



U.S. DEPARTMENT OF AGRICULTURE

# Accommodating Individuals with Disabilities in Community Meals

Food and Nutrition Service  
Civil Rights Division

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**This training is not Diversity, Equity, Inclusion and Accessibility (DEIA) training. This training explains the current state of federal civil rights laws and regulations.**

# Legal Authorities

## Statutes

Section 504 of the Rehabilitation Act of 1973

Americans with Disabilities Act of 1990 (ADA)

ADA Amendments Act of 2008

Civil Rights Restoration Act of 1987

## Regulations

7 CFR 15(b)

28 CFR 41

# Disability Statutes - Defined

Section 504 of the Rehabilitation Act of 1973

Civil Rights Restoration Act of 1987

Americans with Disabilities Act of 1990 (ADA)

Americans with Disabilities Act Amendments  
Act of 2008 (ADAAA)

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# Disability Law

- Legal Framework: Section 504, ADA, implementing regulations and policy guidance
- Duty to Provide Reasonable Modifications: understand & accept that (sometimes) providing modifications is unclear
- Relationship between Section 504 and the ADA (Titles II & III) in light of the Americans with Disabilities Act Amendments Act

## Coverage of All Operations

Even one dollar of Federal money brings the entire scope of the operations within the jurisdiction of Section 504

Even where the requested modification is not related to the part of the operations that receives Federal money.

# ADA Amendments Act of 2008

- Clarified the definition of Disability.
- DID NOT change the expectation to provide a reasonable modification
- DID make very clear that the emphasis must be on providing the reasonable modification, and the person with a disability does not carry a high burden of proving he or she has a disability

# Disability Definition

- A person with a physical or mental impairment that substantially limits one or more major life activities
- A person who has a record of such an impairment
- A person who is regarded as having such an impairment

# Clarified Definition of Disability

- Revised “Substantially Limits”
  - Need not prevent, or severely/significantly restrict a major life activity
  - Individualized assessment
  - Without regard to ameliorative effects of mitigating measures
- May include an impairment that is episodic or in remission if it would substantially limit a major life activity when active

# Clarified Disability Definition

## Major Life Activities

- Seeing
- Hearing
- Walking
- Speaking
- Learning
- Reading
- Eating
- Breathing



ADAAA now includes major bodily functions:

- Digestive
- Immune system
- Respiratory
- Circulatory
- Neurological/Brain

# Examples of Disability Discrimination

- Denying benefits or opportunity to participate
- Segregating individuals with disabilities
- Failing to provide a reasonable modification
- Denying equally effective communication
- Maintaining inaccessible facilities

# Reasonable Modifications

- FNS Memo CACFP14-2017, SFSP10-2017
  - “Modifications to Accommodate Disabilities in the Child and Adult Care Food Program and Summer Food Service Program”
- Date Issued: June 22, 2017
- Covers CACFP and SFSP
- Copy available on FNS website at:
  - <https://www.fns.usda.gov/modifications-accommodate-disabilities-cacfp-and-sfsp>

# Reasonable Modification Procedures

- A change or alteration in policies, practices, and procedures to accommodate a disability
- Duty to negotiate over modification
  - This means simply saying “no” is almost never appropriate
- Primary objective - providing appropriate modifications and not ferreting out whether the child has a disability or any possible abuse of the process
- On a case-by-case basis

# Reasonable Modifications Conditions

- The modification requested should be related to the disability or limitations caused by the disability
- Modification requested does not have to be the modification provided
- Providers must still accommodate even where the person requesting modification believes more should be done
- Must (generally) be free of charge (CACFP/SFSP)

# Reasonable Modifications: Key Considerations

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Consider costs/resources and ability of the sponsor or program operator

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Stereotypes regarding certain conditions or individuals can never drive decisions. Decisions must be based on facts

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Meal accommodations do not need to mirror the meal or meal item substituted

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Lifestyle choices (e.g., vegetarian) are not considered disabilities and need not be accommodated unless related to an underlying disability

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# Fundamental Alteration

Modifications are not required that would fundamentally alter the nature of the program.

If a modification requested would cause undue financial burden on the program or activity that would make continued operation of the program unfeasible, the request may be denied.



Denying a modification(s) under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services. State agencies are advised to consult with FNS before relying on this exception.

# Food Allergies

- Many food allergies fall under the definition of disability clarified by the ADA Amendments Act (ADAAA).
- Applies to much more than just life-threatening allergic reactions
- Digestive and respiratory functions are specifically listed in the ADAAA.
- According to the CDC and the FASTER Act of 2021 in the United States, nine (9) foods or food groups account for 90% of serious allergic reactions: **milk, eggs, fish, crustacean shellfish, wheat, soy, peanuts, tree nuts, and sesame.**

# Food Allergies: Key Considerations

- Universal exclusions of specific foods or food groups is not an FNS policy, but could be appropriate depending on the circumstances, and is within the discretion of recipients.
- Program operators should consider their ability to consistently maintain an allergen-free facility.




# Program Accessibility

- Ensure food service areas are accessible
- Provide auxiliary aids and services, if needed. Examples include:
  - Food service aides
  - Adaptive feeding equipment
  - Meal tracking assistance
  - Other effective methods


## Most Integrated Setting

- Integration clause in Section 504 means that individuals with disabilities should be accommodated in the least restrictive and most integrated setting possible.
- In the food allergy context, this most often comes into play where children with food allergies are ostracized in some way during mealtime.
- Providers must always balance safety vs. stigma.
- Age and severity of allergy are the primary considerations.


# Medical Statement Requirements


 Statement provides sufficient information about impairment (diagnosis not required and should not be requested), how it restricts diet, and how to accommodate condition.

 Seek clarification if inadequate or unclear.

 Clarification should not unnecessarily delay modification – it could be characterized as harassment/denial.

 Statement need not be from a physician if State law authorizes others to write prescriptions.

 Cannot request medical records/charts.

 Statement may be requested but is not required for substitutions within meal pattern requirements.

# Medical Statement Example



Three essential components:

- The food to be avoided (allergen)
- Brief explanation of how exposure to the food affects the participant
- Recommended substitute(s)\*

# Implementation & Compliance

- Develop procedures for parents/guardians to request reasonable modifications.
- Train school and food service staff and volunteers on reasonable modification procedures and legal requirements.
- Appoint a “504 Coordinator” (in school meals) or other person to provide technical assistance on reasonable modification matters (in CACFP or SFSP) to ensure compliance.
- Assemble a team to implement guidelines and render decisions on modification requests.\*

\*Recommended

## Procedural Safeguards

### ■ Provide Notice (in appropriate languages and formats) of:

- Process for requesting modification
- Decision in writing
- Nondiscrimination and accessible services
- Location of accessible facilities

### ■ In addition, program operators with 15 or more employees must:

- Designate a Section 504 Coordinator
- Establish a grievance procedure to promptly and fairly resolve complaints