

# Snack Foods and Beverages In New York Schools

A comparison of state policy with USDA's nutrition standards

Education Law 915, prohibiting certain food and beverages from being sold in any public school in the state, was enacted by the New York state legislature in 2006. The New York School Nutrition Association also has a voluntary campaign called “Choose Sensibly” which was developed to provide New York Schools with additional nutrition standards for snacks and beverages. Many school districts within the state have implemented the nutrition criteria school-wide wherever snacks and beverages are offered or sold; however, because this is not a statewide initiative of the Department of Education, these voluntary standards are not outlined here.

Policy Applications		
	USDA interim final rule	New York 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.	New York law only prohibits certain beverages, chewing gum, and candy from being sold in any public school within the state.
<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.	No standard
<b>Definition of “school day”</b>	The period from 12:01 a.m. until 30 minutes after the end of the instructional day.	Certain foods and beverages are prohibited from the beginning of the school day until the end of the last scheduled meal period.
<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.	No standard

<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	New York 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>	Chewing gum and candy including hard candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy, and candy-coated popcorn are prohibited for sale in school from the beginning of the school day until the end of the last scheduled meal period.
<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>	No standard
<b>Total fat</b>	≤ 35% of total calories	No standard
<b>Saturated fat</b>	≤ 10% of total calories	No standard
<b>Trans fat</b>	Zero grams	No standard
<b>Sugar (per item as packaged or served)</b>	≤ 35% of weight from total sugars in foods	No standard
<b>Sodium (per item as packaged or served)</b>	<p>≤ 230 mg of sodium for snack items (July 2014-June 30, 2016)</p> <p>≤ 200 mg of sodium for snack items (as of July 1, 2016)</p> <p>≤ 480 mg of sodium for entree items</p>	No standard
<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>	No standard

Beverages		
	USDA interim final rule	New York 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.	Sweetened soda water and water ices (except those that contain fruit or fruit juices) are prohibited for sale from the beginning of the school day until the end of the last scheduled meal period.
<b>Juice</b>		
<b>Elementary</b>	100% fruit/vegetable juice ≤ 8 fl oz  100% fruit/vegetable juice diluted with water (with or without carbonation), and no added sweeteners ≤ 8 fl oz	No standard
<b>Middle</b>	100% fruit/vegetable juice ≤ 12 fl oz  100% fruit/vegetable juice diluted with water (with or without carbonation), and no added sweeteners ≤ 12 fl oz	No standard
<b>High</b>	100% fruit/vegetable juice ≤ 12 fl oz  100% fruit/vegetable juice diluted with water (with or without carbonation), and no added sweeteners ≤ 12 fl oz	No standard
<b>Milk and milk alternatives</b>		
<b>Elementary</b>	Low-fat milk, unflavored ≤ 8 fl oz  Nonfat milk, plain or flavored ≤ 8 fl oz  Nutritionally equivalent milk alternatives ≤ 8 fl oz	No standard
<b>Middle</b>	Low-fat milk, unflavored ≤ 12 fl oz  Nonfat milk, plain or flavored ≤ 12 fl oz  Nutritionally equivalent milk alternatives ≤ 12 fl oz	No standard
<b>High</b>	Low-fat milk, unflavored ≤ 12 fl oz  Nonfat milk, plain or flavored ≤ 12 fl oz  Nutritionally equivalent milk alternatives ≤ 12 fl oz	No standard
<b>Water</b>		
<b>All grades</b>	Potable water must be available at no charge during meal service where breakfast and lunches are served.  There is no ounce restriction on plain water for sale (carbonated or noncarbonated).	No standard

Beverages		
	USDA interim final rule	New York 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>	No standard
<b>Caffeine</b>		
<b>Elementary</b>	Not allowed	No standard
<b>Middle</b>	Not allowed	No standard
<b>High</b>	Caffeinated beverages allowed	No standard
<b>Artificial sweeteners</b>		
	No standard	No standard

Other		
	USDA interim final rule	New York 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>	As of July 1, 2014, all fundraisers must meet USDA's Smart Snacks nutrition standards, with no exemptions allowed.
<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
<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.	No standard

Exemptions to food and beverage standards		
	USDA interim final rule	New York 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>	
<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>1</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>	
<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>	
<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>	

<sup>1</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).

New York Code (2006). "Prohibiting The Sale of Certain Sweetened Foods," New York Education Law 915, [http://law.justia.com/codes/new-york/2006/education/edn0915\\_915.html](http://law.justia.com/codes/new-york/2006/education/edn0915_915.html).

National Association of State Boards of Education, "State School Health Policy Database: Competitive Foods in Schools," accessed Aug. 1, 2014, [http://www.nasbe.org/healthy\\_schools/hs/bytopics.php?topicid=3115&catExpand](http://www.nasbe.org/healthy_schools/hs/bytopics.php?topicid=3115&catExpand).

School Nutrition Association (2014). "Smart Snacks: State Agency Fundraising Exemptions," [http://schoolnutrition.org/uploadedFiles/News\\_and\\_Publications/News/SmartSnacksFundraisingExemption.pdf](http://schoolnutrition.org/uploadedFiles/News_and_Publications/News/SmartSnacksFundraisingExemption.pdf).

**KIDS' SAFE &  
HEALTHFUL  
FOODS PROJECT**

  
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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.