

Snack Foods and Beverages In Maine Schools

A comparison of state policy with USDA's nutrition standards

The Maine State Legislature established Statute Title 20-A-6662 in 2005, which required the state Department of Education to promulgate nutrition standards for foods and beverages sold or distributed on school grounds outside of school meal programs. As a result, in 2006, the department adopted the Chapter 51 rule: Child Nutrition Programs in Public Schools and Institutions (Rule 05-071-51).

Policy Applications		
	USDA interim final rule	Maine standards ¹
What is covered by the policy?	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.	All schools operating the National School Lunch, School Breakfast, or special milk programs.
Does the policy address preemption?	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.	<p>A local school board may establish a policy to allow the sale of food and beverages, including foods of minimal nutritional value, or FMNV, as defined by USDA, to school staff, the public at community events on the school campus, or in state-approved culinary arts programs.</p> <p>A school may establish a policy to allow for the sale of food and beverages by an approved student organization, as long as sales do not include FMNV. No exceptions allow for FMNV to be sold to students on school property.</p>
Definition of "school day"	The period from 12:01 a.m. until 30 minutes after the end of the instructional day.	This policy applies to the school campus 24 hours a day, 7 days a week.
Definition of "school campus"	All areas of the school's property accessible to students during the school day are considered part of the school campus.	Any area on the property of a school participating in the National School Lunch or School Breakfast programs.

¹ 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	Maine standards
General	<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"> • be a whole-grain product containing 50% or more whole grains by weight or have whole grains listed as the first ingredient, or • have as the first ingredient one of the non-grain major food groups: a fruit, vegetable, dairy product, protein food, or • be a combination food that contains at least ¼ cup of fruit and/or vegetable, or • 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). <p>If water is the first ingredient, the second must be one of the food items above.</p>	<p>Any food or beverage sold at any time in schools participating in NSLP or SBP will be considered part of the food-service program and will not include FMNV.</p> <p>FMNV, as defined by USDA:</p> <ul style="list-style-type: none"> • In artificially sweetened foods, a food that provides less than 5% of the Reference Daily Intake, or RDI, for each of eight specified nutrients. • In other foods, one that provides less than 5% of the RDI for each of the eight specified nutrients per 100 calories and less than 5% of the RDI for each of the nutrients per serving. • Nutrients include: protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium, and iron <p>Effectively bans sodas, candy, gum, and other high-calorie snack sales in vending machines and school stores.</p>
Calories (per item as packaged or served)	<p>≤ 200 calories for snacks and side dishes</p> <p>≤ 350 calories for entree items</p>	No standard
Total fat	≤ 35% of total calories	No standard
Saturated fat	≤ 10% of total calories	No standard
Trans fat	Zero grams	No standard
Sugar (per item as packaged or served)	≤ 35% of weight from total sugars in foods	No standard
Sodium (per item as packaged or served)	<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
Other	<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>	Funds from food and beverage sales made at any time on school property must benefit the food-service program, unless a local board establishes a policy to allow a school or student organization to benefit from the sales.

Beverages		
	USDA interim final rule	Maine standards
General	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.	No standard
Juice		
Elementary	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
Middle	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
High	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
Milk and milk alternatives		
Elementary	Low-fat milk, unflavored ≤ 8 fl oz Nonfat milk, plain or flavored ≤ 8 fl oz Nutritionally equivalent milk alternatives ≤ 8 fl oz	No standard
Middle	Low-fat milk, unflavored ≤ 12 fl oz Nonfat milk, plain or flavored ≤ 12 fl oz Nutritionally equivalent milk alternatives ≤ 12 fl oz	No standard
High	Low-fat milk, unflavored ≤ 12 fl oz Nonfat milk, plain or flavored ≤ 12 fl oz Nutritionally equivalent milk alternatives ≤ 12 fl oz	No standard
Water		
All grades	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	Maine standards
Other beverages		
	<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 ≤ 5 calories per 8 fluid oz serving (or ≤ 10 calories per 20 fluid oz), in no more than 20 oz servings.</p> <p>Beverages ≤ 40 calories per 8 fluid oz serving (or ≤ 60 calories per 12 fluid oz serving) in no more than 12 oz servings are also allowed.</p>	No standard
Caffeine		
Elementary	Not allowed	No standard
Middle	Not allowed	No standard
High	Caffeinated beverages allowed	No standard
Artificial sweeteners		
	No standard	No standard

Other		
	USDA interim final rule	Maine standards
Fundraisers	<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 must meet USDA's Smart Snacks interim final rule with no exemptions allowed.</p> <p>Rules do not apply to food and beverages sold or offered at community events or fundraisers held outside the hours of the normal school day.</p> <p>The school board may establish, by policy, a process to allow a school-approved student organization or sponsor of an event to benefit from the sale of food or beverages. In the absence of such a policy, the funds raised during the sale of food or beverages on school property accrue to the food-service program's account.</p>
Class parties/school celebrations	No standard	No standard
Food marketing	No standard included in the USDA Smart Snacks interim final rule; however, USDA's proposed rule on Local Wellness Policies addresses this component.	Brand-specific advertising is prohibited in school buildings or on school grounds, except for healthy foods and beverages meeting the state standards.'
Positive nutritional value	No standard	<p>Food and beverages sold shall include only those items that contribute both to the nutritional needs of children and the development of desirable eating habits.</p> <p>All food and beverages sold must contain at least 5% RDI for protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium, or iron.</p>
Nutrition labeling requirements	No standard	Caloric information must be posted for pre-packaged a la carte menu items at point of decision.'
Local Wellness Policy	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	Maine standards
General		
General exemptions	<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>	
Exemptions from total fat	<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>Seafood with no added fat</p> <p>Combination foods are not exempt and must meet all nutrient standards.</p>	
Exemptions from saturated fat	<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>	
Exemptions from sugar (per item as packaged or served)	<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>	

^{*} Components of the standards that are considered to be stronger than the USDA standards.

[†] 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).

National Association of State Boards of Education, "State School Health Policy Database: Competitive Foods in Schools," http://www.nasbe.org/healthy_schools/hs/bytopics.php?topicid=3115&catExpand.

Maine Department of Education, Maine Education Rule Chapter 51, (amended 2006), <http://www.maine.gov/education/sfs/chapter51.html>.

Maine Legislature (2005), Title 20-A 6662.1, Retrieved from: <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec6662.html>.

Maine Legislature (2007). Sec. 1. 20-A MRSA 662, sub-3, http://www.mainelegislature.org/legis/bills/bills_123rd/chapters/PUBLIC156.asp.

**KIDS' SAFE &
HEALTHFUL
FOODS PROJECT**


Robert Wood Johnson
Foundation

 **THE
PEW**
CHARITABLE TRUSTS

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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.