

ACTION BY: Regional Directors
Special Nutrition Programs

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Eligibility of Individuals Over 12 Years of Age With
Mental or Physical Disabilities in Child Care Facilities
Participating in the Child and Adult Care Food Program

This Instruction provides guidelines for determining the eligibility of individuals over 12 years of age with mental or physical disabilities in child care facilities under the Child and Adult Care Food Program (CACFP). Note, individuals above age 18 years with mental or physical disabilities are also eligible for participation in adult day care centers participating in the CACFP.

Program regulations provide that individuals with mental or physical disabilities can participate in the CACFP provided they are enrolled in an independent child care facility which serves a majority of individuals 18 years of age or younger. However, some questions have been raised about the eligibility of individuals above age 12 years with disabilities when they are enrolled in child care facilities with individuals with or without disabilities. To clarify the issue of individuals above age 12 years with mental or physical disabilities in child care facilities, we wish to emphasize the following points:

- (1) The determination of the age status of the majority is based on the enrollment in each individual independent child care, not on the total enrollment of all facilities under the jurisdiction of a sponsoring organization.
- (2) When determining whether or not a majority of participants are 18 years of age and under, administering agencies are to consider all individuals 18 or younger. The individuals 18 or younger, if in the majority, need not be individuals with disabilities to enable individuals above age 12 with disabilities to qualify for participation in the CACFP. Moreover, whenever the majority of individuals in a facility are 19 and older, no individuals with disabilities between the ages of 13 and 18 can participate in the CACFP. To illustrate this principle, some examples of various kinds of situations are attached in Exhibit A to this Instruction.
- (3) The regulatory definition of "children" does not restrict eligibility of institutions or facilities. An independent center or facility with a majority of enrollees who have disabilities and are over 18 years of age can participate in the CACFP, providing, of course, that

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it can secure State, Federal, or local child care licensing or approval, or receives Title XX funds for child care. But such independent centers and facilities are to be reimbursed only for meals served to enrollees 12 years of age and under (or 15 years of age and under in the case of migrant children).

When processing applications for participation, administering agencies should be aware of independent centers or facilities which serve individuals with disabilities and ascertain whether individuals over 18 constitute the majority of the enrollment. When older individuals with disabilities are in the majority, the administering agency should make clear to the institution that only meals served at the independent center or facility to children 12 and under can be claimed for reimbursement (or 15 and under in the case of migrant children). Compliance with this requirement should be confirmed during administrative reviews.



STANLEY C. GARNETT
Director
Child Nutrition Division

Attachment

EXAMPLES OF SITUATIONS CONCERNING INDIVIDUALS WITH
MENTAL AND PHYSICAL DISABILITIES

1. Day Care Home

Five participants:
Three children 12 or under
Two with disabilities are 19 or over

All five individuals can participate, since the majority are 18 or under and the three who are under 18 are eligible.

2. Center

Fifty participants:
Twenty-four do not have disabilities and are between 13 and 18
Twenty-six have disabilities and are between 13 and 18

The twenty-six individuals with disabilities can participate because the majority at the center are under 18. However, the twenty-four individuals who do not have disabilities cannot participate.

3. Center

Fifty participants:
Thirty-five with disabilities are 19 or over
Fifteen have disabilities and are between 13 and 18

No one can participate because the majority are not 18 or under.

4. Outside-School-Hours Care Center

Fifty participants:
Twenty-five have disabilities and are between 13 and 18
One does not have disabilities and is between 13 and 18
Twenty-four have disabilities and are 19 and over

All except the one individual without a handicap are eligible because the majority are 18 or under.

5. Center

Fifty participants
Twenty-six have disabilities and are 19 and over
Twenty have disabilities and are between 13 and 18
Four do not have disabilities and are under age 12

Only the four who do not have disabilities are eligible since the majority is not 18 or under.