



# New Policy Change for Food Safety Inspections

<b>Nutrition Services Division Management Bulletin</b>	
<b>Purpose:</b> Policy, Action Required, Beneficial Information	
<b>To:</b> School Nutrition Program Sponsors	<b>Number:</b> USDA-SNP-12-2013
<b>Attention:</b> Food Service Directors	<b>Date:</b> May 2013
<b>Subject:</b> New Policy Change for Food Safety Inspections	
<b>Reference:</b> U.S. Department of Agriculture Policy Memos SP 39-2008 and SP 45-2011; Federal Register Vol. 74, No. 169, September 2, 2009; and Title 7, <i>Code of Federal Regulations</i> , sections 210.13 and 220.7	

This Management Bulletin (MB) notifies School Nutrition Program sponsors of a policy change pertaining to the mandatory school food safety inspection requirements; specifically, documentation requirements demonstrating attempt to schedule food safety inspections by School Food Authorities (SFA) that fail to obtain the required two inspections per year.

## Background

Title 7, *Code of Federal Regulations*, sections 210.13 and 220.7 that govern the National School Lunch Program (NSLP) and School Breakfast Program (SBP), respectively; require that all participating school sites obtain **two** annual food safety inspections from the state or local governmental agency responsible for food safety inspections

## Policy Change

For those SFAs that fail to obtain the two mandatory food safety inspections, the California Department of Education (CDE) requests that they submit a copy of the response from their local environmental health department, stating why the health department could not conduct the inspections. If the SFA did not receive a response, the CDE will request a copy of the letter sent to the local environmental health department requesting the inspections. In November 2013, the CDE will notify all SFAs that did not meet the federal requirement, and provide details for how they can submit their documentation to the CDE.

**Please note, all SFAs that receive the two mandatory food safety inspections every school year will not need to submit documentation to the CDE.**

It is important that all SFAs submit a letter in writing to their local environmental health department requesting the inspections for every school site, and keep a copy of this letter on file. If the local environmental health department is unable to conduct the inspections, the SFA should request a response in writing from the local environmental health department, and keep the response on file.

The CDE recommends that SFAs contact their local environmental health department early in the school year to allow inspectors time to annually conduct the mandated two food safety inspections. Please note that it is the responsibility of the SFA to request the two food safety inspections from their local environmental health department and to document their request.

If you have any questions related to this MB, please contact Ashley Osterman, Child Nutrition Consultant, Northern School Nutrition Programs Unit, by phone at 916-445-1261 or by e-mail at [aosterman@cde.ca.gov](mailto:aosterman@cde.ca.gov).

**Questions: Nutrition Services Division | 800-952-5609**

Last Reviewed: Monday, August 1, 2016



# Mandatory Food Safety Inspections--Reminder

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## Nutrition Services Division Management Bulletin

**Purpose:** Policy, Beneficial Information

**Date:** February 2014

**Number:** SNP-09-2014

**To:** School Nutrition Program Sponsors

**Attention:** Food Service Directors

**Reference:** U.S Department of Agriculture Food and Nutrition Service Policy Memoranda SP 45-2011 and SP 39-2008; Federal Register Vol. 74, No.169, September 2, 2009  
<http://www.fns.usda.gov/school-meals/policy/all>

**Subject:** Mandatory Food Safety Inspections—Reminder

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This Management Bulletin (MB) serves as a reminder for School Nutrition Program (SNP) sponsors about the U.S. Department of Agriculture's (USDA) Food Safety Inspection requirements.

All sponsors participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) must obtain two food safety inspections from their state or local environmental health department (LEHD) annually. Depending on the type of food service

operation at each site, the scope of the food safety inspection required may vary. The level of inspection is determined by the agency conducting the inspection.

The California Department of Education (CDE) has received many questions from sponsors regarding whether or not they must obtain food safety inspections for school sites where they do not cook food. These sites are considered **service only sites**, and the requirement for two food safety inspections **also** applies to them.

Examples of service only sites include, but are not limited to:

- Sites that receive meals from a central kitchen, where staff only serve the meals
- Sites that receive prepackaged meals from a vendor, and staff do not prepare or cook meals at the site

**Residential Child Care Institutions:** Please refer to the information provided at the end of this MB.

## **Responsibility to Request Food Safety Inspections**

It is the responsibility of the School Food Authority (SFA) to request two food safety inspections from their LEHD and document their efforts. For those agencies that fail to obtain the two mandatory food safety inspections, the CDE will request documentation from those sponsors to show that they have made every effort to comply with the federal requirements. SFAs should document their requests in writing for proper documentation of their efforts to obtain the inspections.

## **Mandatory Food Safety Inspection Survey**

The USDA requires the CDE to report the results of food safety inspections for every NSLP and SBP site. In order to provide the CDE with this information, SFAs must submit an annual mandatory food safety inspection survey using the Child Nutrition Information and Payment System. Sponsors must enter their data in the survey beginning in **August 2014**. Prior to August 2014, all sponsors will receive an e-mail with detailed instructions on how to complete the survey. Sponsors must indicate the number of food safety inspections conducted at each of their sites for School Year 2013–14. The sponsor must indicate an acceptable reason for not meeting the required two food safety inspections.

Acceptable reasons for SFAs being unable to obtain two inspections include:

- Scheduling conflict. Sponsors must make every attempt to request the two food safety inspections from their LEHD. If the LEHD is unable to conduct the inspections, sponsors must provide documentation to the CDE of their effort to obtain the inspections.
- Excessive cost. The food safety inspections are an allowable expense to the cafeteria fund; however, if the cost is excessive and the SFA cannot pay for the inspections, the SFA may select this as a reason for not obtaining their inspection(s).

**Note:** The CDE will require all SFAs to indicate the fee charged for inspections as part of the 2013–14 mandatory food safety inspection survey.

## **Residential Child Care Institutions**

Group homes do not fall under the jurisdiction of the LEHD; therefore they will not be able to obtain inspections from their LEHD. However, group homes are still required to complete the mandatory food safety inspection survey. When completing the survey, group homes must select “none” to report that zero inspections were conducted. In addition, they must select “other” and indicate “group home” as the reason for not obtaining the two inspections.

All other Residential Child Care Institutions (e.g., juvenile halls) must meet the requirement to obtain two food safety inspections.

**Please remember that it is ultimately the responsibility of the SFA to request the two food safety inspections from their LEHD. In situations where the LEHD cannot conduct the food safety inspections, it is very important that SFAs document that they made an effort to obtain the inspections.**

## **Contact Information**

If you have any questions regarding this MB, please contact Ashley Osterman, Child Nutrition Consultant (CNC), Northern SNP Unit, by phone at 916-445-1261 or by e-mail at [aosterman@cde.ca.gov](mailto:aosterman@cde.ca.gov) or Lori Porter, CNC, Southern SNP Unit, by phone at 916-322-1454 or by e-mail at [lporter@cde.ca.gov](mailto:lporter@cde.ca.gov).

**Questions: Nutrition Services Division | 800-952-5609**

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# Food Safety Certification Requirements

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## Nutrition Services Division Management Bulletin

**Purpose:** Policy, Beneficial Information

**To:** National School Lunch Program and  
School Breakfast Program Sponsors

**Number:** SNP-12-  
2016

**Attention:** Food Service Directors

**Date:** April 2016

**Reference:** California Health and Safety Code, Part 7; California  
*Retail Food Code*, Section 113947

**Supersedes:** MB 99-808: Food-Safety Certification

**Subject:** Food Safety Certification Requirements

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This Management Bulletin (MB) provides School Nutrition Program sponsors with current guidance regarding food safety certification requirements and contains up-to-date information pertaining to owner or employee certification, examination organization accreditation, and food safety certificate renewal. This MB supersedes California Department of Education MB 99-808: Food-Safety Certification (April 1999).

The following regulations are set forth by *California Retail Food Code (CalCode)*, Section 113947 as it pertains to food safety certification:

1. Food facilities, except temporary food facilities, that prepare,

handle, or serve nonprepackaged potentially hazardous food shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in sections 113947.2 and 113947.3.

2. There shall be at least one food safety certified facility owner or employee at each food facility. No food safety certified employee at a food facility may serve at any other food facility as the person required to be certified pursuant to this subdivision. However, the certified owner or employee need not be present at the food facility during all hours of operation.
3. Food safety certification required pursuant to *CalCode*, Section 113947.1 shall be achieved by a food facility employee successfully passing an examination from an accredited food protection manager certification organization. The certification organization shall be accredited by the American National Standards Institute (<http://www.ansi.org>) as meeting the requirements of the Conference for Food Protection's "Standards for Accreditation of Food Protection Manager Certification Programs." Those food facility employees who successfully pass an approved certification examination shall be issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance.

**Please note that the definitions/terms used in this MB are outlined in *CalCode*, which is available for viewing at <http://www.cdph.ca.gov/services/Documents/fdbRFC.pdf>**

If you have any questions regarding this MB, please contact Ashley Osterman, Child Nutrition Consultant (CNC), Northern School Nutrition Programs Unit (SNPU), by phone at 916-445-1261 or by e-mail at [aosterman@cde.ca.gov](mailto:aosterman@cde.ca.gov), or Lori Porter, CNC, Southern SNPU, by phone at 916-322-1454 or by e-mail at [lporter@cde.ca.gov](mailto:lporter@cde.ca.gov).

**Questions: Nutrition Services Division | 800-952-5609**

Last Reviewed: Monday, June 27, 2016

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# Modifications to Accommodate Disabilities

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## Nutrition Services Division Management Bulletin

**Purpose:** Policy, Beneficial Information

**To:** School Nutrition Program Operators

**Number:** SNP-02-  
2017

**Attention:** Food Services Directors

**Date:** March 2017

**Reference:** U.S. Department of Agriculture Food and Nutrition  
Service Policy Memorandum SP 59-2016

**Supersedes:** FNS Instruction 783-2, Rev. 2, Meal Substitutions for  
Medical or Other Special Dietary Reasons in the School Meal  
Programs; Management Bulletin CNP-10-2015: Accommodating  
Children with Special Dietary Needs

**Subject:** Modifications to Accommodate Disabilities in the School  
Meal Programs

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This Management Bulletin (MB) provides information and policy that supersedes Food and Nutrition Service (FNS) Instruction 783-2, Rev. 2, Meal Substitutions for Medical or Other Special Dietary Reasons for the School Meal Programs. The U.S. Department of Agriculture (USDA) has provided updated guidance based on their grouping of the child nutrition programs and the level of accommodation whether for a disability or special dietary needs.

**This MB provides important updates to requirements related to**

**accommodating children with disabilities and only affects school food authorities (SFA) participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program, and Fresh Fruit and Vegetable Program.** This policy memo is available on the USDA FNS School Meals Policy Web page at <http://www.fns.usda.gov/school-meals/policy>.

It is important that SFAs continue to have the option to accommodate children with special dietary needs that are not considered a disability. This includes those accommodations related to religious or moral convictions or personal preference. The USDA will issue separate guidance on accommodating special dietary needs and preferences that are not considered a disability.

**The California Department of Education (CDE) MB CNP-10-2015, Accommodating Children with Special Dietary Needs, remains in effect for the Child and Adult Care Food Program and Summer Food Service Program until further guidance is issued.** This MB provides guidance on accommodating children, with and without disabilities, who have special dietary needs. It is available on the CDE MB CNP-10-2015 Web page at <http://www.cde.ca.gov/ls/nu/sn/mbcnp102015.asp>.

## **Background on Federal Statutes**

For more information on the federal laws which dictate program guidance, refer to USDA SP 59-2016: Modifications to Accommodate Disabilities in the School Meal Programs on the USDA FNS School Meals Policy Web page at <http://www.fns.usda.gov/school-meals/policy>.

## **Individualized Education Program**

One federal act that affects the modifications required to accommodate disabilities in the School Nutrition Programs (SNP) is the Individuals with Disabilities Education Act of 1990 (IDEA). This act requires an Individualized Education Program (IEP) which is defined as a plan or program developed in accordance with IDEA to ensure that a child who has a disability receives specialized instruction and related services. An IEP does not supersede a state licensed healthcare professional's written medical statement. It

supports the medical statement to reiterate a child's nutritional needs. A written and signed medical statement must support the child's IEP.

For instance, the IEP may require breakfast to be served in a school that does not participate in the SBP. While these meals may not be claimed for federal reimbursement, funds from the nonprofit school food service account may be used to cover the cost associated with providing a meal required by the IDEA.

SFAs may use the same food service facilities or food service management company to provide the meals required under an IEP as it uses to provide SNP meals. The U.S. Department of Education (USDE) is responsible for the administration and enforcement of the IDEA. SFAs should direct inquiries regarding IDEA requirements to the USDE IDEA Web page at <http://idea.ed.gov>.

## **School Nutrition Program Regulations**

The USDA regulations under Title 7, *Code of Federal Regulations (7 CFR)*, sections 15b and 15b.26(d), implements Section 504 of the Rehabilitation Act of 1973 (Section 504) nondiscrimination requirements on recipients of federal financial assistance, such as SFAs, to serve special meals at no extra charge to children with disabilities. In addition, 7 *CFR*, sections 210.10(m) and 220.8(m), require SFAs to make substitutions or modifications in the NSLP and SBP for children whose disabilities restrict their diets.

These regulations require SFAs to ensure that breakfast, lunch, snacks, or milk (meals) offered through the SNPs meet the respective meal pattern requirements established in the program regulations.

## **Children with Disabilities**

The Americans with Disabilities Act (ADA) Amendments Act has simplified what determines a disability and it should no longer require extensive analysis. SFAs and local educational agencies (LEA) should not be involved in analyzing documentation to determine whether a particular physical or mental impairment is severe enough to qualify as a disability. The ADA Amendments Act amended the definition of disability, broadening it to cover most physical and mental impairments, and the goal is to ensure equal opportunity to participate in or benefit from the SNPs.

Section 504, the ADA, and 7 *CFR*, Section 15b, define a person with a disability as any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Major life activities are broadly defined and 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. Major life activities also include **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.

A physical or mental impairment does not need to result in a severe, life-threatening reaction to be considered a disability. It is sufficient that the impairment limits a major life activity. For instance:

- Digestion is an example of a bodily function that is a major life activity. A child whose digestion is impaired by a lactose intolerance may have a disability regardless of whether or not consuming milk causes the child severe distress. A modification in this case is appropriate.
- An allergic reaction that is controlled by taking medication should not be considered in determining whether the allergy is a disability. A modification in this case is appropriate.
- Dietary preference that a child eat a gluten-free diet because a parent believes it is better for the child, does not constitute a disability and does not require accommodation.

A physical or mental impairment that constitutes a disability must be on a case-by-case basis. The determination must be made without regard to whether mitigating measures may reduce the impact of the impairment.

## **Substitutions and other Reasonable Modifications**

In many cases, reasonable dietary modifications for a child with a disability are managed within the meal pattern requirements when a well-planned variety of nutritious foods are available. However, the needs of a child with a disability may involve requests for accommodations that do not meet the meal pattern requirements.

## Requiring a Medical Statement

SFAs are required to make substitutions to meals for children with a disability that restricts the child's diet on a case-by-case basis and only when supported by a written medical statement from a state licensed healthcare professional. **The CDE only permits the following state licensed healthcare professionals to complete and sign a written medical statement for a disability: licensed physicians, physician assistants, or nurse practitioners.**

California does not recognize other medical authorities as authorized to sign a written medical statement to determine a child's diet. Physician assistants and nurse practitioners both work under the direction of a licensed physician. This will safeguard program integrity while allowing appropriate flexibility for those families who do not have access to a licensed physician.

California allows electronic signatures. A written medical statement that is e-signed by the designated state licensed healthcare professional can also be considered an acceptable signature.

Medical statements must:

- Describe the physical or mental impairment sufficiently in order for the SFA to understand how it restricts a child's diet
- Explain what must be done to accommodate a child's disability
- Identify food or foods to be omitted from a child's diet
- Recommend food or choice of foods that must be substituted in a child's meals

If a written medical statement is unclear or lacks sufficient detail, the SFA must obtain appropriate clarification to ensure a proper and safe meal is provided to the child. SFAs may consider the services of a registered dietitian, when available, to assist in implementing meal modifications. SFAs may also contact the CDE for guidance.

The CDE developed a Written Medical Statement to Request Special Meals and/or Accommodations form to identify the information required to implement a sound nutrition plan for children

with dietary restrictions. The medical statement form is available on the CDE SNP Forms Web page at <http://www.cde.ca.gov/ls/nu/sn/fm.asp>.

**SFAs may choose to accommodate requests related to a disability that are not supported by a written medical statement if the requested modifications meet the meal pattern requirements.**

## **Assessing Requests for Substitutions and other Modifications**

SFAs may consider expense and efficiency in choosing an appropriate approach to accommodate a child's disability. SFAs are not required to provide the specific substitution or other modification requested, but must offer a reasonable modification that effectively accommodates the child's disability and provides equal opportunity to participate in or benefit from the program.

SFAs are not required to provide a specific brand name food item that may be requested or identified on the written medical statement. Instead, the child affected by an allergy must be offered the appropriate food substitution which does not contain the allergen that adversely affects the child.

SFAs should consider the age and maturity of the child when determining what is appropriate during the decision-making process. For instance, younger children may need more assistance with selecting and eating their meals, while older children may be able to take more responsibility for some of their dietary decisions.

SFAs are not required to provide modifications that would fundamentally alter the nature of the program; however, this should rarely be the case. Instead, the emphasis should be on working with the parents and guardians to develop an approach that will meet the child's needs.

## **Serving Meals in an Integrated Setting**

SFAs must provide all meal services in the most integrated setting appropriate to meet the needs of the child. Exclusion of any child from the environment is not considered an appropriate or reasonable modification. For instance, a child may not be excluded from the classroom and required to sit in the hallway during the

service of breakfast in the classroom. A separate table available for children to control exposure to a severe food allergy may be an appropriate safeguard, yet it cannot simultaneously be used to segregate children as punishment for misconduct.

## **Reimbursement**

Regardless of the meal accommodation, reimbursement for modified meals served to children with disabilities that restrict their diet is at the appropriate rate based on the child's eligibility for free, reduced-price, or paid meals for the applicable program. These meal modifications do not have to meet the program meal pattern requirements in order to be claimed for reimbursement if they are supported by a signed written medical statement. However, SFAs should ensure that the meal modifications meet the nutritional needs of the child.

Any instruction or services included in a child's IEP related to a child's nutritional needs that are deemed necessary for the child to receive a free and appropriate public education must be provided at public expense and at no cost to the parents or guardians. SFAs should direct inquiries regarding funding and requirements pertaining to Part B of IDEA to the USDE IDEA Web page at <http://idea.ed.gov>.

## **Accessibility**

SFAs and LEAs are responsible for the accessibility of food service areas and for ensuring the provision of food service aides, where needed, to assist in preparing and serving meal accommodations.

SNPs will not receive additional reimbursement for these types of accommodations. However, any additional costs for adaptive feeding equipment for aides are considered allowable costs for the nonprofit school food service account. Special education funds could be a source of supplemental funding if specified in the child's IEP or the LEA's general fund.

## **Procedural Safeguards**

LEAs must work with the school food service staff to implement procedures for parents or guardians to request modifications to meal service for children with disabilities and to resolve grievances.

Procedures in place to address requests to accommodate students with disabilities in the classroom in compliance with Section 504 or the IDEA may be used to fulfill this requirement. At minimum, the LEA must:

- Notify parents and guardians of the process for requesting meal modifications to accommodate a child's disability
- Arrange for an impartial hearing process to resolve grievances related to requests for modifications based on a disability
- Include the opportunity for the child's parent or guardian to participate, be represented by counsel, and examine the record
- Provide notice of the final decision and a procedure for review

LEAs that employ 15 or more individuals must designate at least one person to coordinate compliance with disability requirements. This position is often referred to as the Section 504 coordinator. The Section 504 coordinator is responsible for addressing requests for accommodations in the classroom which may also include ensuring compliance with disability requirements related to meals and the meal service. It is not required to designate a separate Section 504 coordinator responsible only for meal modifications. However, LEAs should ensure that school food service staff understand the procedures for handling requests for meal modifications and know how to contact the Section 504 coordinator.

## **Team Approach**

A team approach to providing modifications for children with disabilities is strongly encouraged. Develop a team that includes the Section 504 coordinator, school administration staff, school medical personnel, and school food service staff. The most effective team will include:

- School food service staff
- Principal or program director
- School nurse
- School nutritionist

Any request for a modification related to the meal or meal service should be forwarded to the Section 504 coordinator and reviewed by the 504 team.

The Section 504 team will work with the child's parents or guardian to review the request and develop a solution as quickly as possible. The Section 504 team is encouraged to develop policies and practices that allow for the disabilities they most commonly encounter to be quickly and consistently addressed. The team should be advised that any medical information obtained must be kept confidential.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) safeguards the release of personal health information. SFAs will need to consult with an appropriate school official or seek legal counsel around HIPAA requirements.

### **Contact Information**

If you have any questions regarding this subject, please contact Lori Porter, Child Nutrition Consultant (CNC), Southern School Nutrition Programs Unit (SNPU), by phone at 916-322-1454 or by e-mail at [lporter@cde.ca.gov](mailto:lporter@cde.ca.gov), or Ashley Osterman, CNC, Northern SNPU, by phone at 916-445-1261 or by e-mail at [aosterman@cde.ca.gov](mailto:aosterman@cde.ca.gov).

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Last Reviewed: Monday, April 10, 2017

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