



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: June 27, 2014
SUBJECT: Revised MOM-12: Maryland Nutrition Standards for All Foods Sold in School

PURPOSE:

To seek State Board of Education approval to promote a healthy school environment by defining the scope of authority of the Local Educational Agency (LEA) regarding foods and beverages sold to students during the school day and to outline the federal and State regulations which apply to selling these foods and beverages in schools and facilities that participate in the School Breakfast Program (SBP) and the National School Lunch Program (NSLP). These policies and procedures establish minimum requirements and provide guidance for LEAs electing to set policies which go beyond those contained in this memorandum.

BACKGROUND AND INFORMATION:

In 2010, Congress passed the Healthy, Hunger-Free Kids Act (Sec. 204 of Public Law 111-296), based on recommendations from the Institute of Medicine. The Act defined nutrition standards to ensure quality meals served in all LEAs participating in the NSLP and SBP. The Act also directed U.S. Department of Agriculture (USDA) to establish broader guidelines for all foods and beverages available during the school day, now known as the Interim Final Rule on Nutrition Standards for all Foods Sold in School (Federal Register, Vol. 78, No. 125, June 28, 2013). These standards detail criteria for allowable foods and beverages, such as nutrient content and portion size, and replace the term, *Foods of Minimal Nutritional Value*. Attachment 1 provides a history and comparison of USDA and MSDE policies related to food and beverages sold outside of the school meals programs.

The Rule will go into effect on July 1, 2014, and applies to all foods and beverages sold to students on the school campus, including cafeteria a la carte items, vending machines, school stores, and fundraising activities, from 12:01 a.m. until thirty minutes after the end of the official school day. The Maryland State Department of Education supports and adopts the aforementioned efforts from USDA to promote healthy choices for students, with minimal

Revised Maryland State Nutrition Standards for All Foods Sold in School

Meeting of the Maryland State
Board of Education

June 27, 2014

Office of School & Community
Nutrition Programs



Summary of Comments

- Sale of No/Low-Calorie and Caffeinated Beverages
 - Majority want limits, especially for energy drinks and diet soda
 - Majority want restrictions on the sale of no/low-cal caffeinated beverages until after the end of the school day, and across all areas on campus
 - Mixed response on creating a state policy limiting “caffeinated beverages”
- Majority recommend a MD specific companion policy to address some or all of the discrepancies with current guidelines
- Several requests for clarifications have been received, and policy wording modified accordingly
- Several county school systems noted that the proposed policy is aligned with their current Wellness Policy
- DHMH voiced support of the proposed policy

Applicability


- The new USDA and proposed Maryland State rules apply to **all** foods and beverages **sold** to **students** on the **school campus** during the **school day**.
 - **Sold**: when there is an exchange of currency/tokens/tickets for food or beverages
 - **School Campus**: all areas of the property under the jurisdiction of the school that are accessible to students during the school day
 - **School Day**: the period from the midnight before, to 30 minutes after the end of the official school day

- This rule does NOT impact items sold to teachers or other staff, as long as students do not have access.

Identifying Venues Where Food & Beverages are Sold

- School Cafeteria: à la carte items
- Hallways & other areas accessible to students:
 - School Stores
 - Snack Bars
 - Vending machines
- Classrooms: Special Events and Celebrations
- Fundraisers

COMPARISON OF USDA & MSDE COMPETITIVE FOOD POLICIES



Existing USDA Guidelines	Existing MSDE Guidelines "M.O.M. -12" 2005	New USDA Guidelines effective 7/1/2014	Proposed MSDE Guidelines effective 7/1/2014
Foods of Minimal Nutritional Value (FMNV) may not be sold in food service areas during breakfast and lunch periods	Foods of Minimal Nutritional Value (FMNV) may not be sold anywhere in the school from 12:01 until the end of the instructional day, including foods sold a la carte, in vending machines and school stores, or for fundraisers	"FMNV" term is eliminated, rather, foods and beverages which do not meet the newly established criteria may not be available for purchase, including foods sold a la carte, in vending machines, school stores, and in fundraisers. This rule is in effect from 12:01am through 30 minutes past the end of the school day.	MSDE will adopt the new USDA guidelines. Foods and beverages which do not meet the new criteria may not be available for purchase, including foods sold a la carte, in vending machines, school stores, and in fundraisers. This rule is in effect from 12:01am through 30 minutes past the end of the school day.
		Foods must be primarily comprised of fruits, vegetables, whole grain, dairy or protein*	MSDE will adopt the new USDA general standards: Foods must be primarily comprised of fruits, vegetables, whole grain, dairy or protein*
	Foods must comply with limits for fats and sugar, <i>based on the portion served</i>	Foods must meet a set of nutrient standards, including fats, sugar, sodium, and calories	MSDE will adopt the new USDA nutrient standards, including fats, sugar, sodium, and calories
	Beverages must fall into allowable categories, and served in specified portions	Beverages must fall into allowable categories, and served in specified age/grade appropriate portions.	MSDE will adopt the new USDA guideline that beverages must fall into allowable categories, and served in specified age/grade appropriate portions.
	Soda and soda water are classified as FMNV, and therefore not allowed	Low-calorie and calorie-free beverages, including diet soda, are <u>allowable</u> in high schools	MSDE will retain the existing Maryland standard that soda is not allowable
	Some caffeinated beverages, such as soda and energy drinks, are classified as FMNV, and therefore not allowed	Caffeinated beverages, including diet soda and energy drinks, are <u>allowable</u> in high schools	Caffeinated food and beverages will not be allowed across all grade levels
	Each school system's Food Service Director must establish a nutrition policy, a critical component of the	School systems should have a component of their wellness policy establishing nutrition standards for all foods available to students in schools	MSDE supports the USDA guideline for school systems' wellness policies to include nutrition standards for all foods available to students on the
		additional restrictions on competitive food, provided they do not conflict with the Federal regulations.	additional restrictions on competitive food and beverages, provided they do not conflict with the Federal or State regulations.

* There is a temporary waiver for foods which do not meet the general standards, but provide at least 10% of the Daily Value of a nutrient of public health concern: calcium, potassium, vitamin D, or dietary fiber. The product must still meet all other nutrient standards. This exemption expires on 7/1/2016.

Maryland Nutrition Standards for All Foods Sold in School

from 12:01am through 30 minutes after the end of the school day

Other than foods offered in the National School Lunch Program and School Breakfast Program

Effective July 1, 2014

#1: Foods must fall into one of these categories:

- Be whole grain-rich ($\geq 50\%$ whole grain by weight, or listed as first ingredient)
- First ingredient must be: fruit, vegetable, dairy product or protein food
- Be a combination of food that consists of $\geq \frac{1}{4}$ cup of fruit and/or vegetable
- Contain at least 10% of the Daily Value of a nutrient of public health concern: calcium, potassium, vitamin D, or dietary fiber (*on 7/1/16, this criterion will expire*)

#2: If the food qualifies as one of the above, it must also meet all of these standards:

Calories		Sodium		Fats			Sugar
Snack / Side Dish	Entrees	Snack / Side Dish	Entrees	Total Fat	Saturated Fat	Trans Fat	<i>weight sugar ÷ total weight</i>
≤ 200 cal	≤ 350 cal	≤ 230mg <i>After 7/1/16:</i> ≤ 200mg	≤ 480mg	≤ 35% of calories	< 10% of calories	Zero grams	≤ 35% of total weight from sugar

Beverages must meet these standards:

	Elementary	Middle	High School
Plain Water or Plain Carbonated Water	Any Size	Any Size	Any Size
Low-fat Milk, Unflavored Non-fat Milk, Flavored or Unflavored	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice – diluted with water, <i>with or without carbonation</i> – with no added sweeteners	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
Other Flavored and/or Carbonated Beverages	Not Allowed	Not Allowed	If ≤ 12 oz must meet: ≤40 calories/8 oz ≤60 calories/12 oz
			If ≤ 20 oz must meet: ≤5 calories/8 oz ≤10 calories/20 oz
Caffeine, beyond naturally-occurring trace amounts			Not Allowed

– soda is not allowed

COMPARISON OF USDA & MSDE COMPETITIVE FOOD POLICIES



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Foods of Minimal Nutritional Value (FMNV) may not be sold in food service areas during breakfast and lunch periods

Foods of Minimal Nutritional Value (FMNV) the school and the institution sold a la carte and school stores

MSDE will adopt the new USDA guidelines. Foods and beverages which do not meet the new criteria may not be available for purchase, including foods sold a la carte, in vending machines, school stores, and in fundraisers. This rule is in effect from 12:01am through 30 minutes past the end of the school day.

Foods not sold and sugary beverages served

Foods not sold and sugary beverages served

not allowable

MSDE will not grant exemptions for fundraisers during these hours

Beverages not sold in categories and portions

Beverages not sold in categories and portions

Caffeinated food and beverages will not be allowed across all grade levels

Soda and FMNV, as well as other beverages

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School systems have the authority to implement additional restrictions on competitive food and beverages, provided they do not conflict with the Federal or State regulations.

Each school system Director may implement policy, as long as it does not conflict with Federal or State regulations

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* There is a temporary waiver for foods containing potassium, vitamins, and iron

Responsibilities

- **All** parts of the school involved with selling food to students during the school day will have a role in meeting these requirements, not just the school food authority and cafeteria staff.
 - Schools and School Systems must maintain records such as receipts, nutrition labels and product specifications
- Records will be reviewed during Administrative Reviews by the Maryland State Department of Education

Questions



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changes to the beverage standards. Attachment 2 is the revised MOM-12: *Maryland Nutrition Standards for all Foods Sold in Schools*, which outlines the combined federal and State standards.

Schools play a powerful role in preparing students for a successful future. The School Lunch and Breakfast Programs contribute to student learning and the development of lifelong health habits. The school environment must continue to strengthen this foundation by providing healthy foods and beverages, while limiting less healthy options.

ACTION:

I am recommending that the State Board of Education approve the revised MOM 12 – *Maryland Nutrition Standards for all Foods Sold in Schools*.

LML/RZ/ar
Attachments



Lillian M. Lowery,
Ed.D. State Superintendent of
Schools

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Proposed Revision of MOM 12 Competitive Foods Policy

History and Information

The National School Lunch Program (NSLP) was established in 1946 by President Harry S. Truman. In the NSLP early days, as now, there was concern about the sale of *Foods of Minimal Nutritional Value (FMNV)* in competition with school meals. During that time, the Council on Food and Nutrition of the American Medical Association went on record as opposing the sale and distribution of confections and soft drinks in school lunchrooms. Organizations at the state level were also seeking policies to establish sound nutrition standards for all foods served in the schools.

It was not until 1977 when Public Law 95-166 gave the U.S. Secretary of Agriculture the authority to approve the types of competitive foods and beverages sold in schools. The final rule that was finally published in 1985, established four categories of *Foods of Minimal Nutritional Value*. It prohibited the sale of soda water (including soda), frozen desserts, chewing gum, and candy in the foodservice areas during meal periods. States and local school districts could impose additional restrictions. The thinking was based on the fact that *FMNV* did not make a positive nutritional contribution to children's diets, dietary habits, and appetites. Each year thereafter, a detailed list of exception foods was published by U.S. Department of Agriculture (USDA) as food and beverage manufactures developed new items.

By 2001, the Surgeon General established overweight and obesity as an epidemic in the United States and identified priorities for action to help Americans make healthy lifestyle changes for themselves and their families. In *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity*, schools were identified as a key setting for offering information and programs to promote a healthy lifestyle.

During the late nineties through 2004, with an emphasis on healthier meals, the USDA established nutrient based menu planning regulations for foods as part of the School Breakfast Program (SBP) and National School Lunch Program (NSLP). School districts participating in these programs were also required to establish a local "school wellness policy". However, the *FMNV* policy remained unchanged.

In March 2005, to encourage and promote healthy school environments throughout the State, the Maryland State Board of Education approved a Competitive Foods Policy that built on *FMNV* and defined the scope of authority of the Local Educational Agencies (LEAs) regarding foods and beverages available to students during the school day. The policy, known as Management and Operations Memorandum 12 (MOM 12), enforced the USDA restriction on *FMNV*, defined nutrition standards for fat, saturated fat, and sugar in all foods sold, and limited the sale of beverages to specific types and

serving sizes. The policy included all foods and beverages sold during the school day from 12:01 a.m. to the end of the last lunch period. In addition, as a component of the federally mandated wellness policy, each LEA was required to establish a nutrition policy for foods and beverages sold on school campus, including cafeteria a la carte items, vending machines, school stores, and fundraising activities, and to include an extension of the time rule to the end of the standard school day. MSDE provided model policy language based on the Institute of Medicine (IOM) and national standards to all school systems in order to encourage and assist school district personnel in writing the strongest standards for this category of foods. Many school systems readily adopted the policies recommended and some took additional steps to establish sound nutrition standards for all foods. Since the requirement for wellness policies, the local school systems have looked to MSDE for recommendations, technical assistance, guidance, and leadership on many nutrition related issues.

In 2010, Congress passed the Healthy, Hunger-Free Kids Act (HHFKA) (Sec. 204 of Public Law 111-296) based on recommendations from the IOM. The Act defined nutrition standards to ensure quality meals served by all LEAs participating in the NSLP and SBP. The Act also directed USDA to establish broader guidelines for all foods and beverages available for sale during the school day, now known as the Interim Final Rule on Nutrition Standards for all Foods Sold in School (Federal Register, Vol. 78, No. 125, June 28, 2013). These standards detail criteria, such as nutrient content and portion size, for allowable foods and beverages from 12:01 a.m. until 30 minutes after the end of the official school day, and eliminated the term, *Foods of Minimal Nutritional Value*. The Rule will go into effect on July 1, 2014, and applies to all foods and beverages sold to students on the school campus, including cafeteria a la carte items, vending machines, school stores, and fundraising activities.

The federal rule on Nutrition Standards for all Foods Sold in School is scheduled to go into effect on July 1, 2014, giving us an opportunity to review and update Maryland's State Competitive Food Policy. It is the Department's intent to continue to lead the way in promoting a balanced intake of a variety of foods, consistent with the Dietary Guidelines for Americans while preserving the progress the LEAs have made in limiting students' access to unhealthy foods and beverages. Therefore, the Department recommends the State Board of Education approve the revisions to MOM-12: Maryland Nutrition Standards for All Foods Sold in School, which adopts all of the federal standards in the Interim Final rule with State amendments for beverages sold in high schools. The Department believes it is in the best interest for the health and wellbeing of Maryland students to maintain the portion of the 2005 Maryland Competitive Foods and *FMNV* Policy which restricts soda, and to extend the USDA caffeine restrictions across all age/grade groups.

School meal programs have evolved from "feeding" programs to programs that encourage children to choose healthful foods. Through the Department's leadership and promotion of excellence, students throughout Maryland are being encouraged to make informed decisions to establish lifelong healthy habits. Where ever possible, we are striving to make the healthy choice, an easier choice.

COMPARISON OF USDA & MSDE COMPETITIVE FOOD POLICIES

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	Some caffeinated beverages, such as soda and energy drinks, are classified as FMNV, and therefore not allowed	Caffeinated beverages, including diet soda and energy drinks, are allowable in high schools	Caffeinated food and beverages will not be allowed across all grade levels
	Each school system's Food Service Director must establish a nutrition policy, a critical component of the federally mandated wellness policy.	School systems should have a component of their wellness policy establishing nutrition standards for all foods available to students in schools campus, not just for those items sold.	MSDE supports the USDA guideline for school systems' wellness policies to include nutrition standards for all foods available to students on the school campus, not just for those items sold.
		School systems may decide to implement additional restrictions on competitive food, provided they do not conflict with the Federal regulations.	School systems have the authority to implement additional restrictions on competitive food and beverages, provided they do not conflict with the Federal or State regulations.

* There is a temporary waiver for foods which do not meet the general standards, but provide at least 10% of the Daily Value of a nutrient of public health concern: calcium, potassium, vitamin D, or dietary fiber. The product must still meet all other nutrient standards. This exemption expires on 7/1/2016.



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State Superintendent of Schools

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MANAGEMENT AND OPERATIONS MEMORANDUM		
MSDE-FNSS	NUMBER 012 (7/14)	
FROM	Robin Ziegler, Program Manager, Office of School and Community Nutrition Programs	
APPLIES TO	All Local Educational Agencies (LEAs)	
SUBJECT	Nutrition Standards for All Foods Sold in School	
Replaces	Related Policies	Signature
MOM 012 (3/05)		Proposed

I. Purpose and Scope

It is the purpose of the Management and Operations Memorandum to promote a healthy school environment by defining the scope of authority of the Local Educational Agency (LEA) regarding foods and beverages available to students during the school day and to outline the federal and State regulations which apply to selling these foods and beverages in schools and facilities that participate in the School Breakfast Program (SBP) and the National School Lunch Program (NSLP). These policies and procedures establish minimum requirements and provide guidance for LEAs electing to set policies which go beyond those contained in this memorandum.

In 2010, Congress passed the Healthy, Hunger-Free Kids Act (Sec. 204 of Public Law 111-296), based on recommendations from the Institute of Medicine. The Act defined nutrition standards to ensure quality meals served in all LEAs participating in the NSLP and SBP. The Act also directed U.S. Department of Agriculture (USDA) to establish broader guidelines for all foods and beverages available during the school day, now known as the Interim Final Rule on Nutrition Standards for all Foods Sold in School (Federal Register, Vol. 78, No. 125, June 28, 2013). These standards detail criteria for allowable foods and beverages, such as nutrient content and portion size, and replace the term, *Foods of Minimal Nutritional Value*.

Schools play a powerful role in preparing students for a successful future. The School Lunch and Breakfast Programs contribute to student learning and the development of lifelong health habits. The school environment must continue to strengthen this foundation by providing healthy foods and beverages, while limiting less healthy options.

II. Procedures

The Rule will go into effect on July 1, 2014, and applies to all foods and beverages sold to students on the school campus, including cafeteria a la carte items, vending machines, school stores, and fundraising activities, from 12:01 am until thirty minutes after the end of the official school day. The Maryland State Department of Education supports and adopts the aforementioned efforts from USDA to promote healthy choices for students, with minimal changes to the beverage standards. The attached document, *Maryland Nutrition Standards for all Foods Sold in Schools*, outlines the combined federal and State standards.

Maryland LEA school wellness committees and schools may decide to implement policies that go beyond the Federal and State policies noted in this memorandum.

Maryland Nutrition Standards for All Foods Sold in School

from 12:01am through 30 minutes after the end of the school day

Other than foods offered in the National School Lunch Program and School Breakfast Program

Effective July 1, 2014

#1: Foods must fall into one of these categories:

- Be whole grain-rich ($\geq 50\%$ whole grain by weight, or listed as first ingredient)
- First ingredient must be: fruit, vegetable, dairy product or protein food
- Be a combination of food that consists of $\geq \frac{1}{4}$ cup of fruit and/or vegetable
- Contain at least 10% of the Daily Value of a nutrient of public health concern: calcium, potassium, vitamin D, or dietary fiber (on 7/1/16, this criterion will expire)

#2: If the food qualifies as one of the above, it must also meet all of these standards:

Calories		Sodium		Fats			Sugar
Snack / Side Dish	Entrees	Snack / Side Dish	Entrees	Total Fat	Saturated Fat	Trans Fat	$\text{weight sugar} \div \text{total weight}$
≤ 200 cal	≤ 350 cal	$\leq 230\text{mg}$ After 7/1/16: $\leq 200\text{mg}$	$\leq 480\text{mg}$	$\leq 35\%$ of calories	$< 10\%$ of calories	Zero grams	$\leq 35\%$ of total weight from sugar

Beverages must meet these standards:

	Elementary	Middle	High School
Plain Water or Plain Carbonated Water	Any Size	Any Size	Any Size
Low-fat Milk, Unflavored Non-fat Milk, Flavored or Unflavored	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice - diluted with water, with or without carbonation - with no added sweeteners	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
Other Flavored and/or Carbonated Beverages - soda is not allowed	Not Allowed	Not Allowed	If ≤ 12 oz must meet: ≤ 40 calories/8 oz ≤ 60 calories/12 oz
			If ≤ 20 oz must meet: ≤ 5 calories/8 oz ≤ 10 calories/20 oz
Caffeine , beyond naturally-occurring trace amounts	Not Allowed	Not Allowed	Not Allowed