

# Snack Foods and Beverages In California Schools

A comparison of state policy with USDA's nutrition standards

Senate bills 12 and 965, which passed in 2005 and are now California Education Code sections 49430-49431.7, set nutrition standards for foods and beverages sold outside the federally reimbursable meal programs to students in public schools, K-12. The California Department of Education's Nutrition Services Division developed regulations that further define or clarify language found in SBs 12 and 965. The State Board of Education and the Office of Administrative Law adopted these regulations, and they were effective on Sept. 4, 2008. These regulations work in conjunction with, and do not take the place of, Education Code sections 49430-49431.7. In May, 2014, the Department of Education released updated guidance to better align existing state policy with the U.S. Department of Agriculture's Smart Snacks in Schools rule.

| Policy Applications                        |   |  |
|--|---|--|
|  | USDA interim final rule   | California standards <sup>1</sup>  |
| <b>What is covered by the policy?</b>      | This policy applies to all snack foods and beverages sold in schools—elementary, middle, and high—operating the National School Lunch Program (NSLP) and School Breakfast Program (SBP) effective July 1, 2014.   | This policy applies to all snack foods and beverages sold statewide in elementary schools, middle schools, and high schools. "Sold" includes the exchange of food for money, coupons, vouchers, or order forms, when any part of the exchange occurs on a school campus. |
| <b>Does the policy address preemption?</b> | The interim final rule sets minimum standards for foods and beverages that local educational agencies, school food authorities, and schools must meet. State agencies and/or local school districts may establish other standards if they are consistent with or stricter than the national policy. | The policy does not address preemption.  |
| <b>Definition of "school day"</b>          | The period from 12:01 a.m. until 30 minutes after the end of the instructional day.   | The period from 12:01 a.m. to one-half hour after school.<br><br>This policy does not apply to the extended school day, and thus does not cover after-school activities.   |
| <b>Definition of "school campus"</b>       | All areas of the school's property accessible to students during the school day are considered part of the school campus.   | All areas where foods or beverages are sold to students.   |

<sup>1</sup> This chart reflects state policies in place as of Aug. 1, 2014, and federal standards as of Sept. 11, 2014.

| Foods  |  |   |
|--|--|---|
|  | USDA interim final rule  | California standards  |
| <b>General</b>                                   | <p>A food item must meet all the competitive food-nutrient standards, as outlined in this chart, and</p> <ul style="list-style-type: none"> <li>be a whole-grain product containing 50% or more whole grains by weight or have whole grains listed as the first ingredient, or</li> <li>have as the first ingredient one of the non-grain major food groups: a fruit, vegetable, dairy product, protein food, or</li> <li>be a combination food that contains at least ¼ cup of fruit and/or vegetable, or</li> <li>Through June 30, 2016, a competitive food can contain 10 percent of the Daily Value of a nutrient of public health concern as identified in the <i>Dietary Guidelines for Americans</i> (i.e. calcium, potassium, vitamin D or dietary fiber).</li> </ul> <p>If water is the first ingredient, the second must be one of the food items above.</p> | <p>Elementary schools:</p> <p>Compliant foods must meet the competitive food nutrient standards, and can be only a fruit, non-fried vegetable, dairy food, allowable protein food (nuts, seeds, legumes, eggs, cheese), or whole-grain item that meets all six nutrition standards.</p> <p>Entree items may only be sold when included as part of a full school meal.*</p> <p>Middle and high schools:</p> <p>Compliant foods must meet the competitive food nutrient standards, and</p> <ul style="list-style-type: none"> <li>have fruit, vegetable, dairy, protein, or whole grain as the first ingredient, or</li> <li>contain ≥ 10% DV for calcium or potassium or Vitamin D or dietary fiber (criteria applicable through 6/30/16), or</li> <li>be a combination food containing at least ¼ cup fruit or vegetable.</li> </ul> <p>Entrees must meet competitive food nutrient standards and be a:</p> <ul style="list-style-type: none"> <li>Meat/meat alternate and whole grain rich food; or</li> <li>Meat/meat alternate and fruit or non-fried vegetable; or</li> <li>Meat/meat alternate alone (cannot be yogurt, cheese, nuts, seeds, or meat snacks, since these are considered a "snack").</li> </ul> |
| <b>Calories (per item as packaged or served)</b> | <p>≤ 200 calories for snacks and side dishes</p> <p>≤ 350 calories for entree items</p>  | <p>Elementary school:</p> <ul style="list-style-type: none"> <li>≤ 175 calories per item/container*</li> </ul> <p>Middle and high school:</p> <ul style="list-style-type: none"> <li>≤ 200 per item/container</li> <li>≤ 350 per entree sold by an entity other than the school nutrition program</li> <li>≤ 400 per entree offered the day of or the day after on the reimbursable meal program menu*</li> </ul>   |
| <b>Total fat</b>                                 | ≤ 35% of total calories  | <p>≤ 35% of total calories</p> <p>Middle/high schools: ≤ 4 g fat per 100 calories for entrees offered the day of or the day after on the reimbursable meal program menu*</p>  |
| <b>Saturated fat</b>                             | ≤ 10% of total calories  | < 10% of total calories   |
| <b>Trans fat</b>                                 | Zero grams   | < 0.5 grams per serving   |

| Foods  |   |  |
|--|---|--|
|  | USDA interim final rule   | California standards   |
| <b>Sugar (per item as packaged or served)</b>  | ≤ 35% of weight from total sugars in foods  | ≤ 35% of weight from total sugars in foods   |
| <b>Sodium (per item as packaged or served)</b> | ≤ 230 mg of sodium for snack items (July 2014-June 30, 2016)<br>≤ 200 mg of sodium for snack items (as of July 1, 2016)<br>≤ 480 mg of sodium for entree items  | ≤ 230 mg of sodium for snack items (July 2014-June 30, 2016)<br>≤ 200 mg of sodium for snack items (as of July 1, 2016)<br>≤ 480 mg of sodium for entree items   |
| <b>Other</b>                                   | <p>NSLP and SBP entrees sold a la carte are exempt from the rule's nutrient standards if sold on the day that they are offered as part of a reimbursable meal, or sold on the following school day.</p> <p>Accompaniments, such as condiments or salad dressing, must be included in the nutrient profile as a part of the item served.</p> | <p>Elementary schools only:</p> <p>A whole-grain item is a grain or bread product that:</p> <ul style="list-style-type: none"> <li>Contains the statement "Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol, may help reduce the risk of heart disease and certain cancers," or</li> <li>Includes a whole grain as the first listed grain ingredient, or</li> <li>Includes an amount of whole grains that, when combined, represents at least 51% of total grain weight, or</li> <li>The weight of the whole grain must be at least 51% of the total grain weight of the product.</li> </ul> |

| Beverages                         |  |   |
|-----------------------------------|--|---|
|                                   | USDA interim final rule  | California standards  |
| <b>General</b>                    | Elementary and middle schools may only sell low-fat or nonfat milk, 100 percent fruit and/or vegetable juice, and water per USDA's portion guidelines. High schools may sell additional beverages meeting calorie and serving size limits. |   |
| <b>Juice</b>                      |  |   |
| <b>Elementary</b>                 | <p>100% fruit/vegetable juice ≤ 8 fl oz</p> <p>100% fruit/vegetable juice diluted with water (with or without carbonation), and no added sweeteners ≤ 8 fl oz</p>  | <p>Fruit/vegetable juices ≤ 12 fl oz</p> <ul style="list-style-type: none"> <li>• ≥ 50% juice</li> <li>• No added sweeteners</li> </ul>   |
| <b>Middle</b>                     | <p>100% fruit/vegetable juice ≤ 12 fl oz</p> <p>100% fruit/vegetable juice diluted with water (with or without carbonation), and no added sweeteners ≤ 12 fl oz</p>  | <p>Fruit/vegetable juices ≤ 12 fl oz</p> <ul style="list-style-type: none"> <li>• ≥ 50% juice</li> <li>• No added sweeteners</li> </ul>   |
| <b>High</b>                       | <p>100% fruit/vegetable juice ≤ 12 fl oz</p> <p>100% fruit/vegetable juice diluted with water (with or without carbonation), and no added sweeteners ≤ 12 fl oz</p>  | <p>Fruit/vegetable juices ≤ 12 fl oz</p> <ul style="list-style-type: none"> <li>• ≥ 50% juice</li> <li>• No added sweeteners</li> </ul>   |
| <b>Milk and milk alternatives</b> |  |   |
| <b>Elementary</b>                 | <p>Low-fat milk, unflavored ≤ 8 fl oz</p> <p>Nonfat milk, plain or flavored ≤ 8 fl oz</p> <p>Nutritionally equivalent milk alternatives ≤ 8 fl oz</p>  | <p>Low-fat cow's or goat's milk, unflavored ≤ 8 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A&amp;D'</li> <li>• ≥ 25% of the Daily Value (%DV) for calcium'</li> <li>• ≤ 28g of total sugar per 8 fl oz'</li> </ul> <p>Nonfat cow's or goat's milk, plain or flavored ≤ 8 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D'</li> <li>• ≥ 25% of the Daily Value (%DV) for calcium'</li> <li>• ≤ 28g of total sugar per 8 fl oz'</li> </ul> <p>Nutritionally equivalent milk alternatives ≤ 8 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D'</li> <li>• ≥ 25% of the Daily Value (%DV) for calcium'</li> <li>• ≤ 28g of total sugar per 8 fl oz'</li> <li>• ≤ 5g of fat per 8 fl oz'</li> </ul> |

| Beverages                         |   |  |
|-----------------------------------|---|--|
|                                   | USDA interim final rule   | California standards   |
| <b>Milk and milk alternatives</b> |   |  |
| <b>Middle</b>                     | <p>Low-fat milk, unflavored ≤ 12 fl oz</p> <p>Nonfat milk, plain or flavored ≤ 12 fl oz</p> <p>Nutritionally equivalent milk alternatives ≤ 12 fl oz</p>  | <p>Low-fat cow's or goat's milk, unflavored ≤ 12 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D<sup>*</sup></li> <li>• ≥ 25% of the Daily Value (%DV) for calcium<sup>*</sup></li> <li>• ≤ 28g of total sugar per 8 fl oz<sup>*</sup></li> </ul> <p>Nonfat cow's or goat's milk, plain or flavored ≤ 12 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D<sup>*</sup></li> <li>• ≥ 25% of the Daily Value (%DV) for calcium<sup>*</sup></li> <li>• ≤ 28g of total sugar per 8 fl oz<sup>*</sup></li> </ul> <p>Nutritionally equivalent milk alternatives ≤ 12 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D<sup>*</sup></li> <li>• ≥ 25% of the Daily Value (%DV) for calcium<sup>*</sup></li> <li>• ≤ 28g of total sugar per 8 fl oz<sup>*</sup></li> <li>• ≤ 5g of fat per 8 fl oz<sup>*</sup></li> </ul> |
| <b>High</b>                       | <p>Low-fat milk, unflavored ≤ 12 fl oz</p> <p>Nonfat milk, plain or flavored ≤ 12 fl oz</p> <p>Nutritionally equivalent milk alternatives ≤ 12 fl oz</p>  | <p>Low-fat cow's or goat's milk, unflavored ≤ 12 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D<sup>*</sup></li> <li>• ≥ 25% of the Daily Value (%DV) for calcium<sup>*</sup></li> <li>• ≤ 28g of total sugar per 8 fl oz<sup>*</sup></li> </ul> <p>Nonfat cow's or goat's milk, plain or flavored ≤ 12 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D<sup>*</sup></li> <li>• ≥ 25% of the Daily Value (%DV) for calcium<sup>*</sup></li> <li>• ≤ 28g of total sugar per 8 fl oz<sup>*</sup></li> </ul> <p>Nutritionally equivalent milk alternatives ≤ 12 fl oz containing:</p> <ul style="list-style-type: none"> <li>• Vitamins A and D<sup>*</sup></li> <li>• ≥ 25% of the Daily Value (%DV) for calcium<sup>*</sup></li> <li>• ≤ 28g of total sugar per 8 fl oz<sup>*</sup></li> <li>• ≤ 5g of fat per 8 fl oz<sup>*</sup></li> </ul> |
| <b>Water</b>                      |   |  |
| <b>All grades</b>                 | <p>Potable water must be available at no charge during meal service where breakfast and lunches are served.</p> <p>There is no ounce restriction on plain water for sale (carbonated or noncarbonated).</p> | <p>Water with no added sweetener allowed. There is no restriction on serving sizes of plain water for sale.</p>  |

| Beverages                    |   |   |
|------------------------------|---|---|
|                              | USDA interim final rule   | California standards  |
| <b>Other beverages</b>       |   |   |
|                              | <p>Other beverages allowed only in high school:</p> <p>Calorie-free, flavored and/or carbonated water and other calorie-free beverages that comply with the Food and Drug Administration's requirement of <math>\leq 5</math> calories per 8 fluid oz serving (or <math>\leq 10</math> calories per 20 fluid oz), in no more than 20 oz servings.</p> <p>Beverages <math>\leq 40</math> calories per 8 fluid oz serving (or <math>\leq 60</math> calories per 12 fluid oz serving) in no more than 12 oz servings are also allowed.</p> | <p>Other beverages only allowed in high schools.</p> <p>No-calorie electrolyte replacement beverage allowed if:</p> <ul style="list-style-type: none"> <li>• Water is the first ingredient;</li> <li>• <math>\leq 16.8</math> grams added sweetener per 8 fl oz;</li> <li>• <math>\leq 5</math> calories/8 fl oz (or <math>\leq 10</math> per 20 fl oz)</li> <li>• 10-150 milligrams of sodium per 8 fl oz;</li> <li>• 10-90 milligrams of potassium per 8 fl oz; and</li> <li>• No added caffeine</li> <li>• <math>\leq 20</math> fl oz serving size</li> </ul> <p>Low-calorie electrolyte replacement beverage allowed if:</p> <ul style="list-style-type: none"> <li>• Water is the first ingredient;</li> <li>• <math>\leq 16.8</math> grams added sweetener per 8 fl oz;</li> <li>• <math>\leq 40</math> calories/8 fl oz</li> <li>• 10-150 milligrams of sodium per 8 fl oz;</li> <li>• 10-90 milligrams of potassium per 8 fl oz; and</li> <li>• No added caffeine</li> <li>• <math>\leq 12</math> fl oz serving size</li> </ul> |
| <b>Caffeine</b>              |   |   |
| <b>Elementary</b>            | Not allowed   | Not allowed   |
| <b>Middle</b>                | Not allowed   | Not allowed   |
| <b>High</b>                  | Caffeinated beverages allowed   | Not allowed   |
| <b>Artificial sweeteners</b> |   |   |
|                              | No standard   | No standard   |

| Other                                    |   |   |
|--|---|---|
|  | USDA interim final rule   | California standards  |
| <b>Fundraisers</b>                       | <p>Exemptions allowed for infrequent school-sponsored fundraisers.</p> <p>Frequency to be defined by state agency.</p> <p>Exempted fundraiser foods or beverages may not be sold in competition with school meals in the food service area during the meal service.</p> | <p>As of July 1, 2014, all fundraisers occurring on school campus during the school day must meet the above nutrition standards with no exemptions allowed.</p> <p>In addition to meeting the nutrition standards outlined in this document, student organizations conducting food or beverage sales on campus during the school day must also adhere to the following rules:</p> <p>Elementary:</p> <ul style="list-style-type: none"> <li>• Only one food or beverage item per sale</li> <li>• Sales must be approved by governing board of school district</li> <li>• Sale must be after the lunch period has ended</li> <li>• Food or beverage item cannot be prepared on campus</li> <li>• Each school is allowed four sales per year</li> <li>• Food or beverage item cannot be one that is sold in the food service program at that school during the same school day</li> </ul> <p>Middle/high schools:</p> <ul style="list-style-type: none"> <li>• Up to three categories of food or beverage item may be sold (e.g., chips, sandwiches, juices, etc.)</li> <li>• Sales must be approved by governing board of school district</li> <li>• Only one student organization may be allowed to sell per day</li> <li>• Food or beverage item cannot be prepared on campus, and</li> <li>• Food or beverage categories cannot be ones that are sold in the food service program at that school during the same school day.</li> <li>• In addition to one student organization sale each day, any student organizations may sell on the same four designated days per year. School administration may set these dates.</li> </ul> <p>Food and beverages that do not meet standards may only be sold at least one-half hour after the end of the school day or off school premises.</p> |
| <b>Class parties/school celebrations</b> | No standard   | No standard   |
| <b>Food marketing</b>                    | No standard included in the USDA Smart Snacks interim final rule; however, USDA's proposed rule on Local Wellness Policies addresses this component.  | No standard   |

| Other                                  |  |  |
|--|--|--|
|  | USDA interim final rule  | California standards   |
| <b>Positive nutritional value</b>      | No standard  | No standard  |
| <b>Nutrition labeling requirements</b> | No standard  | No standard  |
| <b>Local Wellness Policy</b>           | No standard included in the USDA Smart Snacks interim final rule; however, school districts are required by federal law to have a Local Wellness Policy. | Every public school must post the district's nutrition and physical activity policies in public view, in all school cafeterias and other central eating areas. |



| Exemptions to food and beverage standards                     |   |   |
|---|---|---|
|   | USDA interim final rule   | California standards  |
| <b>General</b>  |   |   |
| <b>General exemptions</b>                                     | <p>Fresh, canned, and frozen fruit or vegetables with no added ingredients except water, or in the case of fruit, packed in 100 percent juice, extra light, or light syrup are exempt from the interim final rule's nutrient standards.</p> <p>Canned vegetables that contain a small amount of sugar to maintain the quality and structure of the vegetable are exempt from the rule's nutrient standards.</p> <p>Sugar-free chewing gum is exempt from competitive food standards and may be sold to students at the discretion of the local educational agency.</p> <p>"Paired exemptions" are items designated as exempt from one or more of the nutrient requirements individually and packaged together without any additional ingredients. These items retain their individually designated exemption for total fat, saturated fat, and/or sugar when packaged together and sold. "Paired exemptions" are required to meet the calorie and sodium limits for Smart Snacks.</p> | <p>Middle and high school:</p> <ul style="list-style-type: none"> <li>Mixed foods containing only exempt items are excused from all restrictions.</li> <li>Mixed foods containing at least one non-exempt food or ingredient must meet the nutrition restrictions set for snacks or entrees.</li> </ul> |
| <b>Exemptions from total fat</b>                              | <p>Nuts, seeds, nut/seed butters</p> <p>Reduced-fat and part-skim mozzarella cheeses</p> <p>Products consisting of only dried fruits with nuts and/or seeds, with no added nutritive<sup>†</sup> sweetener or fat</p> <p>Seafood with no added fat</p> <p>Combination foods are not exempt and must meet all nutrient standards.</p>  | <ul style="list-style-type: none"> <li>Nuts, nut butters, seeds</li> <li>Reduced-fat cheese</li> <li>Dried fruit and nut/seed combinations</li> </ul>   |
| <b>Exemptions from saturated fat</b>                          | <p>Nuts, seeds, nut/seed butters</p> <p>Reduced-fat and part-skim mozzarella cheeses</p> <p>Products consisting of only dried fruits with nuts and or seeds, with no added nutritive sweetener or fat</p> <p>Combination products are not exempt and must meet all nutrient standards.</p>  | <ul style="list-style-type: none"> <li>Reduced-fat cheese</li> <li>Dried fruit and nut/seed combinations</li> </ul>   |
| <b>Exemptions from sugar (per item as packaged or served)</b> | <p>Dried whole fruit or vegetables; dried whole fruit or vegetable pieces; and dehydrated fruit or vegetables with no added nutritive sweeteners</p> <p>Dried fruit with added nutritive sweeteners required for processing and/or palatability purposes</p> <p>Products consisting of only dried fruits with nuts and or seeds with no added nutritive sweeteners or fat.</p>  | <ul style="list-style-type: none"> <li>Fruit</li> <li>Dried blueberries, cranberries, cherries, tropical fruit, dates, or figs that contain added sugar</li> <li>Non-fried vegetables</li> <li>Dried fruit and nut/seed combinations</li> </ul>   |

<sup>†</sup> Components of the standards that are considered to be stronger than the USDA standards.

<sup>†</sup> Nutritive and non-nutritive sweeteners enhance the flavor and/or texture of food. Nutritive sweeteners provide the body with calories, whereas non-nutritive sweeteners are low in calories or contain none. They can be added to both food and beverages.

## References

Federal Register, 2013, 7 CFR Parts 210 and 220, *National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in Schools as Required by the Healthy, Hunger-Free Kids Act of 2010; Interim Final Rule*, U.S. Department of Agriculture, 78 (125) (June 28, 2013).

Federal Register, 2014, 7 CFR Parts 210 and 220, *Local School Wellness Policy Implementation under the Healthy, Hunger-Free Kids Act of 2010: Proposed Rule*, U.S. Department of Agriculture, 79 (38) (February 26, 2014).

California Department of Education, "Competitive Food and Beverages Sales in Schools," accessed August 27, 2014, <http://www.cde.ca.gov/ls/nu/he/compfoodsreq.asp>.

California Education Code 49431, 49431.2, 49431.5 (2005), <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

California Education Code 49431.7 (2007), <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

California Department of Education (2006), "Restrictions on Food and Beverages Sales," Management Bulletin 06-110, <http://www.cde.ca.gov/ls/nu/sn/mb06110.asp>.

California Code of Regulations, Title 5, sections 15500-15501 and 15575-15578, accessed August 27, 2014, <http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>.

California Department of Education (2008). "New State Food and Beverage Sale Regulations," Management Bulletin NSD-SNP-08-2008, <http://www.cde.ca.gov/ls/nu/sn/mbnsdsn082008.asp>

**KIDS' SAFE &  
HEALTHFUL  
FOODS PROJECT**

  
Robert Wood Johnson  
Foundation

 **THE  
PEW**  
CHARITABLE TRUSTS

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**Contact:** Michelle Mendes, associate, communications    **Email:** [mmendes@pewtrusts.org](mailto:mmendes@pewtrusts.org)    **Project website:** [healthyschoolfoodsnow.org](http://healthyschoolfoodsnow.org)

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**The Kids' Safe and Healthful Foods Project**, a collaboration between The Pew Charitable Trusts and the Robert Wood Johnson Foundation, provides nonpartisan analysis and evidence-based recommendations to make sure that all foods and beverages sold in U.S. schools are safe and healthful.