



ChangeLab Solutions

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Food and Beverage Marketing: **Model School Wellness Policy Language**

June 2017

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Support for this fact sheet was provided by the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.

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Introduction

On July 29, 2016, the United States Department of Agriculture (USDA) finalized regulations that strengthen requirements for local school wellness policies.¹ Among other requirements, the USDA now requires wellness policies to limit unhealthy food and beverage marketing on campus. At a minimum, all districts participating in the National School Lunch or Breakfast Program must revise their school wellness policies by June 30, 2017, to prohibit on-campus marketing of foods and beverages that fail to meet the USDA Smart Snacks in School nutrition standards.² ChangeLab Solutions has developed the following sample policy provisions to help school districts comply with the final rule.

This model provides sample policy language that meets the USDA rule's minimum requirements. It also provides options to address marketing more comprehensively: Districts can choose to limit brand marketing, apply marketing restrictions to activities before and after school, prohibit the sale of "look-alike" Smart Snacks, address off-campus fundraisers, or restrict all food and beverage marketing on campus.

For more information on each of these approaches, please see our fact sheet, [Restricting Food and Beverage Marketing in Schools](#).

Adopting the Model Local School Wellness Policy Language

The provisions in this model can be tailored to meet the specific needs of the school district. School districts should (i) choose which elements to include, (ii) determine where to add the language to their existing local school wellness policy, (iii) make other changes for consistency, and (iv) follow the appropriate procedures for amending their policy.

In the model, *italicized* language in *[brackets]* provides different text options to choose from or explains the type of information that needs to be inserted in a blank space. Comments describe the provisions in more detail or provide additional information. They should be used during drafting and should not be included in the adopted language. Any headings and subheadings (in **blue** font) should also be removed from the final version of the policy.

STATE AND SCHOOL DISTRICT NUTRITION STANDARDS

Some states and school districts have enacted policies addressing nutrition standards for competitive foods and beverages (ie, foods and beverages that are sold on campus during the school day but are sold outside the federal reimbursable school meal program). In some instances, these standards mirror the USDA Smart Snacks in School standards. In other cases, the state or school district standards are more stringent than the federal standards.

Where applicable, districts should reference state and/or district nutrition standards for competitive foods in the marketing section of their wellness policy. Because laws can change, it is important to align the marketing restrictions with those standards since they may be, or might become, stronger than the federal standards.

Checklist for Drafting Model Wellness Policy Language

When using this tool to review and revise their wellness policy, school districts may use the following checklist as a guide for drafting language limiting unhealthy food and beverage marketing in schools:

Introductory Language

- Explain why unhealthy food and beverage marketing to students is harmful.
- See *sample policy language* on page 5.

Definitions

- Define key terms (if not already defined in the wellness policy).
- See *sample policy language* on pages 5-6.

Marketing Policy

- Include policy language that limits unhealthy marketing in schools. At a minimum, federal law requires districts to adopt language similar to the text in *Option 1: Minimum Requirement* on page 5. The other options provide sample policy language for districts interested in taking a more expansive approach to creating healthier school environments and removing unhealthy food and beverage marketing on campus. However, these options are not expressly required by federal law.
- See *sample policy language* on pages 6-7.

Additional Language to Address Marketing More Broadly

- Determine what, if any, additional types of unhealthy marketing should be restricted. These additional options provide sample policy language for districts interested in taking a more expansive approach to creating healthier school environments and removing unhealthy food and beverage marketing on campus. However, these options are not expressly required by federal law.
- See *sample policy language* on pages 7-8.

Exceptions

- Include exceptions to the marketing rule.
- See *sample policy language* on page 9.

Model Local School Wellness Policy Language

Food and Beverage Marketing

The District is committed to providing a school environment that ensures opportunities for all students to practice healthy eating and physical activity behaviors throughout the school day while minimizing commercial distractions. The District teaches students how to make informed choices about nutrition, health, and physical activity. These efforts will be weakened if students are subjected to marketing on District property that contains messages inconsistent with the health information the District is imparting through nutrition education and health promotion efforts. It is the intent of the District to protect and promote students' health by allowing advertising and marketing for only those foods and beverages that are permitted to be sold on the school campus, consistent with the District's wellness policy.³

Definitions

The definitions of "school campus" and "school day" are based on USDA's definitions. Some districts already may have defined these terms in their wellness policy, in which case they don't need to include the terms again in the marketing section. However, districts should check that their definitions are consistent with the USDA's and applicable state law.

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 of time from the midnight before to 30 minutes after the end of the instructional day.

Marketing

Oral, written, or graphic statements, including a company's logo or trademark, that are made for the purpose of promoting the sale of a food or beverage product and are made by the producer, manufacturer, seller, or any other entity with a commercial interest in the product. This term includes, but is not limited to, the following:

- Displays, such as on vending machine exteriors.
- Brand names, trademarks, logos or tags, including on cups used for beverage dispensing, menu boards, coolers, trash cans, vending machines, and other food service equipment; posters, book covers, pupil assignment books, and school supplies displayed, distributed, offered, or sold by the District; uniforms; school buses and other vehicles; athletic fields; and school equipment, such as marquees, message boards, scoreboards, and backboards.
- Advertisements in school publications and school mailings; during broadcasts on school radio stations and in-school television; through digital media, such as computer screensavers, school-operated or school-sponsored websites and servers; and through the school public announcement system.

- Free samples, taste tests, and coupons for a product.
- Educational incentive programs (such as contests that use foods or beverages as a reward) including the promotion of programs that provide schools with supplies or funds when families or participants purchase specific food products.
- Sponsorship of school activities, fundraisers, sports teams, and market research.

Marketing Policy

COMMENT ON POLICY OPTIONS

Under federal law, school districts must, at a minimum, prohibit on-campus marketing, during the school day, of foods and beverages that fail to meet the USDA Smart Snacks in School nutrition standards (see Option 1 below for sample policy language).

However, many districts will want to exceed this baseline requirement to address food and beverage marketing comprehensively. For example, districts can limit brand marketing (see Option 2 below for sample policy language) or prohibit all food and beverage marketing (see Option 3 below for sample policy language).

Districts need to choose only one of the options below. This is because each option incorporates and expands upon the preceding options. For instance, Option 2, which limits brand marketing, incorporates all the requirements in Option 1. And Option 3, which prohibits all marketing, incorporates all the requirements in Options 1 and 2.

Option 1: Minimum Requirement

The District prohibits the marketing to students on the school campus [*during the school day / at any time*] of any foods or beverages that do not comply with or exceed the USDA Smart Snacks in School nutrition standards [*or, if stronger, “state nutrition standards” or “District nutrition standards”*].

Option 2: Limiting Brand Marketing

COMMENT ON LIMITING BRAND MARKETING

Districts wishing to limit brand marketing can adopt the following language instead of the paragraph above:

Marketing of a corporate or restaurant brand promotes all of the products associated with the brand, including those foods and beverages that do not meet the USDA Smart Snacks in School nutrition standards [*or, if stronger, “state nutrition standards” or “District nutrition standards”*]. Therefore, the District prohibits the marketing to students on the school campus [*during the school day / at any time*] of any corporate food or restaurant brand, unless (a) every food and beverage product manufactured, sold, or distributed under the corporate brand name meets the USDA Smart Snacks in School nutrition standards [*or, if stronger, “state nutrition standards” or “District nutrition standards”*] OR (b) the marketing features only specific products that do meet the Smart Snacks standards [*or, if stronger, “state nutrition standards” or “District nutrition standards”*].

COMMENT ON LIMITING BRAND MARKETING

Brand marketing is the most prevalent type of marketing on school property. Without policy language addressing brand marketing, companies that sell foods and beverages that do not meet the Smart Snacks standards may still be permitted to display their corporate logos around campus, thereby promoting its unhealthy products as well as healthy products.

School districts can address this by permitting brand marketing in only two instances: if every food and beverage product under the corporate brand name meets the Smart Snacks standards, or if the marketing features only specific products that do meet the Smart Snacks standards. For example, a fast food company that sells products that don't meet the Smart Snacks standards could not display its logo on school signage or scoreboards unless the logo was accompanied by images of specific products that do meet the standards (eg, fruits, vegetables, and water).

Option 3: Prohibiting All Food and Beverage Marketing

COMMENT ON PROHIBITING ALL FOOD AND BEVERAGE MARKETING

Districts wishing to prohibit food and beverage marketing by outside entities entirely can adopt the following language instead of the paragraphs above:

It is the policy of the District to maintain exclusive authority and control over all food and beverage marketing, advertising, and promotion on District property. Therefore, the District prohibits all food and beverage marketing, regardless of point of view, to students on the school campus [*during the school day / at any time*].

COMMENT ON PROHIBITING ALL FOOD AND BEVERAGE MARKETING

The sample policy language above would not prohibit schools from promoting the consumption of healthy foods, since that would fall outside the definition of marketing (statements made by the producer, manufacturer, seller, or entity with a commercial interest in the product).

Additional Language to Address Marketing More Broadly

Off-campus school-related activities (such as fundraisers)

COMMENT ON OFF-CAMPUS SCHOOL RELATED ACTIVITIES

Districts wishing to address off-campus school-related activities can insert the following language in addition to whichever option (Option 1, 2, or 3) the District selects above:

In addition, the District prohibits:

- (a) [*Participation in / On-campus promotion of*] in any corporate incentive program that rewards children with free or discounted foods or beverages that may not be sold on the school campus during the school day when they reach academic goals; and

- (b) [*Participation in / On-campus promotion of*] any corporate-sponsored program that provides funds to schools in exchange for consumer purchases of foods and beverages that do not meet the Smart Snacks standards [*or, if stronger, “state nutrition standards” or “District nutrition standards”*].

COMMENT ON ADDRESSING OFF-CAMPUS, SCHOOL-RELATED ACTIVITIES

Restricting the on-campus marketing of off-campus fundraising that encourages the purchase of foods and beverages that do not meet the USDA Smart Snacks standards helps to reinforce the healthy habits that schools are trying to teach. There are many other creative ideas for fundraising and engagement. For ideas and more information, see the National Alliance for Nutrition & Activity’s (NANA) *School Fundraisers Can Be Healthy and Profitable*.

The italicized language in brackets, provides districts with two options for achieving this – (1) prohibiting these activities outright (i.e., the *participation* in such programs) or (2) prohibiting the on-campus *promotion* of off-campus fundraising events that involve unhealthy foods. The latter may be a more appealing option for schools concerned that they cannot completely do away with such activities.

“Look-alike” Smart Snacks

COMMENT ON LOOK-ALIKE SMART SNACKS

Districts wishing to address “look-alike” Smart Snacks in their wellness policy can adopt the sample policy language below. Because it is easiest to address the sale of these products (rather than marketing), districts should consider including this language in the section of the wellness policy that establishes nutrition standards for competitive foods and beverages (ie, foods and beverages that are sold on campus during the school day but are sold outside the federal reimbursable school meal program).

Look-alike Smart Snacks (also referred to as “copycat snacks”) are products that meet the USDA Smart Snacks in School nutrition standards, but are packaged almost identically to branded products that are available outside of schools, which do not meet the Smart Snacks standards.⁴ Recent research reveals that many students and parents believe the branded snacks are as healthy as the school look-alike snacks, despite major differences in nutrition.¹ The availability of look-alike Smart Snacks in schools undermines nutrition education goals and sends deceptive messages to parents, students, and school staff. It suggests that all products with such branding are generally healthy, both inside and outside schools.

Products may be sold on campus [during the school day / at any time] only if they (a) meet the USDA Smart Snacks in School nutrition standards, (b) are widely available for purchase outside of schools, and (c) do not have packaging that is substantially similar to the packaging for food and beverage products that do not meet the Smart Snacks standards. Substantially similar packaging includes, but is not limited to, the use of the same spokes-characters, product names, and/or colors that are used on the packaging for food and beverage products that are not Smart Snacks-compliant, such that the packages easily could be mistaken for one another.

Exceptions

COMMENT ON EXCEPTIONS

In addition to whichever policy language is selected above, the District should add the following language, outlining exceptions to the marketing requirements:

These restrictions do not apply if the marketing occurs in:

- Media produced outside of the school and which is used as an educational tool (eg, ads in magazines used in art class);
- Personal opinion, expressions, clothing; or
- Product packaging (eg, when the corporate brand name or logo is placed on a physically present food or beverage product or its container).

Immediate replacement of durable equipment with permanent advertising affixed to it is not required; however, the District will replace or update scoreboards and other durable equipment either when existing contracts are up for renewal or over time, to the extent that it is financially possible, so that eventually these items are in compliance with the marketing provision.

Organizations and Resources

ChangeLab Solutions' resources on marketing to children

www.changelabsolutions.org/childhood-obesity/food-beverage-marketing

ChangeLab Solutions' resources on local school wellness policies

www.changelabsolutions.org/local-school-wellness-policies

The following organizations' websites have additional resources and tools related to school wellness policies:

- **United States Department of Agriculture (USDA)**
Provides implementation tools and resources to help schools offer healthier meals and snacks that appeal to students and meet national nutrition standards
www.fns.usda.gov/tn/local-school-wellness-policy
- **Centers for Disease Control and Prevention (CDC)**
Outlines federal requirements for local school wellness policies and provides online resources to help school districts develop, implement, and promote local school wellness policies
www.cdc.gov/healthyschools/npao/wellness.htm
- **The Alliance for a Healthier Generation**
Offers a model wellness policy, tools for implementation and evaluation, and guidance on the final rule
www.healthiergeneration.org/take_action/schools/wellness_committees_policies/
- **The Rudd Center**
Offers the WellSAT 2.0 evaluation tool to help schools measure the quality of their local school wellness policy, and provides resources for making improvements based on the assessment
<http://wellsat.org/>
- **The National Alliance for Nutrition and Activity (NANA)**
Provides resources to help school districts and stakeholders update and implement their local school wellness policy
www.schoolwellnesspolicies.org
- **Action for Healthy Kids**
Offers tools and resources to help schools implement health and wellness programs
www.actionforhealthykids.org/tools-for-schools

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- ¹ Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010, 81 Fed. Reg. 146, 50151 (July 29, 2016) (to be codified at 7 C.F.R. pt. 210, 220).
- ² The USDA’s Smart Snacks in School nutrition standards set limits on the amount of calories, sodium, sugar, and fat in foods and beverages that are sold on campus during the school day but are sold outside the federal reimbursable school meals program.
- ³ The Alliance for a Healthier Generation’s Model School Wellness Policy. Updated September 2016.
www.healthiergeneration.org/_asset/1xlv2y/Model-Wellness-Policy-USDA_CDC-Comments-2016-09-02-FINAL.docx.
- ⁴ Harris JL, Hyary M, Schwartz MB. Effects of offering look-alike products as Smart Snacks in schools. *Child Obes.* 2016. doi:10.1089/chi.2016.0080.