



Position Statement: Competitive Food Sales

The California School Nutrition Association (CSNA) supports legislative efforts to improve the well-being of the children of California. Child Nutrition Programs work as partners in the education community to provide healthy meals to all children in order to improve student health and academic achievement. It is the intent of CSNA to work to secure the best possible environment for learning, physical health and safety within the school setting.

California school meal programs serve more than 2.9 million children daily. It is vital that students see a consistent message of nutrition integrity on school campuses. Existing competitive foods regulations do not require state agencies to take fiscal sanctions when a school does not comply with regulatory requirements. California regulations concerning competitive food sales are adequate, but not uniformly enforced.

Position Statement

The California School Nutrition Association supports the enforcement of competitive food sales regulations and will work to improve the school nutrition environment in order to provide a consistent nutrition message to the children of California.

Competitive Food Sales Regulations

The United States Department of Agriculture defines *competitive foods* as foods offered at school, other than meals served through USDA school meal programs – school lunch, school breakfast, and after-school snack programs.^{1,2}

Regulations exist that govern the sale of competitive foods at many levels. Federal and state regulations and policies restrict the sale of foods in competition with school meal programs as outlined in the attached *Summary of Competitive Food Sales Regulations*. Local school district policies may impose additional restrictions on the sale and income from foods sold throughout school campuses. Therefore, interpretations and enforcement vary throughout the state and country.³

In the Child Nutrition and WIC Reauthorization Act of 2004, the U.S. Congress established a new requirement that all school districts with a federally-funded school meals program develop and implement wellness policies that address nutrition and physical activity by the start of the 2006-2007 school year. Schools must set goals for nutrition education, physical activity, and other school-based activities designed to promote student wellness. Many California school districts have included local competitive food sales regulations in these policies.

Competitive Food Sales in California Schools

Reimbursable school meals remain the primary source of nutrition for students while at school. However, present in many schools are food options that compete with school meal programs including foods sold a la carte, vending machines, school stores, and snack bars. The School Nutrition and Dietary Assessment – II completed in 1999 (SNDA-II) reported that competitive foods are becoming more common. Findings showed that 9 out of 10 schools surveyed had food available as a la carte options at lunchtime. School stores and snack bars were present in 9% of elementary schools, 35% of middle schools, and 41% of high schools. Vending machines were found to be the most common way of selling competitive foods with machines present in 15% of elementary schools, 55% of middle schools, and 76% of high schools surveyed.⁴

In a recent study published by the Journal of School Health, high school students cited taste and value as the most important factors in choosing foods from the school cafeteria. Sixty-one percent of students surveyed agreed that eating healthy was important, but only 31% cited fat content as a concern.⁵

Recent legislation in California, SB 12 (Escutia, 2005) and SB 965 (Escutia, 2005) will have a significant impact on the nutritional quality of foods and beverages sold in competition with school meal programs. Commencing July 1, 2007, SB 12 will require that all foods sold outside the federal meal program meet specific nutritional requirements. Commencing July 1, 2007, SB 865 will require that 50% of beverages sold on school campuses meet specific nutritional requirements and require 100% compliance by July 1, 2009. A summary of the regulations can be found at the end of this document.

A La Carte Sales in the Cafeteria

A la carte offerings compliment and add variety to school meals. However, the quality of foods offered a la carte vary greatly in their nutritional integrity.⁶ SNDA-II reported that, on average, a la carte sales in schools participating in the National School Lunch Program generate \$913 per 1,000 students during a typical week. There is considerable variation in a la carte sales revenue across school types with elementary schools averaging \$375 per week, middle schools \$1,760 and high schools \$1,985 per week per thousand students.⁴

Student Stores

Profits from student-run stores help fund student activities, events, special supply purchases, and provide work experience for students.⁶ A current study published by the American Dietetic Association suggests that items sold in school stores are predominately snacks that are low in nutrient density and high in fat and sodium and drinks that are high in calories and added sugars.⁷ Generally, student stores are open during meal periods, competing with school meal programs.

Vending Machines

Vending machines represent a fast and effective way to provide additional choices to students. Vending machines are typically operated by school meal programs, school administration or student organizations. Products sold in many vending machines are supplied and stocked by outside vendors, providing revenues with little or no labor expense. SNDA-II reported that vending machines are available to students in schools participating in the National School Lunch Program at approximately one-third of all schools. Vending machines were reported as most common in high schools (76%), slightly less in middle schools (55%) and least often in elementary schools (15%).⁴

- “Pouring Rights” Contracts

There has been a trend for school districts to negotiate exclusive “pouring rights” contracts with major soft drink companies.⁸ Many contracts have provisions to increase the percentage of commission schools receive when sales volume increases, providing a substantial incentive for schools to promote the consumption of soft drinks by adding additional machines, increasing the times they are available and marketing the products to students.² The School Health Policies and Programs Study (SHPPS, 2000) reported that nearly 50% of school districts have contracts that gives a company rights to sell soft drinks at schools in the district.⁹ The sale of competitive foods, especially soft drinks, may represent an additional source of income for schools that can be spent for discretionary purposes, not necessarily related to food services.

Competitive Food Sales by School Meal Programs

The decision for school meal programs to provide alternatives to school meals is driven by a number of factors:

Student preferences

Students have established preferences for foods when they arrive at school. School meal programs face competition with mainstream foods that are marketed with sophisticated advertising campaigns.²

Increased financial demands

As school district finances become less stable and more restricted, school food service programs must generally be completely self-supporting.³ Nutrition is often at the bottom of the priority list in school districts, as financial resources diminish due to the declining state budget. Some districts levy their food service departments with high direct and indirect costs and additional food sales can assist food service programs meet this obligation. School meal programs compensate for the loss of financial support from local school district operating budgets by increasing prices for meals or marketing the increase of the sale of a la carte foods and alternative food service options within the school meal program.² While competitive food sales bring additional revenues to school meal programs, it may cause decreased participation in school meal programs and thus reduce cash and commodity support from state and federal funding sources. Lack of state and federal statute to prevent sale of foods in competition with school meal programs puts schools in the position of competing with their own school meal programs for revenue, contributing to decreases in student participation in school meal programs and increases the potential of lost revenue to support the viability of the meal programs.² Competitive food sales by entities outside the school food service program may divert income that is essential to ensure the financial stability of the school meal program and the ability to invest funds into improving the cafeteria appearance in order to attract more students into the program. School meal programs should not be placed in a profit-making or competitive situation with other food operations on campus. It is incumbent on schools to remove these competitive barriers by establishing policies and standards that support school nutrition programs as well as nutrition integrity.

Inadequate meal periods

In an attempt to provide additional classroom time during the school day, schools frequently reduce the length of meal periods. In addition, many schools schedule tutoring, club meetings

and other extracurricular activities during meal times. Students tend to choose foods they can access and consume quickly – or skip meals.² School meal programs must respond to these issues and provide additional choices and multiple serving lines to reduce waiting time for students.

Food service preparation and service areas

With the expansion of student populations schools have given higher priority to classroom space than expanding kitchen and cafeteria eating facilities. Food service facilities are often inadequate for optimum preparation and service of foods that are nutritious and appealing to all students. In many schools, seating is inadequate and rotating meal periods must begin early and end late. With inadequate dining facilities and insufficient time to eat, many students turn to foods that are readily accessible in vending machines and snack bars.²

Response for Change – Recommendations

In order to foster a healthy nutrition environment in California schools, the California School Nutrition Association proposes the following recommendations:

1. Enforce competitive food sales regulations in California. CSNA believes that existing competitive food sales regulations are adequate, but not uniformly enforced.
2. Strengthen statutory regulations to ensure that revenue from all food sales on school campuses accrue to the school meal program fund. Lack of state and federal statute to prevent sale of foods in competition with school meal programs puts the school in the position of competing with their own school meal programs for revenue.
3. Provide financial assistance to schools for the purchase of food service equipment. Food service equipment is often inadequate for optimum preparation and service of foods that are nutritious and appealing to students.
4. Include funding for cafeteria and dining areas for school meals in state and federal school construction legislation. Dining areas in many schools are inadequate due to expansion of student populations and priority given to classroom space over common facilities construction.
5. Ensure that children have adequate time to eat. CSNA recommends that students have a minimum of 15 minutes - from the time the student receives the food - to consume a meal.
6. Amend the current requirements for state funding of meal programs to maintain financial stability while providing nutritious meals and options for students. School meal programs must increase meal prices or market competitive food sale opportunities to students to achieve an adequate revenue stream to maintain a self-supporting financial status. Adequate meal reimbursement revenue will make meals affordable to all students and decrease the need for competitive food sales within the school meal program.

Conclusion

State and federal regulations exist that govern the sale of foods in competition with school meal programs. However, interpretations and enforcement of statute and policies vary throughout the state and country. While reimbursable meals remain the primary source of nutrition for students while at school, many schools allow the sale of food options that compete with school meal programs including food items sold a la carte, vending machines, school stores and snack bars. The most compelling issue that schools cite for competing with school meal programs is insufficient funding of many local school programs and activities.^{2,10} New California legislation will require that all foods and beverages sold on school campuses meet specific nutritional

requirements beginning July 1, 2007. School wellness policies may encourage local compliance with these regulations and may impose additional restrictions.

The decision for school meal programs to offer alternatives to school meals is driven by many factors including the desire to meet student preferences, increased financial demands on school meal programs, insufficient meal periods, and inadequate food service preparation and serving areas.

It is vital that students see a consistent message of nutrition integrity on school campuses in California. Existing regulations concerning competitive food sales do not require fiscal sanctions when a school does not comply with these regulations. The California School Nutrition Association supports the enforcement of competitive food sales regulations. School meal programs should not be placed in a profit-making or competitive situation with other food service options in schools.

Summary of Competitive Food Sales Regulations

A. Definitions

USDA defines *competitive foods* as foods offered at school, other than meals served through USDA school meal programs – school lunch, school breakfast, and after-school snack programs.^{1,2}

A *Food of Minimal Nutritional Value* (FMNV) is defined in 7CFR210.11(2) as (1) in the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intakes (RDI) for each of eight specified nutrients (protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron) per serving; and (2) in the case of all other foods, a food which provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than 5 percent of the RDI for each of eight nutrients per serving.

B. Federal Regulations

Child Nutrition Act of 1966

Section 10(a) of the Child Nutrition Act of 1966, as amended by P.L. 95-166 in 1977, directs USDA to issue regulations relating to the service of foods sold in competition with school meal programs. Section 10(b) permits proceeds from the sale of competitive foods in food service areas during meal periods to accrue to schools or student organizations as well as to the food service account.

United States Code of Federal Regulations

7CFR 210.11 and 210.12

State agencies and school food authorities shall establish rules and regulations as necessary to control the sale of foods in competition with school meal programs. These rules shall prohibit the sale of foods of minimal nutritional value in food service areas during the lunch period. The sale of other competitive foods may be allowed in the food service area during the lunch period only if all income from sale of such foods accrues to the food service or student organization approved by the school. State agencies and school food authorities may impose additional restrictions.

Categories of Foods of Minimal Nutritional Value per 7CFR 210.2 and 220.2 (1980)

1. Soda water
2. Water ices – does not include water ices which contain fruit or fruit juice
3. Chewing gum
4. Certain candies – processed foods made predominately from a sweetener or artificial sweetener with a variety of minor ingredients which characterize the following types:
 - a. Hard Candy
 - b. Jellies and Gums
 - c. Marshmallow Candies
 - d. Fondant
 - e. Licorice
 - f. Spun Candy
 - g. Candy Coated Popcorn

C. California State Regulations

Education Code Section 38085 (AB 753-Torres, 1979)

A minimum of 50% of the items, other than foods sold as reimbursable meals, offered for sale each school day at any school site by any entity or organization during regular school hours shall be from the following list:

- (a) Milk and dairy products, including cheese, yogurt, frozen yogurt and ice cream.
- (b) Full-strength fruit and vegetable juices and fruit drinks containing 50% or more full-strength fruit juice and fruit nectars containing 35% or more full-strength fruit juice.
- (c) Fresh, frozen, canned, and dried fruits and vegetables.
- (d) Nuts, seeds and nut butters.
- (e) Non-confection grain products as defined by regulation of the U.S. Food and Drug Administration, including crackers, bread sticks, tortillas, pizza, pretzels, bagels, muffins, and popcorn.
- (f) Meat, poultry and fish, and their products, including beef jerky, tacos, meat turnovers, pizza, chili, and sandwiches.
- (g) Legumes and legume products, including bean burritos, chili beans, bean dip, roasted soy beans, and soups.
- (h) Any foods which would qualify as one of the required food components in a reimbursable meal.

Education Code Section 48931

The governing board may authorize any student organization to sell food on school premises subject to policy and regulations of the State Board of Education. Under this authority, the State Board of Education adopted the California Code of Regulations, Title 5, 15500 and 15501, stipulating criteria under which student organization may sell food on school campuses.

Education Code Section 49431.2 (SB 12-Escutia, 2005)

Commences July 1, 2007.

Elementary schools:

Only full meals and individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes.

Individually sold dairy items and whole grain food items may be sold to pupils at an elementary school if they meet all of the following standards:

- Not more than 35% of its total calories shall be from fat.
- Not more than 10% of its total calories shall be from saturated fat.
- Not more than 35% of its total weight shall be composed of sugar, including naturally occurring and added sugar.
- Not more than 175 calories per individual food item.

Allows certain exclusions for fundraising off school campus.

Middle, Junior, and High Schools:

Snacks sold to a pupil in middle, junior or high school, except food served as part of the USDA meal program, shall meet all of the following standards:

- Not more than 35% of its total calories shall be from fat. Nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, or legumes, exempt.
- Not more than 10% of its total calories shall be from saturated fat. Eggs or cheese packaged for individual sale, exempt.
- Not more than 35% of its total weight shall be composed of sugar, including naturally occurring and added sugar. Fruits or vegetables that have not been deep fried, exempt.
- Not more than 250 calories per individual food item.

Entrée items sold to a pupil in middle, junior or high school, except food served as part of a USDA meal program, shall:

- Contain no more than 400 calories per entrée.
- Contain no more than 4 grams of fat per 100 calories contained in each entrée, and shall be categorized as entrée items in the SBP or NSLP.

Allows certain exclusions for fundraising off school campus and at certain times of the day.

Education Code Section 49431.5 (SB 965-Escutia, 2005)

Elementary Schools:

Regardless of the time of day, only the following beverages may be sold to a pupil at an elementary school:

- Fruit-based drinks that are composed of no less than 50% fruit juice and have no added sweetener.
- Vegetable-based drinks that are composed of no less than 50% vegetable juice and have no added sweetener.
- Drinking water with no added sweetener.
- Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.

Allows certain exclusions for fundraising off school campus.

Middle or Junior or High Schools:

From one-half hour before the start of the school day to one-half hour after the end of the school day, only the following beverages may be sold to a pupil at a middle or junior high school:

- Fruit-based drinks that are composed of no less than 50% fruit juice and have no added sweetener.
- Vegetable-based drinks that are composed of no less than 50% vegetable juice and have no added sweetener.
- Drinking water with no added sweetener.
- Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
- An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

Allows certain exclusions for fundraising off school campus and at certain times of the day.

California Code of Regulations Title 5

Section 15500 - Food Sales in Elementary Schools

In K-8 schools, no sales of competitive foods are allowed by student organizations except under the following conditions:

The governing board may permit a student organization to sell not more than one food item per sale when all of the following conditions are met:

The specific nutritious food item is approved by the governing board.

Food sales do not begin until after the close of the regularly scheduled midday food service period.

Sales during the regular school day are not of food items prepared on the premises.

There are no more than four such sales per year per school.

The food item sold is a dessert-type food, such as pastry, ice cream or fruit.

The food item sold is not one sold in the food service program at that school during that school day.

Section 15501 - Food Sales in High Schools and Junior High Schools

The governing board may permit a student organization to sell food items during or after the regular school day if the following criteria are met:

- (a) The specific nutritious item to be sold is approved by the governing board.

- (b) Student organizations may be approved to sell food at any time during the school day provided that:
 - (1) only one organization each school day sells no more than three types of food items.
 - (2) Any one organization may conduct no more than four sales per year, and the sales shall be held on the same four days for any and all organizations.
- (c) Food sold is not prepared on the premises.
- (d) The food items sold are not those sold by the food service program that day.

References

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