SPECIAL DIETARY NEEDS

I. PURPOSE

The purpose of these guidelines is to assist in identifying the responsibilities of the school district personnel in providing school meals to students who have special dietary needs.

II. GENERAL STATEMENT

A. The school district recognizes the importance of building an awareness of addressing the nutrition management of students with special dietary needs. There are many conditions that require special diets. The most frequently reported are food allergies and food intolerance.

B. The school district recognizes the need for communication among school food and nutrition personnel, special education teachers, nursing and medical personnel, school administrators, classroom teachers, support personnel, and parents in determining dietary needs of students.

III. PARTICIPANT WITH DISABILITIES

A. Definition of "Disability"

The provision requiring substitutions or modifications for persons with disabilities respond to the federal requirements under Section 504 of the Rehabilitation Act of 1973 and the regulations that implement that law (7CFR 15b) which provide that no otherwise qualified individuals shall be excluded from participation in, be denied benefit of, or subjected to discrimination, under any program or activity receiving federal financial assistance, solely on the basis of their disability. Therefore substitutions to the meal pattern, or modifications to a food item, are required for those participants with disabilities who are unable to consume the regular Program meals.

Definition of "handicapped person" from 7 Code of USDA Federal Regulations 15b(3):

The definition of "handicapped person" in provided in 7 CFR(3)(i):

*(i) "Handicapped person" means 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 parts of the definition of "handicapped person" shown in bold print are further defined in 7 CFR 15b(j) through 15b(m).

(j) "Physical or mental impairment" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory including speech organs; cardiovascular, reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis, cancer; heart disease; diabetes; mental retardation; emotional illness; and drug addiction and alcoholism.

(k) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(l) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(m) "Is regarded as having an impairment" means (1) has physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairments, or (3) has none of the impairments defined in paragraph (j) of this section but is treated by a recipient as having such an impairment.

(n) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. "Major life activities" also include operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. (See 29 USC § 705(9)(b) and 42 USC § 12101.)

B. Special Diet Statement for a Participant ***With*** a Disability

The determination of whether a student has a disability, and whether the disability restricts the student's diet, are to be made on an individual basis by a state licensed healthcare professional authorized to write medical prescriptions. This may include a doctor, advanced practice registered nurse, a certified nurse practitioner, a registered dietitian, or a physician's assistant. Updates to this form are required only when a participant's needs change. A statement signed by a licensed health care professional must be thorough and support substitutions needed for accommodations.

The medical statement must include the following:

- Information about the child's physical or mental impairment that is sufficient to allow the School Food Authority to understand how it restricts the child's diet;
- The allergen or food that must be avoided;
- A brief explanation of how exposure to the food impacts affects the participant; and
- The food or foods to be omitted and recommended alternatives, if appropriate.

The statement does not have to be renewed each year as long as there are no changes. The Special Diet Statement form will be available to any interested parent or guardian so that their physician may determine whether the child meets the regulatory criteria.

For students with disabilities who require modifications in texture (such as bite-size pieces, ground, or pureed foods); changes in caloric intake; or other modifications, a licensed healthcare professional's written instructions must indicate the appropriate food texture that is required. Unless otherwise specified by the licensed healthcare professional, meals modified for texture will consist only of food items and quantities specified in the regular menus. The Willmar Public School district follows the International Dysphagia Diet Standardization Initiate (IDDSI) standards.

C. Individual Education Plan (IEP)

The Individualized Education Plan is the management tool for students receiving special education related services. The services prescribed in the IEP may include special meals so nutrition should be a part of the IEP for a child who requires a special diet.

IV. PARTICIPANT WITHOUT A DISABILITY

General health concerns, such as a parent's preference that a child eat a gluten-free diet because the parent believes it is healthier for the child, are not disabilities and do not require a modification. Sponsors are not required to accommodate special dietary requests that do not constitute as a disability, including requests related to religious or moral convictions or personal preference.

In most cases, the special dietary needs of a person who does not have a disability may be managed within the normal program meal service when variety of nutritious foods are made available to students, and the "Offer versus Serve" provision (if applicable) is utilized to maximize a participant's choices. Whenever a food substitution(s) can be provided within the framework of the regular meal pattern, a Special Diet Statement is not needed.

V. STATE LAW ON LACTOSE INTOLERANCE (for School Nutrition Programs)

The responsibility of a school food authority to provide substitutions for any child with lactose intolerance is specified in state law (Minnesota Statutes section 124D.114). Under this law, a school district or nonpublic school that participates in the National School Lunch Program or School Breakfast Program and receives a written request from a parent/guardian shall make available:

- Lactose reduced or lactose-free milk

The school is **not allowed** to substitute juice (fruit or vegetable) or any soy- or rice-based beverage that is not nutritionally equivalent to cow's milk for a participant who is lactose intolerant.

The written request does not have to be renewed each year as long as there are no changes. The Willmar Public Schools will accept written notes or families may use our milk substitute found on our district website.

A. **FLUID MILK SUBSTITUTION** (pertains only to the National School Lunch Program, School Breakfast Program, Special Milk Program, and the Minnesota Kindergarten Milk Program)

a. Students **with** Disabilities
Substitutions or modifications must be made in school meals for a child who has a disability that restricts their diet per USDA regulations (7 CFR Part 15b). Fluid substitutions may be made with the completion of a Special Diet Statement (see Section III B). Fluid substitutions will be followed according to the signed special diet statement.

b. Students **without** Disabilities
A special diet statement is not required. Parents, guardians, or a recognized medical authority must provide and signed request that includes the reason for the substitution. Any reasonable request can be accepted (e.g. milk allergy or intolerance, dietary preference, religious, cultural, or ethical reasons). According to U.S. Department of Agriculture (USDA) regulations, the only beverage that may be substituted for milk for a participant without a disability is a "milk substitute that is nutritionally equivalent to cow's milk" as defined by the USDA regulations. The sponsor has a list of milk alternatives that are approved by Minnesota Department of Education.

Juice, for example, does not meet the standard of being nutritionally equivalent to cow's milk and therefore cannot be substituted for milk even when a request is submitted on a participant's behalf by a recognized medical authority. A school may choose to or not to accommodate the request.

VI. REIMBURSEMENT FOR SPECIAL DIETARY MEALS

The USDA Departmental Rule 7 CFR15.26(d), 2009 and the National School Lunch, School Breakfast, and Child and Adult Care Food Program Regulations, 2009 require schools participating in the National School Lunch Program and/or school breakfast program to serve special meals at no extra charge to students whose disability restricts their diet. The student must meet the definition of handicapped set forth in 7CFR15b.3 (k) and the handicap must restrict the student's diet. Furthermore, substitution/modification must be supported by a diet or a medical statement signed by a state recognized medical authority, which states the need for substitution and a recommendation for alternate foods.

VII. COOPERATION (as stipulated in FNS Instruction 783, Rev. 2, Section V Cooperation)

When implementing these guidelines, food service personnel should work closely with parents, other responsible family members, and with all other school, child care, 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 accommodation are made to allow participation in the meal service.

A discontinuation of a special diet will be followed when a written request from a parent/guardian or Medical Authority is received.

Legal References: Section 504 of the Rehabilitation Act of 1973
The Individuals with Disabilities Education Act (IDEA)
Americans with Disabilities Act of 1990 (ADA)
National School Lunch, School Breakfast, and Child and Adult Care Food Program Regulations 2

Civil Rights Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online (Click here to download the form), 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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