Section 25

Meal Accommodations

Section 25, Meal Accommodations

Update Guide	
June 8, 2026	Incorporated guidance from the Final Rule: Expanding Fluid Milk Options in Child Nutrition Programs.
March 11, 2026	Updated guidance to reflect changes implemented by the *Whole Milk for Healthy Kids Act of 2025*
September 2, 2025	Incorporated the following provisions from the final rule, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*: - Accommodations for a Medical Disability (expands the definition of a medical authority to include registered dieticians)
May 19, 2023	Created new *Definitions* and *Contact Information* sections, located at the beginning of the *Administrator's Reference Manual (ARM)*. Removed definitions and contact information from this section.
July 28, 2022	Updated *Section 25, Meal Accommodations* to correct minor typos. Clarified guidance on the following topics: – Separation of students with disabilities
August 12, 2020	Updated *Section 25, Meal Accommodations* and updated the *Administrator's Reference Manual (ARM)* section references. Clarified information on the following topics: – Medical statement – Milk substitute specifications – Required accommodations – Texas Education Code 25.022
January 22, 2018	Updated *Section 13, Accommodating Students with Medical Disabilities and Special Dietary Needs* to incorporate the following United States Department of Agriculture guidance: – *USDA Memo SP 40-2017, Accommodating Children with Disabilities in the School Meal Program, Guidance for School Food Service Professionals* (July 25,2017) Clarified information on the following topics: – Allergen free zone – Confidentiality – Definition for disability – Location of meal service – Medical statement requirements – Methods to address modifications – Reasonable accommodation – Record retention – Unreasonable accommodation

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Meal Accommodations

The Rehabilitation Act of 1973, Section 504 (Section 504) and the American Disabilities Act (ADA) of 1990 provide regulatory guidance which defines a disability as any physiological disorder or conditions, cosmetic disfigurement, or anatomical loss affecting the body's systems or any mental or psychological disorder[1] which affects one of the major life activities.[2] Individuals who take mitigating measures to improve or control any of the conditions recognized as a disability are still considered to have a disability and require an accommodation.

The school nutrition program (SNP) must[3] provide reasonable accommodations for reimbursable meals at no additional charge, snacks, and a la carte sales[4] when (1) a student's disability restricts his/her diet and (2) the disability is supported by a medical statement signed by a medical authority—that is, a state licensed healthcare professional or registered dietician—or meal accommodation requirement in a student's individualized education program (IEP) as authorized by the Individuals with Disabilities Education Action (IDEA) or the Rehabilitation Act of 1973, Section 504 (Section 504).

[NOTE: For this section, State is defined as the State of Texas. Any medical authority whose prescription is allowed to be filled by a pharmacy located in Texas under Texas law or regulation may provide a medical statement for a meal accommodation. A dietician registered in the State of Texas may also provide a medical statement for meal accommodation.]

In cases where a meal accommodation is requested by a parent or guardian and when the student does not have a medical disability or an IEP requirement, the SNP may provide the accommodation as long as the accommodation does not prevent the student from being served a reimbursable meal, snack, or an a la carte choice. The SNP is not required to provide meal accommodations when requested by a parent or guardian when the parent or guardian does not have a medical statement or an IEP required meal accommodation. However, the SNP is encouraged to work with families to make reasonable accommodations for students with special dietary needs.

This regulation applies to the following school nutrition programs (SNPs):[5]

- National School Lunch Program (NSLP)
  - Afterschool Care Program (ASCP)

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1 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. Mental or psychological disorders include the following: intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disability. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, drug addiction, and alcoholism.

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

3 *Individuals with Disabilities Education Act (IDEA)*; *Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools*, *IDEA*; *Section 504* of the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act (ADA) of 1990*.

4 For additional information on a reimbursable meal or snack, see *Administrator's Reference Manual (ARM), Section 8, Breakfast; Section 9, Lunch;* and *Section 10, Afterschool Meal Programs*. For additional information on counting and claiming reimbursable meals, see *Administrator's Reference Manual (ARM), Section 7, Counting and Claiming*.

5 This regulation also applies to the Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP).

  - Seamless Summer Operation (SSO)
  - Fresh Fruit and Vegetable Program (FFVP)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)

The guidance in this section is intended to be used with the meal pattern guidance provided in the *Administrator's Reference Manual (ARM), Section 7, Breakfast Meals; Section 8, Lunch Meals; Section 10, Afterschool Snacks & Meals; Section 9, Pre-Kindergarten Meals*; and *Section 11, Summer Meals*.

Process for Implementing Accommodations

The CE must develop procedures that establish a process for implementing accommodations that includes the following elements:

1. Procedures for how CE staff will handle accommodation requests.
2. Notification to households about each of the following elements of the accommodation procedure:
   - Method to request an accommodation.
   - Decisions that have been made by the CE about accommodation requests.
   - Right of the household to examine all relevant records and to appeal the decision.[6]
3. Training for staff on the procedures and legal requirements for accommodations.
4. Assigned coordinator who is designated to ensure that procedures are developed and followed, training is provided, and accommodations are monitored. This can be a SNP staff member or another CE staff member, including, but not limited to, a registered dietician, school nurse, or Section 504 coordinator)

USDA recommends that CEs use a team to implement the accommodation process. It can be the same type of team or the same team that is used for special education or Section 504 Individualized Education Plans. If the existing special education or Section 504 team is used, the CE should ensure that the SNP is represented on the team.

Texas Education Code 25.022 describes the requirement for public and charter schools to collect student food allergy information on enrollment. These requirements are complementary to federal regulations. Therefore, CEs are required to meet both federal and state requirements.

Accommodations for a Medical Disability

In most cases, students with medical disabilities can be accommodated with little extra expense or effort. Medical accommodations may require, but are not limited to, a modification to the meal pattern, food texture, or method of meal service.

There is a possibility that a medical modification can be made by offering students a choice of food items within an existing cycle menu, i.e., no change to the meal pattern.

[6] The right to examine records and appeal the decision may be conducted in the same manner as an appeal for a Section 504 decision. A parent or guardian may have legal representation for this process.

For Example: A student is allergic to strawberries. The CE always offers two types of fruit at every meal service. So, if strawberries are on the menu, there is always another fruit for the student to choose.

If the CE has a method to accommodate a medical disability without making a change to the meal pattern, the CE is not required to have a medical statement on file. However, the CE may require that parents or guardians provide a medical statement when a student has a medical condition that requires a meal accommodation.

In all cases, a request to make an accommodation for a medical disability must be in writing—i.e., a medical statement from a medical authority with a request from parent or guardian for the CE to ensure that there is a medical accommodation made available within an existing cycle menu, or requirement described in an IEP.

[NOTE: When an accommodation is made for a student without a medical statement, the same accommodation must be available to all students. See the *Accommodations for Special Dietary Needs, Not Medical Disability Related* subsection in this section for additional information on this topic.]

In situations that require a meal accommodation that does not meet the meal pattern, or additional equipment, specific technical training, or expertise is required, it is important that food service staff and parent(s) or guardian(s) be involved at the outset in preparations for the student's entrance into the school.

Medical Statement

For a medical statement to be valid, it must be written by a medical authority —that is, a state licensed healthcare professional or registered dietician— or it must be recorded in student's IEP. A medical statement must include the following information in order for the CE to make a meal accommodation:

1. Explanation of the student's disability which includes a description that is sufficient to allow the CE to understand how this condition restricts the student's diet and what major life activity is affected by the disability.

   [NOTE: A medical statement does not have to include the word disability or name the student's disability. Instead, it must provide sufficient information for the CE to determine that there is medical condition that is a disability and how that medical condition affects the student's participation in the meal program.]

2. Description of the accommodation to be made: food items or ingredients to be omitted, special dietary supplements, food items or ingredients to be substituted and other accommodation information as appropriate.

   [NOTE: A CE is not required to provide name brand products as a substitute for a food item if another product with the same specifications is available. If the medical statement requires a name brand product, the CE should contact the household, and the medical authority, as appropriate, in order to identify the ingredients that must be included or excluded from the student's meal to ensure that an alternate substitution will meet the same need.]

When a meal meets the specifications described in the medical statement, even if the meal does not meet the meal pattern, the meal is reimbursable.

Additional Meals

If a medical statement includes a specification that the student must have breakfast each morning and the site does not operate the SBP, the CE is not required to provide breakfast unless the specification is also included in a student's individualized education program (IEP).

It is not the CE's responsibility to verify that a disability exists or establish standards for what is a disability. A CE cannot request medical records or medical charts related to the disability as part of the medical statement. That is the responsibility of medical authority or IEP Team. If a medical authority provides adequate information in the medical statement or the IEP provides adequate information for an accommodation to be made, the CE must accept the medical statement or IEP record as describing a valid medical disability.

The CE also has a duty to engage the parents or guardians in the implementation of the accommodation. There are situations in which the parents or guardians will have information that may assist the CE in implementing the accommodation. When there is a difference in how the parent or guardian interprets the medical statement or what the CE is required to do, engaging the parents or guardians in the process will help to build shared understanding about how the CE will accommodate the student's needs.

For Example: A CE is provided a medical statement that says that foods high in vitamin K counteract a medication a student takes for a circulatory disorder and says that the student must not be served foods high in vitamin K. A discussion with the parent about what types of other vegetables have proven to work well with the medication will help identify a range or type of food that can be served to the student.

Duration of Medical Statement

When a state licensed healthcare professional or registered dietician provides a written medical statement, the household is not required to provide an annual updated statement from the medical authority. The CE, therefore, cannot require the household to provide a new medical statement each year.

However, CEs may contact the household to ask if the student's medical condition has changed. If the medical condition no longer requires a meal accommodation, the CE may ask the parent or guardian to sign a statement indicating that the student no longer needs a meal accommodation before ending the accommodation.

Incomplete or Unclear Medical Statement

The medical statement must include all required information in order for the CE to make a meal accommodation. The CE cannot implement the accommodation affectively if the CE is not given sufficient information to make an appropriate accommodation.

For Example: If the medical statement says do not serve the student green vegetables, but does not say that vitamin K is to be removed from the students diet, the CE may make an accommodation that does not sufficiently address the medical issue. Potatoes, and tomatoes, and some dairy products are also high in vitamin K. The CE would not know that these foods are also problematic.

Therefore, if the medical statement does not clearly describe what the student needs to avoid or be eliminated from the student's diet, the CE may not make an affective accommodation.

When a CE believes the medical statement is unclear or lacks sufficient detail, the CE must request appropriate clarification so that a proper and safe meal can be provided.

However, CEs may begin implementation of the accommodation if there is adequate information to make an accommodation.

For Example: If the accommodation states that the student must not be served eggs because of an allergy but does not provide a suggested

substitution, the CE may begin serving the student a meal that does not include eggs and, at the same time, ask for additional information on what food items the student can be served in place of eggs that will have the same nutritional value.

In this situation, the CE would naturally assume this is a food allergy to eggs; however, that may not be the case. The CE will not know unless the medical authority provides additional information.

Modification or Revision of Medical Statement

The CE must not modify, revise, or make changes to a medical statement provided by a medical practitioner.

Fluid Milk Exception (for NSLP Lunch Only)

For students requesting a nondairy fluid milk substitution at lunch due to a disability, CEs may accept a written justification from a parent or legal guardian in lieu of a statement from a state-licensed healthcare professional or registered dietician.

Reasonable Accommodation

In all cases, the CE is expected to provide reasonable meal accommodations in response to a medical statement. The question of whether an accommodation for a medical disability is reasonable or not reasonable must be made on a case-by-case basis. The CE may consider expense and efficiency in choosing an appropriate approach to accommodate the student's disability. However, the CE must keep in mind that when an accommodation is made, the objective is for the student to have access to the same benefits as all other students.
In determining how to address an accommodation, the CE needs to keep the following in mind:

Age of Student

Younger students may need more assistance in making sure the accommodation is made than older students.

Allergen Free Site

When the CE has banned a specified food item or food group to create an allergen free site, student(s) and parent(s) or guardian(s) will assume the site is a safe place. This may cause student(s), parent(s), or guardian(s) to assume normal precautionary safety measures are not needed to avoid a specific food or food group. Therefore, when a CE chooses to universally exclude specific foods or food groups from sites, the specific food or food group must never be present in the site.

Intent of the Program

The accommodation cannot fundamentally alter the intent of the program.

Offsite Meal Accommodation

The CE cannot claim a meal that is served to a student at home. NSLP and SBP meals are intended to be served and consumed on the school premises, with the exception of occasional school-sponsored field trips or special events.

Specific Brand Names

Unless there is only one product that meets the requirements of the accommodation described by the medical authority or IEP, the CE is not required to provide brand name products or to provide a product

that is a one-for-one match (such as pizza for pizza) for the replaced item.

When the cost of an accommodation is significant, the CE has a duty to work with the household and the authorized medical authority, if appropriate, to identify a suitable accommodation that addresses the medical issue.

Separation of Students with Disabilities

Federal civil rights legislation, including Section 504 of the *Rehabilitation Act of 1973,* IDEA and Title II of the ADA, requires that in providing for or arranging for the provision of nonacademic services and extracurricular activities, including meals, CEs must ensure that students with medical disabilities participate along with students without medical disabilities to the maximum extent appropriate to the needs of students with medical disabilities. The CE must keep in mind that when an accommodation is made, the objective is for the student to have access to the same benefits as all other students.

Students with medical disabilities must be allowed to participate with other students to the maximum extent appropriate. When an accommodation is made, students cannot be separated from other students because of a disability. Just as the least restrictive environment applies to classroom instruction, it also applies to meal accommodations.

However, under limited circumstances, it may be appropriate for children to sit at a separate table. For example, if a child requires a large degree of assistance from an aide to consume their meals, it may be necessary for the child and the aide to have more space during the meal service.

Additionally, a school may determine a more isolated eating area is necessary for children with severe food allergies. The separate eating area may be a designated table in the cafeteria cleaned according to food safety guidelines (to eliminate possible cross contamination of allergens on tables and seating) or an area away from the cafeteria where children can safely consume their meals.

Prior to developing a special seating arrangement, the school should determine, with input from the child's parent or guardian and, if reasonable, the licensed professional who signed the medical statement, if this type of seating arrangement is truly necessary. If the school develops a special seating arrangement, other children should be permitted to join children with food allergies, provided they do not bring any foods potentially dangerous to those children.

Determination That an Accommodation Is Unreasonable

When the CE determines that the accommodation described in the medical statement is not reasonable, the CE should work with the household and the medical authority, as appropriate, to identify a reasonable solution. In these cases, the CE cannot simply deny the accommodation request; the CE has a duty

to work with the household and the medical authority, as appropriate, to find a solution.

When notifying the household that an accommodation is not reasonable, the CE must ensure that the student's parent or guardian understands that he or she has the right and understands the process to take any of the following actions:

- File a grievance if the parent or guardian believes 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 legal counsel at the hearing
- Examine the record
- Receive notice of the final decision and a procedure for review, i.e., right to appeal the hearing's decision

A La Carte Sales

Section 504 applies to every program, activity, and service provided by the school or associated with school activities in which the student participates. Therefore, meal accommodations for students with medical disabilities apply to all SNP food services, including a la carte sales.

When the CE develops an a la carte menu, the CE needs to include items which accommodate medical disabilities for each type (i.e., entrees, sides, and beverages) of item sold. The most effective strategy for this process will be for the CE to offer more than one entrée item, side item, and beverage.

For Example: After reviewing the types of meal accommodations the CE must provide, the CE determines that it will serve the following entrées: regular hamburger, bean and cheese burrito, and chef salad; the following sides: French fries, rice, and small salad; and the following beverages: one percent milk, fat free chocolate milk, lactose free milk, juice, and water. By offering different items under each type, there is range of choices to address the accommodations the CE is making. The CE may offer the same a la carte items every day or may have a rotating menu.

Information Box 1

Strategies to Prevent Allergic Reactions

- Include the method staff will use in response to life-threatening food allergy reactions in the school's emergency plan, including quick access to epinephrine auto-injectors.
- Establish a communication system to be used when responding to food allergy reactions and emergencies.
- Communicate the school's responsibilities, expectations, and practices for managing food allergies to all parents or guardians through newsletters, student handbook, announcements, and other methods.
- Establish food allergy policies and practices that apply to field trips, extracurricular activities, sale of competitive foods, fundraiser events, athletic events, class parties, or after-school programs.
- Develop staff training specific to how to respond to severe allergic reactions.

Offer Versus Serve (OVS)

Sites operating OVS must ensure students with medical disabilities have the same opportunity to select items from all required food components. The CE cannot eliminate a specific food component for a meal served under OVS as an accommodation for student with a medical disability.

For Example: A student with a gluten intolerance must have a choice of a bread/grain item that is gluten-free.

Accommodations Specific to Severe Allergies Classified as a Medical Disability

When a student has a severe allergy that is classified as a medical disability, the CE has the responsibility to provide a safe, non-allergic meal to the student.[7] To do so, CE must make sure that all food items offered to the student meet prescribed guidelines included in the medical statement and are free of foods or ingredients associated with the allergic reaction. While there is no best method for doing this, the resources described in *Information Box 1, Strategies to Prevent Allergic Reactions* will assist the CE is this process.

Additional Meals

The CE must provide special meals even when the CE normally does not provide meal service if the student's individualized education program (IEP) includes a nutrition component that states that additional meal service is required. The additional meal service must be provided at no additional cost to the student. In these cases, the CE must ensure that the SNP is involved early in decisions regarding special meals and modifications.

All meal service recommendations and meal accommodations included in the IEP must be provided to the SNP in writing to minimize misunderstandings. This documentation must be retained by the CE.

[7] There are food allergies that do not affect a major life activity. If this is the case, the allergy is not a medical disability. For an allergic reaction to be a medical disability, a medical statement describing the medical disability must be provided by the parent or guardian.

These accommodations are provided to the student at no cost and are allowable costs to the program.

For Example: As part of the therapy for a student with a disability, the medical practitioner has provided a medical statement that the student must *consume six cans of* cranberry juice a day. The juice is to be served at regular intervals and some of these servings would occur outside of the normal school meal periods. If this requirement is not written in the IEP, the SNP would only be required to pay for the servings that are provided during meal service. The SNP may cover the cost of the additional servings but is not required to do so. However, if the requirement is written into the student's IEP, the SNP must cover the cost of all 6 servings.

or

A Residential Child Care Institution (RCCI) may be required to provide additional foods or servings since the student does not have a means of obtaining meal service except through the RCCI.

Special Guidance, Accommodations for Students with Medical Disabilities

CEs must use the following guidance when implementing accommodations for a student with a medical disability.

Cost of the Meal

When a CE makes a dietary accommodation for a medical disability for a reimbursable meal, the meal must be offered at no additional cost to the student. The cost of the meal is an allowable cost to the program.

Reimbursable Meal

An accommodation may include substituting a different food, beverage item, or ingredient; modifying the texture of a food item; serving a specified portion size; or other appropriate accommodation. A modified meal that meets the specifications as prescribed in a medical statement is not required to meet the meal pattern—the meal is reimbursable. The cost of the meal is an allowable cost.

Students Who Need to Track Dietary Intake

When a medical statement describes the need for a student to track dietary intake, a CE is not required to provide nutrition information for all food items and all program meals as it would be very burdensome to provide this information. Instead, the CE may develop a cycle menu with input from the student's parent or guardian, medical professionals, school nutritionist and/or nurse, and staff who work with students with disabilities as appropriate. The CE would only have to provide nutrition information for the foods on the planned cycle menu for the student with a disability, as opposed to all foods offered through all meal programs.

Staff Issues

In some cases, it may be advisable for specially trained personnel, such as a registered dietitian nutritionist (also called registered dietitian), to provide guidance to the CE on how to modify a student's meals to comply with requirements as provided in the medical statement.

Moreover, for certain students with medical disabilities, it may be necessary to have a nurse or trained health aide feed the student or have a specially trained professional, such as a special education teacher, occupational therapist, or speech therapist, assist the student to develop and improve his or her eating skills.

Texture Modifications for Students with Disabilities

For students with medical disabilities who require modifications in the texture of food items served[8] (such as chopped, ground, or pureed foods), instructions in the form of a medical statement indicating the appropriate food texture is recommended but not required. For students receiving special education, the texture modification should be included in the student's individualized education program (IEP) and/or in the student's file.

The CE may apply stricter guidelines and require that a written medical statement for texture modifications be provided and kept on file or may require written instructions from the household if the meal accommodation is described in an IEP.

Administering Assisted Feedings

For students requiring assistance in eating, the determination of who will feed the student is a local school decision. While the SNP is specifically responsible for providing the necessary foods needed by a student with a disability, it is not the responsibility of the SNP staff to physically feed the student. Moreover, in the case of more delicate operations, such as tube feeding, it is advisable that commercial nutritive formulas, prescribed by a licensed physician and specially designed for tube feedings, be used rather than a school blenderized formula, which may be subject to spoilage and may not always have the correct consistency or nutritive content. Proper administration of this type of feeding generally requires the skills of specially trained personnel, such as nurses or the special trained aides who regularly work with the students.

Furthermore, CEs should be aware that they could be held liable if persons without sufficient training are performing tasks or activities, such as developing or modifying a diet order prescribed by a licensed physician or administering tube feedings. For specific guidance concerning personal liability, school officials should contact their own legal counsel.

Special labor costs may be covered through special education funds if the student has an IEP. If the student does not have an IEP, these costs may be charged, as appropriate, to the SNP nonprofit food service account, may be assigned to the CE's general fund, or may be assigned to other funding sources. When the SNP funds the cost of staff to provide assisted feedings, the cost must only include the actual time for the feeding.

Accommodations for Special Dietary Needs, Not Medical Disability Related

CEs may make meal accommodations or substitutions for individual students who do not have a medical disability but who have a special dietary need as long as the meal served meets the meal pattern. Such determinations are made only on a case-by-case basis. This provision covers those students who have food intolerances or allergies that do not affect a major life activity.

If CEs provide these types of non-disability accommodations, they must establish local policy which describes the types of accommodations the CE will make, establish a method for parents

[8] If the texture modification also includes nutrient supplements, a medical statement is needed.

or guardians to request these accommodations, and provide notification about the accommodations the CE will provide to students and households.

CE Policy on Non-Disability Meal Accommodations

A non-disability meal accommodation policy must adhere to the following guidance:

- The policy must be applied equitably to all students.
- The CE must require a written request from a parent or guardian or an authorized medical authority that describes the student's special dietary need.
- The CE must retain documentation for all requests.
- They CE may only submit claims for meals if the meal served meets the meal pattern.

Religious or Cultural Practices

CEs may also provide reimbursable meals that conform to the practices of religious or cultural groups as long as the meal served meets the meal pattern. As a general practice, the offer versus serve (OVS) strategy allows students to select among food items and select a meal that meets their religions or cultural practices.

In cases where the OVS strategy is not available, the CE may prepare different plated reimbursable meals from which students may choose. CEs are encouraged to reach out to community religious or cultural groups to identify appropriate meal options.

Fluid Milk Substitutes as Part of a Reimbursable Meal

A CE has the option to preemptively offer a fluid milk substitute to **all** students as part of a reimbursable lunch or breakfast. If a CE chooses to offer milk substitutes to all students, the CE is not required to notify TDA. Additionally, students are not required to submit a written statement to request a milk substitute for a non-disability reason.

Fluid Milk Substitutes Offered by Request

Offering nondairy beverages to all students to meet the fluid milk requirement at lunch is an **option**, not a requirement. If a CE declines to offer nondairy options, non-disabled students have the option to submit a request for a substitution based on a special dietary need. This includes, but is not limited to, dairy allergies, and/or cultural dietary restrictions.

The fluid milk substitution may be offered to students as a milk choice for milk component for a reimbursable meal as long as the following requirements are met:

Specifications

The fluid milk substitute meets the specifications for an acceptable milk substitute. The *Fluid Milk Substitution Specifications Chart* provides detailed information on the required specifications for these products.

[NOTE: The measurements for milk substitute specifications have changed as reflected in the right column in the Fluid Milk Substitution Specification Chart. The amounts are the same; only the measurement method has changed.]

Milk Component

The fluid milk substitute is served as a component for a reimbursable meal.

Lactose Free Milk

The CE may provide lactose-reduced/lactose-free milk as a creditable serving for the milk component for a reimbursable meal without additional documentation.

Cost for Student

Students cannot be required to pay extra for the fluid milk substitute.[10]

TDA Notification

With the exception of fluid milk substitutes offered to ALL students as described in *Fluid Milk Substitutes as Part of a Reimbursable Meal*, CEs are required to inform TDA of fluid milk substitutes **if they are made available in response to a non-disabled student request.**

Fluid Milk Substitution Specifications Chart

Minimum Amount Per 8 Fluid Ounces

g = grams; mg =milligrams; mcg = micrograms; U = international Units

	Previous FDA Measurement Specifications Amounts		Current FDA Measurement Specifications
Nutrient	**Weight**	**Percentage[9]**	**Weight**
Calcium	276 mg	30%	276 mg
Protein	8 g	—	8 g
Vitamin A	500 IU	10%	150 mcg
Vitamin D	100 IU	25%	2.5 mcg
Magnesium	24 mg	6%	24 mg
Phosphorus	222 mg	20%	222 mg
Potassium	349 mg	10%	349 mg
Riboflavin	0.44 mg	25%	0.44 mg
Vitamin B-12	1.1 mcg	20%	1.1 mcg

Fat content of fluid milk substitutions, such as soy milk are not subject to the regulations regarding fat content that apply to regular fluid milk. Therefore, there are no restrictions on the fat content of fluid milk substitutions. However, fluid milk substitutes must still count towards all weekly average dietary specifications, including saturated fat.

In this situation, TDA must receive notification before CEs offer the fluid milk substitute as the milk component for a reimbursable meal.

TDA has developed a worksheet to assist CEs in ensuring that the chosen fluid milk substitute meets required specifications. CEs notifying the Texas Department of Agriculture (TDA) of their intention to serve a milk substitute must complete this worksheet and email it as an attachment to *nutrition@TexasAgriculture.gov*. This worksheet is available on the *Publications* page on *www.squaremeals.org*.

Medical Accommodation or Special Dietary Request?

The *Medical Accommodation Requirement Chart* provides examples of whether the requested accommodation must be made or may be made by the SNP.

[9] Labeling regulations require that amounts be reported to the nearest 5%, i.e., the actual percentage of calcium is 27.6%, but regulations require that this amount be reported as 30%.

[10] Additional costs for milk substitutes are an allowable cost to the SNP.

Medical Accommodation Requirement Chart		
Description/Request	**Documentation Supporting Request**	**Medical Accommodation?**
Vegetarian household: No meat items, instead meat alternates	Written request from household	No, this is a special dietary request. CE may make this accommodation if the CE makes the same accommodation for all students with the same request.
Weight disorder: Restriction on number of meals/servings	Requirement written in IEP under IDEA	Yes, this is a medical accommodation. CE must make accommodation for this student.
Lactose intolerant: no lactose-based milks	Written medical statement from physician	Yes, this is a medical accommodation. CE must make accommodation for this student.
Physical disability: unable to chew	Requirement written in IEP under Section 504	Yes, this is a medical accommodation. CE must make accommodation for this student.
Allergic reaction: Hives specific food items	Written medical statement from physician	Yes, this is a medical accommodation. CE must make accommodation for this student.
Religious diet: Limitation on certain types of food	Written request from household	No, this is a special dietary request. CE may make this accommodation if it makes the same accommodation for all students with the same request.

Resources

The following resources may be helpful to CEs as they implement meal accommodations:

TDA

Resources available at *www.SquareMeals.org*

- *Meal Accommodation Tracking Form*, sample form for tracking student meal accommodations

  [NOTE: Some POS systems have an electronic method to maintain this information, so that the cashier can ensure that a student does not take a food item where an accommodation has been made.]

- *Medical Statement Form*, sample form for CEs to provide to parents or guardians requesting a medical statement from a licensed medical authority
- *Milk Substitute Worksheet*, worksheet used to submit notification to TDA about the use of a milk substitute

Texas Department of State Health Services

Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis at *https://www.dshs.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589969921*

Centers for Disease Control and Prevention (CDC)

Food Allergies in Schools at *www.cdc.gov/healthyschools/foodallergies/index.htm*

United States Department of Agriculture (USDA)

Accommodating Children with Disabilities in the School Meal Programs, Guidance for School Food Service Professionals at *http://www.fns.usda.gov/school-meals/guidance-and-resources*

Resource List on Food Allergies and Intolerance for Consumers 2010 at *www.nal.usda.gov/sites/default/files/fnic_uploads/allergy.pdf*

Legal Concerns and Liability in Working with Students with Disabilities

A growing body of federal law clearly intends that students with medical disabilities have the same rights and privileges and the same access to benefits, such as school meals, as students without medical disabilities. Consequently, schools that do not make appropriate program accommodations for students with medical disabilities may be found in violation of federal civil rights laws.

School administrators and SNP staff should be aware of two issues involving liability: (1) the school's responsibility for providing program accommodations for students with disabilities and (2) the question of personal responsibility in cases of negligence. In order to accommodate a student with a disability, the school must ensure that both facilities and personnel are adequate to provide necessary services.

Privacy Regulations That Apply to Accommodations for Medical Disabilities

In addition to the USDA regulations that limit the disclosure of confidential information related to eligibility status, information on a student's disability is also subject to privacy laws. SNP staff cannot share information about a student's disability with any staff member who does not have a need to know and cannot release medical information to anyone outside of the site[11] without written permission of the parent or guardian.

[NOTE: In most cases, sharing private information of any type with anyone outside of the SNP staff is inappropriate. However, because there is often a coordination of services for special needs students, SNP staff may legitimately share and receive information from non-SNP school staff. Need to know is the primary consideration in sharing private information for the coordination of services.]

The applicable privacy laws include the following:

- Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule
- Family Education Rights and Privacy Act (FERPA)
- Individuals with Disabilities Education Act (IDEA)
- Americans with Disabilities Act (ADA), Section 504

TDA recommends that CEs establish policy and/or procedures for handling, sharing, and storing private information.

Records Retention

When a CE makes a menu accommodation, the CE must retain appropriate documentation, including, but not limited to, the following types of documentation:

- CE policy and procedure related to accommodations, including any policy related to non-disability accommodations and how that policy is shared with households
- Medical statements, records of contact with households about medical statements, and records of contact with the medical authority, if appropriate
- Written requests from parents or guardians for non-disability accommodations, if applicable

[11] Exceptions: Court ordered or law enforcement request

- Notes about communications and/or interactions with the household concerning the student's accommodation.
- Food production records or meal preparation records that demonstrate modifications that were made
- Product labels and other ingredient statements

Information Box 2

Records Retention

State Board of Education policies require public and charter schools to maintain records for a period of five years after the SNP has ceased to provide the meal accommodation.

Private schools, other nonprofit organizations, and RCCIs maintain records for three years after the SNP has ceased to provide the meal accommodation.

Compliance

TDA will assess compliance with the CE's practices to provide accommodations for students with disabilities and other types of accommodations, if applicable.

TDA will take fiscal action, as appropriate, for the following violations:

- Not meeting the meal pattern requirements when making accommodations for a student with special dietary needs that are not a disability unless the student's IEP requires an accommodation that results in a non-reimbursable meal being served.
- Inadequate or incorrect response to accommodations as described on a medical statement.
- Inadequate or unavailable documentation related to accommodations.

CEs with findings will be required to submit an approvable Corrective Action Document (CAD). TDA may also terminate the Food and Nutrition (FND) Agreement for any CE that is not in compliance with accounting and financial requirements, including corrective action related to audits.