USDA United States Department of Agriculture | Food and Nutrition Service | Mountain Plains Region | 1244 Speer Boulevard, Suite 903 Denver, Colorado 80204-3585

Reply to Attn of: SP-11-01

April 19, 2011

Subject: Accommodating Children with Life-Threatening Food Allergies in the School Nutrition Programs

To: STATE AGENCY DIRECTORS (Special Nutrition Programs) - Colorado ED, Iowa, Kansas, Missouri ED, Montana OPI, Nebraska ED, North Dakota, South Dakota, Utah and Wyoming ED

This policy memo clarifies requirements from FNS Guidance, *Accommodating Children with Special Dietary Needs in the School Nutrition Programs,* and related laws: Rehabilitation Act of 1973, Section 504; 7 CFR Part 15; 7 CFR Part 15b; 7 CFR Sections 210.10(g)(1), 210.23(b), 215.14, 220.8(d)(1), 225.16(f)(4), and 226.20(h); as they relate to Accommodating Children with Life-Threatening Food Allergies in the School Nutrition Programs. School food authorities (SFA), institutions and sponsors are required to offer Program meals to participants with disabilities whenever Program meals are offered to the general populations served by the Programs. Food allergies which cause life-threatening anaphylactic reactions, supported by a statement signed by a licensed physician, are considered a disability, and therefore, persons with life-threatening food allergies are covered by all aspects of the aforementioned laws and regulations.

Section 504 of the *Rehabilitation Act of 1973* specifically mandates that: "no otherwise qualified individual with a disability shall solely by reason of his or her disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program (school) or activity receiving Federal financial assistance." In other words, a child with a life-threatening food allergy must be included in any and all activities sponsored by a school, or taking place during the school day, involving food. While accommodations in the school cafeteria are clearly listed by the *Physician's Statement for Children with Disabilities*, requirements by other school staff outside of the school's cafeteria may need to be specified in a student's *Individual Health Plan (IHP)*. An IHP will likely be developed by a school nurse or other professional appointed by the school's administration, and will involve responsibilities for classroom activities, field trips, bus service, and all other school related activities.

It is therefore recommended that a SFA's special dietary request form, specified and signed by a licensed physician, include a sharing clause or "release of information" so that SFAs made aware of life-threatening food allergies can share this information with the school nurse or administrative staff so that accommodations can be made in all other school-related activities involving food.

For children with life-threatening food allergies, any and all food or edible items offered must have food labels carefully reviewed to ensure that no food allergen or component of a food allergen is, intentionally or unintentionally, present in the food. In many instances, when the label does not contain the food allergen, *and* the label does not include the *volunteer* statement as to whether or not it was made in a facility that also produces products with the food allergen; then the manufacturer would need to be contacted to determine the potential for cross-contamination with that allergen. In many cases, it may be easier and safer to have a supply of "known to be safe" food(s) available for children with life-threatening allergies for use during the occasional food-related parties or treats offered in the classroom.

An example of how this requirement can be practically applied is as follows: A child in a first grade classroom is known to have a life-threatening allergy to walnuts. The child's teacher works with the parent and school nurse to keep a small supply of treats for this child that are known to be safe and free from walnuts, components of walnuts, or possible cross-contamination with walnuts. These treats will be used for the occasional, and sometimes unplanned, classroom event or activity involving food. An unplanned event might involve another parent who brings a school-approved pre-wrapped treat to class in celebration of a cultural holiday. Because the teacher does not, with certainty, know the origin or potential for cross-contamination of the treats, the child with a life-threatening walnut allergy is given one of the safe treat alternatives.

Having a safe classroom treat alternative for children with life-threatening allergies helps keep these children safe and ensures that they will not be *excluded* from any classroom or school sponsored activities involving food.

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