

Final Rule on Fluid Milk Substitutions in the School Nutrition Program

The USDA's Food and Nutrition Service (FNS) issued the final rule *Fluid Milk Substitutions in the School Nutrition Program* (73 FR 52903) on September 12, 2008, to implement a provision of the Child Nutrition and Women, Infants, and Children (WIC) Reauthorization Act of 2004. The final rule is available at <http://www.fns.usda.gov/cnd/governance/regulations/finalrule-milk.pdf> and became effective October 14, 2008.

In summary, this rule:

- Continues the current requirements on meal variations for students with disabilities in the National School Lunch Program and School Breakfast Program
- Allows school food authorities (SFAs) discretion to offer fluid milk substitutes to students with medical or other special dietary needs that do not rise to the level of a disability
- Requires nondairy beverages offered as fluid milk substitutes be nutritionally equivalent to fluid milk and provide specific levels of calcium, protein, vitamins A and D, magnesium, phosphorus, potassium, riboflavin, and vitamin B-12 (see chart below)
- Allows SFAs to accept a written statement from a parent/guardian or from a recognized medical authority; supporting statement must identify the student's medical or other special dietary need that precludes cow's milk

This final rule seeks to ensure students provided a substitute for cow's milk for cultural, ethnic, religious, or ethical reasons receive the same important nutrients found in milk. The nutrients cited in this rule are not required to be present in the milk substitutes offered to students with disabilities, who must be provided a beverage as specified by a physician.

If a school chooses to offer one or more substitutions for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide the nutrients listed in the table below:

Nutrient	Per Cup
Calcium	276 mg
Protein	8 g
Vitamin A	500 IU
Vitamin D	100 IU
Magnesium	24 mg
Phosphorus	222 mg
Potassium	349 mg
Riboflavin	0.44 mg
Vitamin B-12	1.1 mcg

This rule recognizes the valuable contributions of milk to a child's diet; therefore, it does not allow a school to offer other beverages, such as juice, as milk substitutes. The only milk substitutes allowed under this rule for students without disabilities are

nondairy beverages that meet the established nutrient standards listed in the chart above. This rule has no effect on a school's ability to offer lactose-free milk to a student with a medical or special dietary need such as lactose intolerance. Lactose-free milk continues to be allowed as part of the reimbursable meal.

Schools that elect to offer milk substitutes for students without disabilities can now accept a statement from a parent/legal guardian or from a medical authority identifying the student's need. Prior to this rule, schools were only able to accept a statement signed by a recognized medical authority. Please note that a statement from a medical authority is still required for any meal variations, other than milk substitution, for a student with medical or other special dietary needs.

Because the nutrients found in milk are very important to the development and growth of students, schools should consider offering milk substitutes that meet the requirements of this rule when they become available in the market. We encourage schools to seek alternate funding sources if financial barriers are an impediment.

In recognition of the fact that no products are currently formulated to meet the rule's requirements, schools may continue to provide accommodations they have already agreed to under the prior program regulations for students with medical or special dietary needs. However, no new accommodations may be made under the old regulations.

If you have any questions regarding this regulation, please contact our office at 800.545.7892 or via electronic mail at cnp@isbe.net.