



May 6, 2020

Robert R. Redfield, MD  
Director  
Centers for Disease Control and Prevention  
1600 Clifton Rd.  
Atlanta, GA 30329

Dear Director Redfield,

We appreciate the CDC's dedication and diligence in your approach to the coronavirus disease 2019 (COVID-19) pandemic. We know that you are working tirelessly to protect the health of the American public.

The Food Allergy & Anaphylaxis Connection Team ("FAACT") has been actively monitoring and researching the impact of COVID-19, related directives and guidelines, school closures, and the CARES Act on the rights of individuals with food allergies. One document that stands to impact the rights of students with food allergies to equally participate in educational opportunities along side their non-allergic peers is the Center for Disease Control and Prevention's ("CDC") "[Interim Guidance for Administrators of U.S. K-12 Schools and Child Care Programs to Plan, Prepare, and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)". On page 9 of this guidance document, it is recommended "[w]hen there is minimal to moderate community transmission" schools "[a]void mixing students in common areas. For example, allow students to eat lunch and breakfast in their classrooms rather than mixing in the cafeteria." The guidance document goes on to set out recommendations on how to limit mingling of students if it is not possible to suspend the use of common areas. Understandably so, the food allergy community is greatly concerned about the consumptions of meals in the classroom. It has been the position of FAACT since its inception that food-free classrooms are ideal and that prohibiting the allergens of a food-allergic student from their classroom is an essential disability accommodation for many students with food allergies.

FAACT understands the uniqueness of the current COVID-19 pandemic. We appreciate that this is an unprecedented public health crisis, and we understand the need to limit communal exposures in schools. At the same time, as the Nation's leading organization offering civil rights advocacy assistance for families affected by food allergies, we are greatly concerned that the CDC's guidance document may impact the right of students with food allergies. While enhanced cleaning of classrooms may reduce allergenic protein residue in classrooms where food is consumed (thus possibly reducing the number of first-time reactions in schools below the twenty-five percent (25%) prevalence currently demonstrated), it is FAACT's position that this enhanced cleaning of classrooms in which foods are consumed is insufficient to accommodate students with a known food allergy.

The U.S. Department of Education, Office for Civil Rights, and the U.S. Department of Justice have determined that food allergies may be deemed a disability that requires accommodations under federal disability laws and regulations such as Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, and the Americans with Disabilities Act, and the ADA Amendments Act of 2008. The CDC's own "[Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Educational Programs](#)" (on which Eleanor Garrow-Holding, FAACT's President and CEO, served as an expert panelist for the development of) recognizes that the implementation of said guidelines "must be implemented consistent with applicable federal and state laws and policies." Additionally, on [April 27, 2020](#) the U.S. Secretary of Education, Betsy DeVos, announced that she would not seek any waivers under the CARES Act of students' rights afforded under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act. Instead Secretary DeVos held that schools must continue to accommodate students with disabilities, including providing a free and appropriate public education ("FAPE") in the least restrictive environment.

Students with food allergies, a protected disability that affects one or more major life activity including, but not limited to, eating, breathing and the major bodily functions of the immune, digestive, respiratory, and circulatory systems, are at a great risk of an allergic reaction when their allergens are present in the classroom. While prohibiting the consumption of allergens in the classroom would seem like an easy mitigation of this risk, this approach is not a universally accepted approach. Since FAACT's launch in January 2014, FAACT's Civil Rights Advocacy Division has assisted over 4,000 families, many of whose main concern was a school refusal to prohibit a student's allergens from being consumed in the student's classroom. Through FAACT's advocacy and assistance, many of these families who were facing the challenge of schools failing to exclude their student's allergens from the classroom were able to receive accommodations requiring food items to be consumed outside of the classroom. FAACT, along with these families as well as others in the food allergy community, are concerned that the CDC's proposed alternative of consuming meals will undermine these accommodations.

Avoiding allergen exposure in the classroom is essential to preventing allergic reactions. Some of this exposure may be mitigated by enhanced cleaning but prohibiting the consumption of allergens in a classroom is not just a matter of preventing food allergic reactions. Students with known food allergies are also likely to fixate on the allergen in the classroom, including not only the food item itself, but also any crumbs or spills, the hands of their classmate that consumed the allergen, and everything that classmate touches. This attention to the allergen distracts the student with food allergies, thus reducing their attention to the classroom instruction and effectively resulting the denial of FAPE to the food allergic student.

FAACT respectfully requests that the CDC amend their "Interim Guidance for Administrators of U.S. K-12 Schools and Child Care Programs to Plan, Prepare, and Respond to Coronavirus Disease 2019 (COVID-19)" to include a provision specifically recognizing that classrooms that contain a child with a known food allergy, especially those receiving accommodations through a 504 plan, IEP, or other accommodation plan, be specifically listed as a specific incidence where it is "not possible to suspend use of common areas", at least for certain portions of the school's population (i.e. certain classroom bodies of students). FAACT is greatly concerned that without such guidance, schools across the country will refuse to provide these necessary accommodations to students

with food allergies based on the CDC's Interim Guidance's suggestion that meals be consumed in individual classrooms.

Should you have any questions or concerns regarding FAACT's position and recommendation, please contact FAACT's Vice President of Civil Rights Advocacy, Amelia G. Smith, J.D., at [Amelia.Smith@foodallergyawareness.org](mailto:Amelia.Smith@foodallergyawareness.org).

We appreciate your prompt attention to this crucial issue affecting the 6 million American children with food allergies.

Respectfully yours,



Eleanor Garrow-Holding  
President & Chief Executive Officer



Amelia G. Smith, JD  
Vice President, Civil Rights Advocacy