

II. DEFINITIONS OF DISABILITY AND OF OTHER SPECIAL DIETARY NEEDS

A. DISABILITY

Rehabilitation Act of 1973 and the Americans with Disabilities Act

Under Section 504 of the *Rehabilitation Act of 1973*, and the *Americans with Disabilities Act* (ADA) of 1990, a "person with a disability" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

The term "physical or mental impairment" includes many diseases and conditions, a few of which may be:

- orthopedic, visual, speech, and hearing impairments;
- cerebral palsy;
- epilepsy;
- muscular dystrophy;
- multiple sclerosis;
- cancer;
- heart disease;
- metabolic diseases, such as diabetes or phenylketonuria (PKU);
- food anaphylaxis (severe food allergy);
- mental retardation;
- emotional illness;
- drug addiction and alcoholism;
- specific learning disabilities;
- HIV disease; and
- tuberculosis.

Please refer to the Acts noted above for a more detailed explanation.

Major life activities covered by this definition include caring for one's self, eating, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Individuals with Disabilities Education Act

The term child with a "disability" under Part B of the *Individuals with Disabilities Education Act* (IDEA) means a child evaluated in accordance with IDEA as having one or more of the recognized thirteen disability categories and who, by reason thereof, needs special education and related services.

IDEA recognizes thirteen disability categories which establish a child's need for special education and related services. These disabilities include:

- autism;
- deaf-blindness;
- deafness or other hearing impairments;
- mental retardation;
- orthopedic impairments;
- other health impairments due to chronic or acute health problems, such as asthma, diabetes, nephritis, sickle cell anemia, a heart condition, epilepsy, rheumatic fever, hemophilia, leukemia, lead poisoning, tuberculosis;
- emotional disturbance;
- specific learning disabilities;
- speech or language impairment;
- traumatic brain injury; and
- visual impairment; including blindness which adversely affects a child's educational performance, and
- multiple disabilities.

Attention deficit disorder or attention deficit hyperactivity disorder may fall under one of the thirteen categories. Classification depends upon the particular characteristics associated with the disorder and how the condition manifests itself in the student, which will determine the category.

The Individualized Education Program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with the IDEA and its implementing regulations. The IEP is the cornerstone of the student's educational program that contains the program of special education and related services to be provided to a child with a disability covered under the IDEA.

NOTE: Some states supplement the IEP with a written statement specifically designed to address a student’s nutritional needs. Other states employ a “Health Care Plan” to address the nutritional needs of their students. For ease of reference, the term “IEP” is used to reflect the IEP as well as any written statement designating the required nutrition services.

When nutrition services are required under a child's IEP, school officials need to make sure that school food service staff are involved early on in decisions regarding special meals.

Physician's Statement for Children with Disabilities

USDA regulations 7 CFR Part 15b require substitutions or modifications in school meals for children whose disabilities restrict their diets. A child with a disability must be provided substitutions in foods when that need is supported by a statement signed by a licensed physician. The physician's statement must identify:

- ✓ the child's disability;
- ✓ an explanation of why the disability restricts the child's diet;
- ✓ the major life activity affected by the disability;
- ✓ the food or foods to be omitted from the child's diet, and the food or choice of foods that must be substituted.

In Cases of Food Allergy

Generally, children with food allergies or intolerances do not have a disability as defined under either Section 504 of the Rehabilitation Act or Part B of IDEA, and the school food service may, but is not required to, make food substitutions for them.

However, when in the licensed physician's assessment, food allergies may result in severe, life-threatening (anaphylactic) reactions, the child's condition would meet the definition of "disability," and the substitutions prescribed by the licensed physician must be made.