



800 Governors Drive
Pierre, SD 57501-2235
T 605.773.3413
F 605.773.6846
www.doe.sd.gov
Email:
DOE.SchoolLunch@state.sd.us

To: Authorized Representatives of School Nutrition Programs
From: Child and Adult Nutrition Services
Date: April 10, 2018
Subject: Meal Change Request in Child Nutrition Programs
Memo Number: SNP 232-1

This memo replaces the previous memo on this topic dated August 1, 2014 memo number: NSLP-47.2. The purpose of this memo is to provide guidance to program operators regarding meal change requests. Operators of Child & Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP) are to reference the memo specific to their program.

This information should be shared with program operators, menu planners, and others involved with meal change requests for students. Questions about this memo can be referred to a SD Dept. of Education Child and Adult Nutrition Services staff member.

The information in this memo comes from federal regulations and state law. Local agency means a school, child care center, or any other agency that enters into agreement with Child and Adult Nutrition Services to provide meals to children through one or more of the USDA nutrition programs such as the CACFP, NSLP, SBP, and SFSP.

According to the Americans with Disabilities Act (ADA) of 2008, a condition which limits a major life activity constitutes a disability. School food authorities (SFAs) and local educational agencies (LEAs) should not be engaged in weighing medical evidence against legal requirements in order to determine if a medical or physical condition is severe enough to meet the definition of a disability. Rather, the focus should be on what can be done to ensure equal opportunity to participate in or benefit from the Programs. A program participant does not need to be identified or classified as having a 'disability' in order to have a meal change.

The process of providing modified meals for children should be as inclusive as possible. It is essential that SFAs work collaboratively with parents and guardians to ensure children receive a safe meal and have an equal opportunity to participate in the School Meal Programs.

SFAs must require a written medical statement in order to claim reimbursement for modified meals that do not meet program meal pattern requirements. SFAs will be reimbursed for a modified meal that is within the meal pattern, regardless of whether they have obtained a written medical statement. SFAs may, however, choose to request a written medical statement from a State licensed healthcare professional in support of a request for a change in all cases.

SFAs are not required to accommodate a meal change request for a child who does not have a condition which limits a major life activity, but rather has a food preference.

Required Meal Change Requests

If a program participant has a condition which threatens a major life activity, the local agency is **required** to make a meal change (7 CFR §210.10(m)).

- If the requested meal change requires the menu planner to provide a meal which does not meet program meal pattern requirements, a written medical statement from a medical official authorized to write prescriptions must be obtained to make the meal change.
- If the requested meal change meets compliance with the program meal pattern requirements, a medical official authorized to write prescriptions is not required provide a statement and signature to make the change.

A program participant does not need to be identified or classified as having a 'disability' in order to receive a meal change.

When a medical statement is necessary, the statement must include:

- Information about the child's physical or mental impairment that is sufficient enough to allow the SFA to understand how it restricts the child's diet;
- An explanation of what must be done to accommodate the child; and
- The food or foods to be omitted and recommended alternatives, if appropriate.
 - In some cases, more information may be required.
 - 'Clinical diagnosis' does not need to be provided.

Agencies are not required to obtain written documentation from a State licensed healthcare professional rescinding the original medical order; however, it is recommended to maintain documentation when ending a meal change request.

Per USDA Memo SP 26-2017, a State licensed healthcare professional authorized to write medical prescriptions can sign the medical statement. This may include a Doctor (MD/DO), a Nurse Practitioner, or a Physician Assistant.

In addition to Medical Doctors (MD), Doctors of Osteopathy (DO), Nurse Practitioner, and Physician Assistant (PA), South Dakota Board of Osteopathic Medical Examiners identify Certified Nurse Practitioners (CNP) and Certified Nurse Midwives (CNM) as capable of writing prescriptions, thus identified as recognized medical authorities in relation to meal change requests.

The licensing of physicians pursuant to SDCL 36-4-9 does not include chiropractors, opticians, dentists, orthodontists, or physical therapists. Although some of the above-named healthcare providers use the title "Dr." in front of their name, only physicians licensed pursuant to SDCL 36-4-9 may append the letters M.D. or D.O. to their name (SDCL 36-4-9). Therefore, signatures on Meal Change Request Forms will be considered valid only if the physician uses, or is licensed to use, M.D. or D.O. after his/her name. A parent who is an M.D. or D.O. may sign his or her own child's statement of need.

Optional Meal Change Requests

Local agencies may choose whether or not to accommodate a meal change request that is not related to a condition which impacts a major life activity, such as a lifestyle choice or general health concern from a parent or guardian.

Both federal law and the South Dakota Child & Adult Nutrition Services encourage local agencies to work with the child's parent or guardian to ensure their child receives a safe meal and has an equal opportunity to participate in meal programs.

Differences between Meal Change Orders and Meal Change Requests

	Required Meal Change Request (Change outside meal pattern)	Required Meal Change Request (Change within meal pattern)	Optional Meal Change Request (Change within meal pattern)
Does the student have a condition which limits a major life activity?	Yes; meal change is required	Yes; meal change is required	No; meal change is optional
Is the local agency required to have a signed form on file to provide the alternate food items?	Yes	No	No
May the local agency choose not to provide the alternate food items?	No	No	Yes
Does a recognized medical authority need to provide a statement, including signature?	Yes	No	Not Applicable
Is the local agency required to provide the alternate food items?	Yes	Yes	No

***New* Meal Change Request Form**

By using the Child & Adult Nutrition Services Meal Change Request Form, the local agency is more likely to get all of the required information from the person completing the form. Again, this form can be used for request of meal changes due to a condition which substantially limits a major life activity, and meal change requests that do not limit a major life activity. Other forms are allowed. This is only one option. The local agency must make their meal change request form easily accessible to households, such as posting on the local agency's website near the food service menu.

Whenever a local agency provides a meal change for a child, whether required or not, the local agency must meet two criteria:

- The completed and signed form must be kept on file with all other nutrition program files;
- The meal change form should be reviewed periodically. It is known that some conditions can be outgrown. A child's needs may change for a number of reasons.

Processing of a meal change request:

- A local agency should not delay a child's meal change while waiting for the household to submit a medical statement. In this situation, local agency officials must document the initial conversation with the household where officials first learned of the child's need for an accommodation. Officials should follow up with the family if the agency does not receive the requested medical statement as anticipated, and maintain a record of this contact. Agency officials should diligently continue to follow up with the family until a medical statement is obtained or the request is rescinded.
- Withdrawal of a meal change is not required to be done by a physician or recognized medical authority, however, the local agency should maintain documentation ending a meal change, such as a written statement from the parent/guardian.

Section 504/Individualized Education Plan (IEP)

An additional meal change order/medical statement is not necessary for students that have an IEP or a 504 Plan that provides the information required as part of a meal change request. School food service should work closely with the 504 team so that the information provided is clear and includes the information necessary to provide the accommodation. Nutrition services required under an IEP or 504 Plan must be accommodated.

The most effective 504 team would include:

- School Food Service

- School Administrators
- School Medical Personnel
- Classroom Teachers and Aides
- Support personnel familiar with special needs of student (such as therapists and allergists)
- Parents/Guardians and Children (when age-appropriate)
- Special Education Staff

Non-Disability Situations

SFAs are encouraged to consider children's cultural, religious, and ethical preferences when planning and preparing meals. Accommodating children's preferences helps to maintain participation in the NSLP and SBP. Variations, whether on an experimental or continuing basis, must be consistent with the food and nutrition requirements specified in Program regulations in order for children's meals to be eligible for reimbursement [7 CFR 210.10 and 7 CFR 220.8]. SFAs cannot show favoritism to specific cultural, religious, and ethical preferences. SFAs will not receive additional reimbursement for such variations, and must cover any expenses in excess of Program reimbursements incurred as a result of providing a menu variation.

Procedural Safeguards

Under the Procedural Safeguards requirement, LEAs must provide a process for the prompt resolution of grievances that includes the option for an impartial hearing [7 CFR 15b]. Specifically, the Procedural Safeguards process requires LEAs to provide notice and information to parents and guardians regarding how to request a reasonable meal change. The notice also must explain the parent or guardian's procedural rights, which include the right to:

- File a grievance if they believe a violation has occurred regarding the request for a reasonable change;
- Receive a prompt and equitable resolution of the grievance;
- Request and participate in an impartial hearing to resolve their grievances;
- Be represented by counsel at the hearing;
- Examine the record; and
- Receive notice of the final decision and a procedure for review, i.e., right to appeal the hearing's decision.

For more information, please see USDA resource '[Accommodating Children with Disabilities in the School Meal Programs](#)' [guidebook](#), USDA Memos [SP 26-2017](#) and [SP 59-2016](#).

If you have any questions, please do not hesitate to contact the CANS office at 605-773-3413.