

Section 504 and Food Allergies

Students who have food allergies may qualify for a Section 504 plan in addition to an Individual Healthcare Plan to assist them in participating in school. In a CDC document, a food allergy is defined as “an adverse health effect arising from a specific immune response that occurs reproducibly on exposure to a given food.” Food allergies are considered a hidden disability as they are not readily apparent to others. This type of disability can produce life threatening reactions, referred to as anaphylaxis

In the past there have been some questions as to whether a food allergy would qualify as a disability, but under recent clarifications, Congress made it clear that if a major life activity such as breathing or other bodily functions are substantially limited by the impairment, then the condition likely qualifies for a Section 504 plan. As such, the school “must assess what is needed to ensure that student's equal opportunity to participate in the recipient's or public entity's program.”

Under the ADA, the use of epinephrine (such as an EpiPen) or other medicines cannot be considered when deciding whether a person has a disability which is covered by a 504 plan. For example, if a student has a peanut allergy, the school district must evaluate whether the peanut allergy would be substantially limiting without considering amelioration by medication or other measures. Many children with peanut allergies or other food allergies are likely to be substantially limited in the major life activities of breathing and respiratory function, and therefore, would be considered to have a disability.

The CDC has published *Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs* which schools and parents can use to develop a 504 and a health plan to provide safe access to students.

When developing the 504 plan, remember that accommodations must be reasonable and cannot fundamentally alter the curriculum. As a team member, a parent can help problem-solve possible challenges and provide creative substitutions for food in the classroom. Teach children about their allergies, how to advocate for themselves and unsafe food avoidance.

For the parent:

1. If your child does not already have one, make sure you have met with the school nurse to develop an Individual Health Plan as well as an emergency care plan.



Utah Parent Center
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2. Make an official request in writing for a Section 504 plan for your student. You can check with your school's Section 504 coordinator if your district has specific forms. Included should be the reason for the request and how the allergy limits a life function and the school experience. Give the request to the school 504 coordinator (often the school psychologist) and a copy to the principal. The school should respond in a reasonable amount of time.
3. The school meeting should preferably include the administrator, school nurse, Section 504 coordinator, teacher and parents. Bring medical documentation, and a list of possible accommodations and be willing to work cooperatively with the team.
4. Develop an Emergency Care Plan. This is used when your child develops an anaphylactic reaction and must be followed immediately.
5. Request all involved school personnel be trained as to allergies and accommodations. This not only can include teachers, nurses and administration, but also lunch staff, recess aides, bus drivers and office staff.
6. If you are unsure of what accommodations are needed, consult with your child's allergist for ideas. Another good resource is the CDC voluntary food allergy guidelines, http://www.cdc.gov/HealthyYouth/foodallergies/pdf/13_243135_A_Food_Allergy_Web_508.pdf
7. Make sure the plan addresses accommodations in the classroom, recess area, cafeteria, bus, field trips and school activities.
8. Ensure that the teachers have an instruction packet for substitute teachers which includes information on the student's 504 accommodations and emergency plan.
9. Review the plan annually, but meet whenever changes are needed.
10. Your child's privacy is protected under FERPA, and only those who have a need to know should have access to the information.

Other possible accommodations include:

- Have ready access to an epinephrine auto-injector and trained personnel
- Establish allergen free classroom
- School notify other parents about food allergy policy such as no food for birthday celebrations or provide a list of safe foods
- Handwashing may be needed , or other reasonable accommodation, before entering classroom (hand wipes do not necessarily clean hands of allergens)
- Have tables and desks wiped down with approved sanitizers
- Establish an allergy friendly table in the cafeteria with a policy of friends included so child is not isolated
- Provide training to classmates about allergy safe practices
- Review school's bullying plan
- Provide safe snacks for student
- No food consumption on bus
- If the child cannot safely access cafeteria, arrange for a safe space to eat

Check out other documents on Section 504 and on the Individual Health Care Plan on our website.

References:

<http://www.schools.utah.gov/equity/Section504.aspx>

<http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>

<https://www.ada.gov/lapetite.htm>

https://www.ada.gov/q&a_lesley_university.htm<http://www.kidswithfoodallergies.org/page/about-section-504-plans-ada-disability-food-allergy-students-school.aspx>

<http://www.cdc.gov/healthyschools/foodallergies/publications.htm>

<http://www2.ed.gov/about/offices/list/ocr/docs/hq5269.html>

<http://www.mnmsba.org/portals/0/pdfs/lc2014handouts/thursday/2014qraccomodatingstudentallergy.pdf>

<http://www.utahparentcenter.org/wp-content/uploads/2015/10/IEP-vs-Section-504-Which-is-Right-for-My-Child-USOE-Presentation-4.26.16.pdf>