

Snack Foods and Beverages In Texas Schools

A comparison of state policy with USDA's nutrition standards

The Food and Nutrition Division of the Texas Department of Agriculture repealed the Texas School Nutrition Policy (Admin Code 4 Sec 26.1-26.9), effective July 1, 2014. The provisions retained from the original policy passed in 2003 include a prohibition on deep-fat frying and soft drinks, as well as additional restrictions on time and place of competitive food sales. As of July 1, schools are required to follow nutrition standards for competitive foods as outlined in the U.S. Department of Agriculture's Smart Snacks interim-final rule.

Policy Applications		
	USDA interim final rule	Texas 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.	This policy applies to Texas public, charter and private schools—elementary, middle, and high—that participate in the National School Lunch Program or the School Breakfast Program.
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.	As of July 1, 2014, schools must follow the USDA Smart Snacks interim final rule. Districts/schools may choose to establish stricter standards.

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

Policy Applications		
	USDA interim final rule	Texas standards
<p>Definition of "school day"</p>	<p>The period from 12:01 a.m. until 30 minutes after the end of the instructional day.</p>	<p>Consistent with USDA Smart Snacks standards; however, additional time and place restrictions apply per Texas Administrative Code:</p> <ul style="list-style-type: none"> Elementary School: a campus may not serve competitive foods (or provide access to them through indirect sales) to students anywhere on the school campus throughout the school day except for those food items made available by the school food service department. Middle School or Junior High: a campus may not serve competitive foods (or provide access to them through indirect sales) to students anywhere on the school campus from 30 minutes before to 30 minutes after meal periods except for those food items made available by the school food service department. High School: a campus may not serve competitive foods (or provide access to them through indirect sales) to students during meal periods in areas where reimbursable school meals are served and/or consumed except for those food items made available by the school food service department. <p>Alternatively, a Texas public, charter or private school participating in the NSLP or SBP may adopt an alternative local time and place policy, or revise the local school wellness policy to include language that addresses time and place restrictions for the consumption of competitive foods. These local policies must be approved by the local board of the school district or the governing body for the school.</p>
<p>Definition of "school campus"</p>	<p>All areas of the school's property accessible to students during the school day are considered part of the school campus.</p>	<p>All areas of the property under the jurisdiction of the school accessible to students during the school day.</p>

Foods		
	USDA interim final rule	Texas 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>As of July 1, 2014, schools are required to follow USDA's Smart Snacks interim-final rule.</p> <p>Additionally, schools may not utilize deep-fat frying in on-site preparation for food served as part of reimbursable school meals, or for food sold or provided to students on-campus during the school day.⁴</p>
Calories (per item as packaged or served)	<p>≤ 200 calories for snacks and side dishes</p> <p>≤ 350 calories for entree items</p>	Consistent with USDA Smart Snacks standards
Total fat	≤ 35% of total calories	Consistent with USDA Smart Snacks standards
Saturated fat	≤ 10% of total calories	Consistent with USDA Smart Snacks standards
Trans fat	Zero grams	Consistent with USDA Smart Snacks standards
Sugar (per item as packaged or served)	≤ 35% of weight from total sugars in foods	Consistent with USDA Smart Snacks standards
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>	Consistent with USDA Smart Snacks standards
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>	Consistent with USDA Smart Snacks standards

Beverages		
	USDA interim final rule	Texas 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.	<p>As of July 1, 2014, schools must follow the Smart Snacks rule.</p> <p>Additionally, soft drinks may not be sold during the school day to any age or grade group. Soft drinks are defined as non-juice, carbonated beverages that contain natural or artificial sweeteners.</p> <p>Carbonated waters and 100% juices that meet required portion sizes may be sold at all grade levels. In high schools, certain carbonated beverages that meet calorie and portion size requirements and do not contain natural or artificial sweeteners may also be sold.</p>
Juice		
Elementary	<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>	Consistent with USDA Smart Snacks standards
Middle	<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>	Consistent with USDA Smart Snacks standards
High	<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>	Consistent with USDA Smart Snacks standards
Milk and milk alternatives		
Elementary	<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>	Consistent with USDA Smart Snacks standards
Middle	<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>	Consistent with USDA Smart Snacks standards
High	<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>	Consistent with USDA Smart Snacks standards
Water		
All grades	<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>	Consistent with USDA Smart Snacks standards

Beverages		
	USDA interim final rule	Texas 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>	Consistent with USDA Smart Snacks standards
Caffeine		
Elementary	Not allowed	Consistent with USDA Smart Snacks standards
Middle	Not allowed	Consistent with USDA Smart Snacks standards
High	Caffeinated beverages allowed	Consistent with USDA Smart Snacks standards
Artificial sweeteners		
	No standard	Consistent with USDA Smart Snacks standards

Other		
	USDA interim final rule	Texas 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 adhere to the Smart Snacks requirements, with no exemptions allowed.</p> <p>Examples of allowable items to be sold at on-site fundraisers that occur during the school day:</p> <ul style="list-style-type: none"> any non-food items; any food items not meant for consumption on the school campus during the school day (e.g., cookie dough to be prepared at home); any food items that meet the USDA Smart Snacks requirements. <p>Food that does not meet the Smart Snacks requirements must be sold outside of the school day.</p> <ul style="list-style-type: none"> Any food item may be sold after the end of the school day (e.g., 30 minutes after the end of instruction on campus). Food sold in concession stands after the end of the school day (e.g., 30 minutes after the end of instruction on campus).
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.	No standard
Positive nutritional value	No standard	No standard
Nutrition labeling requirements	No standard	No standard
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
Other		The Texas Department of Agriculture will enforce and monitor compliance.

Exemptions to food and beverage standards		
	USDA interim final rule	Texas 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>	Consistent with USDA Smart Snacks standards
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>	Consistent with USDA Smart Snacks standards
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>	Consistent with USDA Smart Snacks standards
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>	Consistent with USDA Smart Snacks standards

^{*} 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).

Texas Department of Agriculture. Texas Public School Nutrition Policy, "Smart Snacks" webpage, accessed September 1, 2014, <http://www.squaremeals.org/Programs/NationalSchoolLunchProgram/SmartSnacks.aspx>.

Texas Administrative Code (2014). Title IV, Part 1, Chapter 26. Texas School Nutrition Policy Rules, "Time and Place Restrictions," [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=5&ti=4&pt=1&ch=26&sch=A&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=4&pt=1&ch=26&sch=A&rl=Y)

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

**KIDS' SAFE &
HEALTHFUL
FOODS PROJECT**


Robert Wood Johnson
Foundation

 **THE
PEW**
CHARITABLE TRUSTS

Contact: Michelle Mendes, associate, communications **Email:** mmendes@pewtrusts.org **Project website:** healthyschoolfoodsnow.org

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.