

Snack Foods and Beverages In Virginia Schools

A comparison of state policy with USDA's nutrition standards

The Code of Virginia Section 22.1-207.4 requires the State Board of Education, in cooperation with the Department of Health, to promulgate and periodically update regulations setting nutritional guidelines for all competitive foods sold to students during regular school hours. The State Board of Education issued a proposed rule on July 15, 2013, however, the regulation was re-proposed in June 2014 in order to align the policy with the U.S. Department of Agriculture's Smart Snacks in School nutrition standards. This new proposal will undergo a formal public comment period prior to being finalized.

Policy Applications		
	USDA interim final rule	Virginia 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 proposed regulation applies to food available for sale outside of meals, to students in all public school divisions, public schools, and other public school food authorities in the state. The state policy does not apply to beverages. These standards do not apply to food a student brings from home for consumption at school or items available for sale to adults in areas not accessible to students (e.g., teachers lounges).
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.	No standard
Definition of "school day"	The period from 12:01 a.m. until 30 minutes after the end of the instructional day.	For the purpose of competitive food standards implementation, the period from 12:01 a.m. to 30 minutes after the end of the instructional day. This policy does not apply to the extended school day, meaning foods available for sale to students after school hours do not need to adhere to standards.

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

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<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>For the purpose of competitive food standards implementation, all areas of the property under the jurisdiction of the school that are accessible to students during the school day. This includes all foods available for sale to students in school cafeterias as à la carte items; in vending machines, snack bars, or school stores; at school activities such as fundraisers, achievement rewards, classroom parties, school celebrations, classroom snacks, or school meetings held on the school campus during the school day; in culinary education programs where food prepared as part of the curriculum is available for sale to students</p>

Foods		
	USDA interim final rule	Virginia 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>General standards consistent with USDA requirements – the food must meet the nutrient standards outlined in this chart, AND:</p> <ul style="list-style-type: none"> • Be a whole grain product that contains 50 percent 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: fruits, vegetables, dairy or protein foods, OR • Be a combination food that contains at least ¼ cup of fruit and/or vegetable; OR • Through June 30, 2016, contain 10 percent of the Daily Value of a nutrient of public health concern as identified in the most recent Dietary Guidelines for Americans (i.e., calcium, potassium, vitamin D or dietary fiber). <p>If water is the first ingredient, the second ingredient must be one of the food items above.</p>
Calories (per item as packaged or served)	<p>≤ 200 calories for snacks and side dishes</p> <p>≤ 350 calories for entree items</p>	<p>≤ 200 calories for snacks or side dishes</p> <p>≤ 350 calories for entree items</p>
Total fat	≤ 35% of total calories	≤ 35% of total calories
Saturated fat	≤ 10% of total calories	< 10% of total calories
Trans fat	Zero grams	0 grams
Sugar (per item as packaged or served)	≤ 35% of weight from total sugars in foods	≤ 35% of weight from total sugars
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>	<p>≤ 230mg for snacks or side dishes</p> <p>≤ 480 mg for a la carte entree items</p>
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	Virginia 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.	State policy does not apply to beverages.
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		
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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	Virginia 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 held on school grounds during regular school hours will be required to meet USDAs Smart Snacks rule. Food items available for sale at snack bars, concession stands, athletic events and activities that take place after regular school hours are exempt. School-related fundraising activities that take place off school grounds are also exempt.</p>
Class parties/school celebrations	No standard	<p>Food available for sale to students at school activities such as achievement rewards, celebrations, classroom snacks and/or parties, or meetings held on school grounds during regular school hours are covered by the proposed regulations. Food items served or provided, but not sold, to students are exempt.</p>
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.	<p>Each local school board participating in the national school lunch program must adopt the above guidelines as part of its existing Local Wellness Policy.</p> <p>To determine whether a food item is an allowable competitive food, the local educational agency (LEA) must assess the nutritional profile of the food item. The LEA must maintain records documenting compliance (e.g., the nutrition labels, receipts, and/or product specifications) for food available for sale in areas outside of the control of the school nutrition program and shall designate an individual to monitor and ensure compliance. The designee shall not be school nutrition personnel.</p>
Other		<p>The School Food Authority (SFA) is responsible for maintaining records and the Department of Education must ensure that the LEAs and SFAs comply with the above standards. Non-compliance will result in corrective action.</p>

Exemptions to food and beverage standards		
	USDA interim final rule	Virginia 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).

State of Virginia, (2014), "Regulations Governing Nutritional Guidelines for Competitive Foods Sold in the Public Schools, re-proposed regulation, 8VAC20-740," http://www.pen.k12.va.us/boe/meetings/2014/06_jun/agenda_items/item_c.pdf.

State of Virginia, (2013), "Regulations Governing Nutritional Guidelines for Competitive Foods Sold in the Public Schools, proposed regulation, 8VAC20-740," <http://register.dls.virginia.gov/details.aspx?id=3657>.

VA Code 22.1-207.4, (2010), <https://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-207.4>.

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
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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.