# SNP Memo #2023-2024-67


**COMMONWEALTH of VIRGINIA
Department of Education**

DATE: March 28, 2024

TO: Directors, Supervisors, and Contact Persons Addressed

FROM: Sandra C. Curwood, PhD, RDN, ***Sandy***

## SUBJECT: Dietary Accommodations in the School Meal Programs

This memo provides school food authorities (SFAs) with school meal dietary accommodation requirements and the sample *Dietary Modification Medical Statement Form* for accommodations for children with disabilities.

The Virginia Department of Education, Office of School and Community Nutrition Programs (VDOE-SCNP) recognizes the growing concern for children with food allergies and intolerances. The United States Department of Agriculture (USDA) regulation, [7CFR15b](https://www.ecfr.gov/cgi-bin/text-idx?SID=17ed2d0fa4d020292459a93cab2a33ae&mc=true&node=pt7.1.15b&rgn=div5#se7.1.15b_11), requires schools participating in federal school meal programs to make reasonable accommodations for children who would otherwise be unable to participate in the meal program due to disabilities restricting their diets.

### Children with Disabilities

According to the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and the ADA Amendments Act (ADAAA) of 2008, a person with a disability is defined as any person with a physical or mental impairment that substantially limits one or more major life activities or major bodily functions, has a record of such an impairment, or is regarded as having such an impairment. A physical or mental impairment does not need to be life threatening in order to constitute a disability. If it limits a major life activity, it is considered a disability.

Major life activities include, but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to functions of the immune system; normal cell growth; and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Food allergies fall under the definition of disability clarified by the ADAAA of 2008. There are many different food allergies; however, the following nine foods or food groups account for 90 percent of serious allergic reactions: milk, eggs, fish, crustacean shellfish, wheat, soy, peanuts, tree nuts, and sesame.

### Requiring a Medical Statement

USDA regulations require SFAs to provide modifications for children with disabilities on a case-by-case basis when a written statement from a state licensed healthcare professional, such as a physician, physician assistant, or nurse practitioner, supports the request. The medical statement should include a description of the child’s physical or mental impairment sufficient to allow the SFA to understand how the disability restricts the child’s diet. It should also include an explanation of the requested modifications to accommodate the disability. When the SFA believes the medical statement is unclear or lacks sufficient detail, the SFA must obtain appropriate clarification so a proper and safe meal can be provided.

### Substitution or Modification Requests

SFAs must offer a reasonable modification to accommodate the child’s disability and provide equal opportunity to participate in or benefit from the school meal programs. A reasonable modification is a change or alteration in policies, practices, and procedures to accommodate a disability. Failure to provide a reasonable modification, denying benefits or the opportunity to participate, ineffective communication, and inaccessible facilities are all types of disability discrimination. The least restrictive measures should be taken to make the child feel integrated, accepted, and safe at school. When a particular brand name is included in the request, the SFA is not required to provide the brand name item but must offer to provide a substitute that does not contain the specific allergen affecting the child. Age and maturity should factor into appropriate modifications for children.

### Other Special Dietary Needs

The SFA may make food substitutions for individual children who do not have a medical statement on file. General health concerns, personal preferences, and moral or religious convictions are not included in the definition of a disability and are, therefore, optional for the SFA to accommodate. Meals submitted for USDA reimbursement for individuals without a medical statement on file must meet the USDA meal pattern requirements. Some requests may be accommodated within the USDA meal plan when a variety of choices is offered.

### Disability Team Approach

The VDOE-SCNP recommends initiating a team or committee to review requests and provide modifications when implementing these guidelines. An effective team may include the section 504 coordinator, school nurse, school food and nutrition staff, teachers, and principals to ensure consistent decisions, implementation, and tracking of meal modifications. The team is encouraged to develop policies and practices to allow the most commonly encountered disabilities to be quickly and consistently addressed.

The USDA provided additional guidance in the [*Accommodating Disabilities in the School Meal Programs: Guidance and Q&As*](https://www.fns.usda.gov/cn/accommodating-disabilities-school-meal-programs-guidance-and-qas)*.* If you have questions or need additional information, please contact your assigned SNP regional specialist.

SCC/CC/an

Attachment:

* Children with Disabilities and Special Dietary Needs/Dietary Modification Medical Statement Form