

Question 2: A student/parent presents a Medical Statement that says to give juice or water instead of milk for a student who does not have a disability, but has a special dietary need. Must the Child Nutrition Program comply with the Medical Statement?

Answer: No. A school must comply with a statement from a licensed physician only when a milk substitution is necessary due to a disability.

The Fluid Milk Substitute Ruling (Final Rule published 9/12/08; 73 FR 52903) establishes nutrient standards for nondairy beverages offered as fluid milk substitutes in the school meals program. A school has discretion to offer a milk substitute as part of the reimbursable meal to a child with a medical or special dietary needs other than a disability. Schools are encouraged to try to meet the dietary needs of these children by offering a nondairy beverage that meets the nutrient requirements of the final rule, if one is available. If the school chooses to offer a milk substitute that meets the required nutrient profile, the SFA must accept a written request for the milk substitute from a medical authority (as defined by the State) OR a parent/legal guardian.

If the school chooses not to offer the milk substitute, the options available to the student (without a disability) are:

- 1) If Offer versus Serve is implemented, the student can still take a reimbursable meal that excludes milk
- 2) The student may be provided a cup to get water from a pitcher of water served in a clean, sanitary manner, in order to have a beverage with the meal (the water does not replace milk as a reimbursable component)
- 3) The student may bring a beverage from home to drink with school meals
- 4) The student may purchase juice or bottled water as an a la carte item if available
- 5) On the days that juice may be offered on the menu as a fruit/vegetable choice, the student could use juice as a beverage
- 6) If Offer versus Serve is not implemented, there are 2 options: 1) the student must have milk on the tray for the meal to be reimbursable and it would be up to the student to choose not to drink the milk. (This is not the best choice) 2) The CN Program could choose not to claim reimbursement for the meal without milk or an acceptable milk substitute

Information about the Fluid Milk Ruling should be shared with the medical community, especially those physicians who often see school-age students as patients, so that they are aware of USDA regulations regarding milk substitutes and how these rules relate to reimbursable meals.

Note: If schools decide to offer lactose-free milk as their “milk substitute,” this is acceptable since lactose-free milk is real milk (i.e., it is not a milk substitute) and will meet the required nutrient profile. Lactose-free milk may meet the needs of students who are lactose-intolerant; however, it does not meet the needs of those who have a milk allergy, since the protein in milk is usually what causes an allergic reaction.

Source: USDA Policy Memo SP 35-2009 Q & A: Milk Substitutes for Children with Medical or Special Dietary Needs (Non-Disabled) August 13, 2009