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## **Food Allergies Accommodation Issues**

A December 20, 2012 settlement agreement between The United States of America and Lesley University (DJ 202-36-231) resolved a complaint which alleged that students with food allergies were denied full and equal access to and enjoyment of the University's food service and meal plan system.

The Agreement provides, in pertinent part:

- Food allergies may constitute a disability under the ADA.
- Institutions are required to provide reasonable modifications that do not fundamentally alter the nature of their dining and food service plans and programs.
- The University is required through Disability Services to work with students to develop individualized plans to address their accommodation needs regarding food allergies.
- The food choices and meals offered to students pursuant to plans to address their food allergies must be “nutritionally comparable to the food choices offered other students, to the extent reasonably possible.”
- The University is required to incorporate into the contract with the third party Food Service Provider the obligation to comply with its policies and procedures regarding reasonable modifications. Additionally, there is a provision requiring the Food Service Provider's staff to receive educational training regarding a) food allergy awareness; b) cross-contamination, proper food storage, preparation and food safety practices; c) handling inquiries regarding allergies; and d) the University's procedures for addressing student requests for meal plan modifications and exemptions. Further, the University is obligated “to enforce the Food Service Provider's compliance” with the above described contact provisions.

## Food Services Policies and Procedures

The Agreement includes important information concerning the policies and procedures that postsecondary institutions should adopt to ensure that they properly accommodate students who seek modifications to their food service programs. They include:

- Adopting a clear process for students to follow who wish to request food service modification plans that includes an interactive process involving the student and a knowledgeable representative of the institution, as well as, the participation of necessary Food Service Provider staff. Additionally, the procedures should include clear guidance to students regarding their participation in the process. For example, requiring students to give at least 24 hours advanced notice for pre-ordered meals.
- Including information regarding available options for student with food allergies in relevant student handbooks and catalogs and on portions of the internal website linked to Dining/Food Services. The information should also identify a dining services staff person as a designated contact person(s).
- Posting notices regarding food allergies in dining halls and food eatery, including the cooking areas and/or food preparation areas in each facility. The recommended content of the notice: “Food-Allergic Individuals: **Be aware that we handle and prepare egg, milk, wheat, shellfish, fish, soy, peanut, tree nut products, and other potential allergens in our cafes and kitchens. Before placing your order, please inform your server if you or a person in your party has a food allergy. Please direct questions to the manager.**”
- Insuring that students are offered the same range of choices regarding where they elect to have lunch and dinner as other students. For example, if there are multiple dining halls and/or eateries on campus, students with disabilities should be provided the option of requesting that their meals be delivered to a hall or eatery other than the one in which the meal was prepared.
- Ensuring that contracts with third party Food Service Providers require compliance with the institutional policies and procedures regarding reasonable modifications and outline the responsibility of their staff to take reasonable steps to prepare and provide meals in conformance with modification plans developed for students with food allergies.

- Providing necessary training to Food Service staff regarding a) food allergy awareness; b) cross-contamination, proper food storage, preparation and food safety practices; c) handling inquiries regarding allergies; and d) the University's procedures for addressing student requests for meal plan modifications and exemptions.

Examples of possible accommodations or modifications:

- Fashioning an individualized plan for the student (i.e., a jointly agreed upon "best modification plan available");
- A pre-order option for daily meals (based upon dining hall and/or eatery menus);
- Exempting students from the meal plan;
- A dedicated, restricted area to store and prepare food for situations where institutions offers students the option of preparing their own food in dining facilities. If the food is provided to students by the Food Service Provider, students with food allergies must be permitted to submit individualized and specific shopping lists to the Food Service Provider which the Provider must purchase and replenishes as necessary.
- If the food service plan provided for students includes the option of students using institution supported cash accounts to make purchases at local restaurants, grocery stores, and other eating establishments, the institution must "make reasonable efforts to retain and obtain vendors that offer allergen-free food options to participate in the program."