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SUBJECT: Special Diet Statements in Child Nutrition Programs (Revised)
CACFP – 45.2
CACFPDCH – 29.2
NSLP – 47.2
SFSP – 24.2

TO: Authorized Representatives
Child Nutrition Programs

DATE: August 1, 2014

This revised memo replaces the '.1' versions of the memos. For example, this memo replaces CACFP – 45.1, NSLP 47.1, etc. The purpose of this memo is to review the steps that the local agency must take for making dietary changes due to medical and non-medical needs. The memo will also try to clarify the issue of who may sign the Special Diet form for different special diet needs.

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 Child and Adult Care Food Program, National School Lunch Program, School Breakfast Program, and Summer Food Service Program.

Special Diet Orders – Required

If the local agency receives a Special Diet Order (for a participant with a disability that threatens a major life activity), the local agency is **required** to follow the special diet order provided that the Special Diet Order has all of the required information and signatures. This is per Chapter 7 of the Code of Federal Regulations Part 15B.

Please note that the definition of major life activities has been expanded. This expanded definition could have an impact on the number of special diets that involve a disability. The current definition of disability is included on the instruction page for the special diet form.

The South Dakota Department of Education office of Child and Adult Nutrition Services (CANS) has determined that, in keeping with licensing regulations set forth in South Dakota Codified Law

(SDCL), the statement of need for a **required** diet change/adaptation must be signed by a physician who is licensed pursuant to SDCL 36-4-9.

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 Special Diet Orders 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.

The Special Diet Order for a child with a disability that threatens a major life activity, requiring the local agency to provide an alternate meal or food, must:

- Identify the disability;
- Indicate that the disability threatens a major life activity;
- Specifically state the major life activity that is threatened;
- Specify what foods are to be omitted or replaced;
- If needed, specify how foods are to be prepared or manipulated in order to be consumed (such as “ground”, “pureed”, etc.); and
- Be signed by a physician who is licensed in South Dakota pursuant to SDCL 36-4-9.

Special Diet Requests – Optional

For special diet needs that are not related to a disability that threatens a major life activity, the local agency may choose whether or not to provide the alternate diet that is being requested by the parent and/or doctor.

Some children do not have a disability but are unable to consume the regular meal because of medical or other special dietary needs. A recognized medical authority may submit a form requesting special dietary substitutions in these cases. These children may have a medical condition but do not have a disability that threatens a major life activity. The local agency has the option whether or not to meet these requests. Substitutions may be made on a case by case basis only when there is proper documentation on file. These requests must include recommended alternate foods. The special diet requests must be signed by a recognized medical authority.

According to South Dakota Board of Medical & Osteopathic Examiners, using SDCL 36-2-2, a recognized medical authority may be a physician (MD or DO), physician’s assistant (PA), Certified Nurse Practitioner (CNP), and Certified Nurse Midwives (CNM). In addition to those who practice medicine, according to the Dietetics and Nutrition Practice Act, 36-10B, registered dietitians (RD) and licensed nutritionists (LN) have an appropriate understanding of alternate diets to make a special diet request. If there is a question about whether a particular title would qualify as a medical authority, please contact the CANS office.

Both federal law and the South Dakota Office of Child & Adult Nutrition Services encourage local agencies to provide dietary substitutions for children who are unable to consume the regular meal because of medical or other special dietary needs.

Additionally, parents may now request substitutions for fluid cow's milk due to lactose intolerance, allergy, vegan diet, religious, ethical, and/or cultural reasons. The local agency has the option to make a substitution for fluid cow's milk that is requested by a parent/guardian, but is not prescribed by a medical authority. When a disability is not involved the substituted item must be a nutritional equivalent to cow's milk if the local agency wishes to receive reimbursement for the meal. If a local agency chooses to provide such a substitution and receive federal reimbursement for the meal, the local agency may not require the parent to provide the non-dairy alternate. Contact the CANS office if the local agency needs additional information to determine if a non-dairy alternate is a nutritional equivalent to milk.

Differences between Special Diet Orders and Special Diet Requests

	Special Diet Orders	Special Diet Requests
Is the local agency required to have a signed form on file to provide the alternate food items?	Yes	Yes
May the local agency choose not to provide the alternate food items?	No	Yes
Who is allowed to sign the form?	A physician who is licensed pursuant to SDCL 36-4-9	A recognized medical authority
Is the local agency required to provide the alternate food items?	Yes	No

***New* Special Diet Form**

Child and Adult Nutrition Services has developed one form that can be used for both Special Diet Orders (required due to a disability) and Special Diet Requests (where a medical condition does not rise to the level of a disability). The new form also includes a section for the parental request of non-dairy substitutions for fluid cow's milk.

The new "Special Diet" form is attached. The local agency can supply this form to a family that is requesting a special diet. By using this 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 special diets due to a disability and those due to medical conditions that do not rise to the level of a disability. Other forms are allowed. This is only one option.

Whenever a local agency provides a special diet for any 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 special diet 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.
- Withdrawal of a special diet must be done by a physician or recognized medical authority.

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

Enclosure: Special Diet Form

SPECIAL DIET FORM

Important! Select the applicable meal modification category from the three listed below. Then, carefully read and follow the procedures for that category. The school/agency will return incomplete Medical Statements to the parent/guardian. **It is recommended that you keep a copy of the completed form.** If you have any questions about this form, contact the school/agency.

Definitions: An 'agency' on USDA Child Nutrition Programs might be a school, child care center, adult day care center, child care home, sponsoring organization, or institution. A 'participant' on USDA Child Nutrition Programs would be a student, child, or adult (in a day care setting) who receives meals at an agency.

Note to Parent/Guardian/Participant: As stipulated in FNS Instruction 783, Rev. 2, Section V Cooperation: When implementing the guidelines of this instruction, food service personnel should work closely with the parent(s) / guardian(s) / participant or responsible family member(s) and with all other medical and community personnel who are responsible for the health, well-being and education of a participant with a disability that affects the diet to ensure that reasonable accommodations are made to allow the individual's participation in the meal service.

1. **Special Diet Order due to a disability:**



- A school/agency is required to provide a special diet prescribed by a licensed physician to accommodate a participant's disability. See the 'Definition of Disability' on the back of this form.
- Part B of this form must be completed by a licensed physician (MD or DO).
- Parts A and C of this form must also be completed before the school/agency can provide a special diet.
- The special diet required for a disability will continue until a licensed physician requests that the modification be changed or stopped.
- It is strongly recommended that a licensed physician annually update the special diet order.

2. **Special Diet Request due to a food allergy, food intolerance or other medical condition that does not rise to the level of a disability:**

- A school/agency has the option to provide a special diet requested by a recognized medical authority due to a food allergy, food intolerance or other medical condition that does not rise to the level of a disability.
- Part B of this form must be completed by a medical authority who is a licensed physician (MD or DO), physician's assistant (PA), Certified Nurse Practitioner (CNP), Certified Nurse Midwife (CNM), Registered Dietitian (RD), and Licensed Nutritionist (LN).
- For questions about recognized medical authorities, contact the school/agency.
- Parts A and C of this form must also be completed before the school/agency can provide a requested special diet (determined on a case by case basis).
- If provided, the requested special diet will continue until a recognized medical authority requests that the modification be changed or stopped.
- It is strongly recommended that a recognized medical authority annually update the special diet request.



3. **Substitution for fluid cow's milk due to lactose intolerance, allergy, vegan diet, religious, ethical, or cultural reasons:**



- A school/agency has the option to make a substitution for fluid cow's milk that is requested by a parent/guardian, but is not prescribed by a medical authority.
- Parts A and D on this form must be completed before the school/agency can make a substitution for fluid cow's milk.
- If a school/agency chooses to provide such a substitution, they will continue until a parent/guardian requests that the substitution be changed or stopped.

42 USC § 12102 – DEFINITION OF DISABILITY

(1) Disability

The term “disability” means, with respect to an individual—

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment (as described in paragraph (3)).



(2) Major life activities

(A) In general

For purposes of paragraph (1), 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.

(B) Major bodily functions

For purposes of paragraph (1), 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, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

- (A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
- (B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

Definition of Recognized Medical Authority (per SDCL 36-2-2 and the Dietetics and Nutrition Practice Act, 36-10B)

The State of South Dakota recognizes the following as medical authorities in relation to non-required “**Special Diet Requests:**”

Medical Doctors (MD)
Doctors of Osteopathy (DO)
Physician Assistants (PA)
Certified Nurse Practitioners (CNP)
Certified Nurse Midwives (CNM)
Registered Dietitians (RD)
Licensed Nutritionists (LN)

SPECIAL DIET FORM

* Keep a copy of the completed form for your records.

Part A – Participant, Parent/Guardian, and School/Agency Contact Information – To be completed by a parent/guardian or school/agency contact person –

1. School/Agency Name	2. Site Name (if applicable)	3. School/Agency Telephone
4. Name of Participant		5. Date of Birth
6. Name of Parent or Guardian		7. Parent/Guardian Telephone

Part B – Special Diet – To be completed by a medical authority as defined above.

7. Check One:

- a. Participant has a **disability**.
- b. Participant has a food allergy/intolerance or other medical condition that does not rise to the level of a disability.

8. Specify the disability, food allergy/intolerance, or medical condition requiring a special meal or accommodation (use extra pages if needed):

9. If participant has a disability (see definition on instructions page), provide a brief description of participant's major life activity (see list on instructions page) affected by the disability (e.g. allergy to peanuts affects ability to breathe):

Check if not applicable

10. Describe the type of special diet required (e.g. low sodium, gluten-free, diabetic, etc.) Use extra pages if needed:

Check if not applicable

11. Modified Texture:

- Not Applicable Chopped
- Ground Pureed

12. Modified Thickness:

- Not Applicable Nectar
- Honey Spoon or Pudding Thick

13. Special Feeding Equipment (large handled spoon, sippy cup, etc.):

Check if not applicable

14. Foods to be omitted and substituted: (List specific foods to be omitted and suggested substitutions. You may sign and attach a sheet with additional information as needed.)

Check if not applicable

A. Foods To Be Omitted

B. Suggested Substitutions

_____	_____
_____	_____
_____	_____
_____	_____

IMPORTANT: For a participant who does not have a recognized disability, the only fluid milk substitutions allowed by USDA are: (1) lactose-free fluid cow's milk or (2) a non-dairy beverage with a nutrition profile equivalent to cow's milk as specified in federal regulations. Currently the only beverages meeting these specifications are certain brands of soy milk.

15. Signature of Preparer	16. Printed Name	17. Telephone Number	18. Date
19. Signature of Medical Authority	20. Printed Name	21. Title	

Part C – Parent/Guardian Permission – To be completed by a parent/guardian

I give permission for school/agency personnel responsible for implementing my child's special diet to discuss my child's special dietary accommodations with any appropriate school/agency staff and to follow the special diet for my child's school/agency meals. I also give permission for my child's medical authority to further clarify the special diet on this form if requested to do so by school/agency personnel.

22. Parent/Guardian Signature:	23. Date:
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Part D – Request Substitution for Fluid Cow's Milk due to Lactose Intolerance, Allergy, Vegan Diet, Religious, Cultural, or Ethical Reasons – To be completed by parent/guardian.

24. Instead of fluid cow's milk, please provide the individual named in Part A of this form with the following substitute (check ONE):

- Lactose-free cow's milk
- Non-dairy beverage with a nutrient profile equivalent to fluid cow's milk per federal regulations

25. Parent/Guardian Signature:	26. Date:
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As stated above, all protected bases do not apply to all programs, the **first six protected bases of race, color, national origin, age, disability and sex are the six protected bases for applicants and recipients of the Child Nutrition Programs.**