
Child Nutrition Programs, Rule

The Background:

Beginning in 1974 the State of Tennessee developed rules and regulations related to the operation of child nutrition programs in public schools. These rules have undergone multiple amendments over the years. At present, the state rules governing nutrition programs cover grades PreK-8. High schools are governed by federal rules promulgated by the U.S. Department of Agriculture.

New federal nutrition program rules were promulgated in 2010 and these will take effect at the beginning of the 2014-15 school year.¹ By adopting the federal rules all Tennessee child nutrition programs use the same guidance document. This will, according to the Tennessee School Nutrition Association², lessen confusion and create more consistency across grade spans.

These new rules extend the jurisdiction of the Secretary of Agriculture beyond the food service area. These rules “establish regulatory requirements for food sold in other areas of the school campus or at other times in the school day.”³ A provision allows states to set up “special exemptions for infrequent school-sponsored fundraisers.”⁴ “If a state agency does not specify the exemption frequency”⁵ the default number will be zero (0). During the most recent session of the 108th General Assembly a bill⁶ was introduced requiring the Department of Education to set the frequency for special exemptions. The bill was not calendared in the senate due to technical issues. The bill’s sponsor, Representative Kane, asked that we address the issue of exemptions administratively rather than legislatively. After discussion with legislative staff, thirty (30) days is being recommended for consideration. These days would be administered by the school principal rather than the nutrition services staff.

For clarification purposes, these rules do not extend to the sale of food items intended for off campus consumption, “(e.g. catalog sales or frozen pizzas and cookie dough)”⁷ Also, these rules do not change the current rules regarding sales through vending machines, but school stores, snack bars, and à la carte sales must meet the new provisions of the federal act.

¹ Federal Register Vol. 78, No. 125, also known as the “Healthy, Hunger-Free Kids Act of 2010.”

² A meeting was held with the executive committee at the 2014 conference of the Tennessee School Nutrition Association.

³ Pg. 39070

⁴ Ibid.

⁵ Pg. 39082.

⁶ HB 1793

⁷ Pg. 30982.

The Recommendation:

The SBE staff recommends acceptance of this item on first reading.

0520-1-6-.01 General Regulations.

The State Board of Education adopts by reference the Compilation of Federal Regulations at 7 C.F.R. Parts 210 and 220 in their entirety unless otherwise provided herein as the policies and procedures for administration of nutrition programs and services in the state.

~~The State Board of Education adopts the current Compilation of Federal Regulations (CFR) which govern child nutrition programs.~~

0520-1-6-.04 ~~Minimum Nutritional Standards for Individual Food Items Sold or Offered for Sale to Pupils in Grades Pre-Kindergarten Through Eight.(Pre-K-8)~~ Special Exemptions for Infrequent School-Sponsored Fundraisers

LEAs may make special exemptions for the sale of food and/or beverages that do not meet the competitive food standards for the purpose of conducting an infrequent school-sponsored fundraiser. Such specially exempted fundraisers shall take place on no more than thirty (30) days within a school year per school site. No specially exempted fundraiser foods or beverages may be sold in competition with school meals in the food service area during the meal service. The principal of the school shall ensure that the thirty (30) days limit is not exceeded.

~~(1) Introduction. The federal Child Nutrition Reauthorization Act, which applies to all schools that participate in the federal school lunch program, requires every school to adopt a wellness plan by June 30, 2006. As a component of a locally adopted wellness program, these nutritional guidelines are minimal and local boards of education may adopt more stringent guidelines.~~

~~Each local board of education shall develop and implement a district policy that, at a minimum, ensures compliance with these rules and designates a person responsible for oversight. The person designated as responsible for district compliance shall register with the state department of education.~~

~~Within one year of the revision of the Dietary Guidelines for Americans (DGA), the State Board of Education, in consultation and cooperation with the Department of Education and the Department of Health, shall review these rules.~~

~~(2) Definitions.~~

- ~~(a) School day: Starting 45 minutes before the beginning of the official school day and continuing until 30 minutes after the end of the official school day.~~

- ~~(b) Low-calorie beverage (includes flavored, sweetened, and non-caffeinated water): A flavored, non-carbonated beverage that does not contain additional caloric sweeteners and does not contain more than 15 calories per serving.~~
- ~~(c) Beverage serving: One serving of beverage that does not exceed 8 fluid ounces, except non-flavored, non-carbonated, non-caffeinated water.~~
- ~~(d) Foods and beverages of minimal nutritional value: Those foods the United States~~
- ~~(e) Department of Agriculture (USDA) School Food and Nutrition Service defines as foods and beverages of minimal nutritional value including but not limited to: soda, gum, hard candies, marshmallow candies, licorice and candy coated popcorn.~~

~~(3) Nutritional Quality Standards~~

~~These standards are developed for foods and beverages sold or offered for sale during the school day in schools that include students in grades Pre-kindergarten through 8. These standards apply to food items sold or offered for sale during the school day including but not limited to school stores items, fund raising items, a la carte items, vending machine items, snack bars items, etc. These standards do not apply to foods served as a federally reimbursable meal to pupils. However, it is strongly recommended that schools meet these standards in federally reimbursable meals.~~

~~(a) Beverages that can be offered for sale in schools include the following:~~

- ~~1. Fluid milk that is flavored or unflavored; is reduced fat, low fat, or skim/non-fat; and meets state and local standards for pasteurized fluid milk and/or USDA approved alternative dairy beverages;*~~
- ~~2. Beverages that are 100% fruit and vegetable juices;~~
- ~~3. Water that is non-flavored, non-sweetened, and non-carbonated; and~~
- ~~4. Low-calorie beverages (includes flavored, sweetened, and non-caffeinated water) that are flavored, non-carbonated beverages, containing no additional caloric sweeteners and no more than 15 calories per serving.~~

~~* There are no USDA approved alternative dairy beverages at this time. Public Law 108-265 (Child Nutrition Program Reauthorization) authorizes the Secretary of Agriculture to establish nutritionally equivalent non-dairy beverages by July 1, 2005.~~

~~(b) A food item that can be sold individually includes food that meets the following standards:~~

- ~~1. Calories from total fat must be at or below 35%, excluding nuts, seeds, and nut butters. This is determined by dividing the calories from total fat by the total calories and multiplying by 100. If calories from fat are not available, multiply the grams of fat by 9 to equal calories from fat~~
- ~~2. Calories from saturated fat must be at or below 10%. This is determined by dividing the calories from saturated fat by the total calories and multiplying by 100. If calories from saturated fat are not available, multiply the grams of saturated fat by 9 to equal calories from saturated fat.~~
- ~~3. Calories from sugar must be at or below 35% by weight. This is determined by dividing the grams of sugar by the gram weight of the product and multiplying by 100. This includes both naturally occurring and added sugars. This limit does not include fruits and vegetables as defined below.~~
- ~~4. Chips, cereals, crackers, French fries, baked goods, and other snack items may contain no more than 230 mg. of sodium per serving; pastas, meats, and soups may contain no more than 480 mg. of sodium per serving; and pizza, sandwiches, and main dishes may contain no more than 600 mg. of sodium.~~

~~(c) Fruits and Non-Fried Vegetables that can be sold individually include the following:~~

- ~~1. Fruits and vegetables may be fresh, frozen, canned or dried, and they must be found in the Food Buying Guide for Child Nutrition Programs. (<http://schoolmeals.nal.usda.gov/FBG/2003FBG/%20Section%202.pdf>).~~
- ~~2. Examples of products that cannot be sold as a fruit or vegetable include:~~
 - ~~(i) Snack-type foods made from vegetables or fruits, such as potato chips and banana chips;~~

~~(ii) — Pickle relish, jam, and jelly; and~~

~~(iii) — Tomato catsup and chili sauce.~~

~~3. — Fruits and non-fried vegetables are exempt from portion-size limits.~~

~~(d) Limit on portion sizes of foods and beverages sold individually are the following:-~~

~~1. — One and one-quarter ounces for chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, or jerky;~~

~~2. — One ounce for cookies;~~

~~3. — Two ounces for cereal bars, granola bars, pastries, muffins, doughnuts, bagels, and other bakery items;~~

~~4. — Four fluid ounces for frozen desserts, including, but not limited to, low-fat or fat-free ice cream;~~

~~5. — One ounce pure cheese that is low-fat or fat free containing 3.5 grams or less of fat.~~

~~6. — Eight ounces for non-frozen yogurt; and~~

~~7. — Eight fluid ounces for beverages, excluding non-flavored water;~~

~~(e) The portion size of a la carte entrees and side dishes, including potatoes, shall not be greater than the size of comparable portions offered as part of school meals. Fruits and non-fried vegetables are exempt from portion-size limits.~~

~~(f) Individual food items that are part of a day's reimbursable school lunch or part of the reimbursable school breakfast program may be sold on that day for that meal as an a la carte item. All other school a la carte items are not to exceed the State Board of Education's standards for foods sold individually.~~

~~(4) Implementation.~~

~~(a) Schools serving pre-kindergarten through grade 5, shall implement these rules no later than one (1) year after the original effective date of these rules. This does not apply to high schools in which pre-kindergarten children are the only students in the building below grade 9.~~

~~(b) Schools serving grades 6, 7, or 8 shall implement at least 50% of the nutritional quality standards set forth above no later than one (1) year after the original effective date of these rules and shall implement all of the nutritional quality standards within the following year. Schools that serve grades 6, 7, or 8 and also serve higher grade levels must meet the standards~~

~~(5) Evaluation of Effectiveness~~

~~Each local board of education shall monitor implementation of these rules and shall evaluate the effectiveness thereof. School systems shall include a wide range of constituency groups in planning and implementing the evaluation and shall consider measures such as:~~

~~(a) Participation rates in school meal programs;~~

~~(b) Student satisfaction surveys to monitor the effects of consumption of healthy snacks on children's health, behavior, and school performance and to monitor satisfaction with snack choices;~~

~~(c) Parent satisfaction surveys to monitor the effects of consumption of healthy snacks on children's health, behavior, and school performance and to monitor satisfaction with snack choices;~~

~~(d) Frequency and types of health problems noted on school nurse logs;~~

~~(e) Frequency and types of mental health and behavioral problems noted on counselor logs;~~

~~(f) Incidence of student behavior infractions;~~

~~(g) Teacher surveys of students' classroom behavior, attention span, and memory; and~~

~~(h) Test score~~