a child’s current needs.
- Food service personnel cannot interpret, revise or change a physician’s diet order because it could lead to individual liability.
- Food service is not required to provide a meal that is not normally offered by the school, for example breakfast, unless the meal is required under the child’s Individualized Education Plan (IEP).
- Written instructions from a licensed physician are recommended, but not required, for texture modifications such as soft, chopped, ground, or pureed.
- Schools cannot charge a child with a disability (who requires food substitutions) more for their meals or snacks than they charge other children who do not have a disability.

No Disability

The school food service **may make food substitutions**, at their discretion, for all food components **except milk**, for individual children who **do not have a disability**, but who are medically certified as having a special medical or dietary need. The school is **encouraged, but not required**, to make food substitutions or menu modifications for children without a disability.

Fluid Milk Substitution Rule: Schools that participate in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Care Program (ASCP), Special Milk Program and Minnesota Kindergarten Milk Program **cannot** substitute milk with another beverage like juice (fruit or vegetable) or soy- or rice-based beverages that are not nutritionally equivalent to cow’s milk for a child without a disability, even if the school has a dietary request that is signed by a recognized medical authority. Program rules allow schools to provide a fluid milk substitute for a child without a disability and count it as the milk component if the substitute is nutritionally equivalent to cow’s milk. A written request for a fluid milk substitute may be made by a medical authority, a parent or guardian. The decision to offer a fluid milk substitute under this ruling is at the discretion of the school. If offered, the school must notify Food and Nutrition Service of their decision to provide a fluid milk substitute and must pay for all substitution expenses that exceed Federal reimbursements. Lactose-reduced milk must be provided to lactose intolerant students who participate in the NSLP, SBP and ASCP upon written parental/guardian request.* Since lactose-reduced/free milk is cow’s milk, it can be credited as the milk component in a meal or snack without documentation.

Food Allergies: Schools can determine whether they will honor special dietary requests for children who have **food intolerances** or **allergies**. However, if a child’s allergy is so severe that exposure to the offending food(s) could lead to a **life-threatening reaction**, the school **must** provide accommodations for the child as the allergy would be considered a disability.

If the school chooses to make food substitutions or menu modifications, they **must** have a **special diet statement** on file for a child that certifies the special dietary need. The statement must be **signed by a recognized medical authority** (licensed physician, physician’s assistant, certified nurse practitioner, registered dietitian, licensed nutritionist or chiropractor). The **special diet statement** must include all of the following:

- An identification of the medical or dietary condition which restricts the child’s diet.
- The food(s) to be omitted and food(s) to be substituted from the child’s diet.
- The recognized medical authority’s signature.

***Minnesota Statutes section 124D.114**, if a child is lactose-intolerant and a parent or guardian submits a written request for lactose-reduced milk, the school must provide: lactose-reduced milk; milk fortified with lactase in liquid, tablet, granular, or other form; or milk to which lactobacillus acidophilus has been added.