



## Federal Government Enforces ADA on Food Allergies

The U.S. Department of Justice (DOJ) and Lesley University recently settled a complaint ([www.ada.gov/lesley\\_university\\_sa.htm](http://www.ada.gov/lesley_university_sa.htm)) by students that Lesley violated the Americans with Disabilities Act (ADA) by not providing reasonable accommodations for their food allergies. The settlement, the first of its kind, indicates that DOJ will enforce the ADA for disabilities caused by food allergies.

In addition to a \$50,000 payment, Lesley agreed to revise its student disability services policy, implement specific provisions governing food services, and train employees, contractors, and vendors.

UE urges higher education members to review their policies and procedures for responding to students with food allergies who request meal program modifications. DOJ is likely to use the agreement with Lesley University, outlined below, as a model for resolving similar complaints, so institutions should revise any practices that are not generally consistent with those described here.

### Disability Services Policy

The settlement agreement requires Lesley to:

- Amend its policy to describe the procedure for students seeking meal program modifications due to food allergies causing disabilities
- Refer students requesting modifications to the Disability Services Office for an interactive discussion of each student's individual needs, holding students responsible for initiating the process and providing necessary documentation
- Provide each student with a written disability modification letter specifying the modifications reached
- Provide unspecified reasonable modifications while requests for formal modifications are pending
- Publicize, distribute, and post the amended policy
- Follow specific complaint and appeal procedures for dissatisfied students

**February 2013**



Read more answers to your risk management questions in our Ask UE Blog at [www.ue.org/learnue/askue.aspx](http://www.ue.org/learnue/askue.aspx).

## Food Services

In addition, the university must:

- Post notices about food allergies in campus dining and food preparation areas
- Ensure that the food services vendor continues providing allergen-free options to students with modification plans and avoids cross-contamination when preparing and serving food
- Continue offering meal pre-order options for students with modification plans
- Continue providing students with food allergies dedicated areas to store and prepare food and the option to submit lists of requested food items
- Obtain vendors offering allergen-free products to participate in the debit card system for purchasing food off campus

## Training

Under the agreement, Lesley also must:

- Train certain employees and contractors in Residential Life and Disability Services on their general obligations to students under federal disability law
- Require the food services vendor to train managers on compliance with the agreement, send them to a food service management class and annual training on nutritional needs of students with food allergies, and bring a regional nutritionist to visit campus
- Require the food services vendor to train its staff on the terms of the agreement and provide twice yearly training and monthly staff meetings on food allergies and food handling

## Resources

- **US Food and Drug Administration**  
[www.fda.gov/ForConsumers/ConsumerUpdates/ucm089307.htm](http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm089307.htm)  
The Food and Drug Administration website discusses food allergies, including major symptoms and the most common allergens.
- **FAAN College Network**  
[www.faancollegenetwork.org/](http://www.faancollegenetwork.org/)  
The FAAN College Network part of the Food Allergy & Anaphylaxis Network, offers college students advice and resources for managing food allergies on campus.

## Education's Own Insurance Company

---

The material appearing in this publication is presented for informational purposes and should not be considered legal advice or used as such. Copyright © 2013 by United Educators Insurance, a Reciprocal Risk Retention Group. All rights reserved. Contents of this document are for members of United Educators only. Permission to post this document or to reprint must be obtained from United Educators.