

Addressing Sugary Drinks through the Local School Wellness Policy

As school districts throughout California prepare to implement the U.S. Department of Agriculture's (USDA) new Nutrition Standards for All Foods Sold in School (also called the Smart Snacks in Schools rule), they have the opportunity to improve student health by comprehensively addressing the availability of sugary drinks in schools within their local school wellness policy.

At least 80 percent of school-age children report consuming one or more sugary drinks per day on weekdays.¹ Sugary beverages account for between 6 percent and 12 percent of the daily caloric intake of school-age children and adolescents.² While children and adolescents consume the majority of their sugary drink calories at home, it is estimated that at least 7 percent to 15 percent,³ and potentially as much as 22 percent,⁴ of sugary drink calories are consumed at school. Comprehensive policies that remove or restrict the availability and/or serving size of the full spectrum of sugary drinks in schools are an effective method for lowering children's and adolescents' consumption of them.^{5, 6}

What Are Sugary Drinks?

The broadest definition of a sugary drink is any non-alcoholic beverage that contains added caloric sweeteners, including sodas, energy drinks, sweetened iced teas, sports drinks, flavored milk, flavored waters, sweetened juices, and fruit drinks. Definitions of sugary drinks vary greatly across the legislative, policy, and research landscapes; for example, some policies treat flavored milk as a sugary drink, but others do not. Calorie-free beverages are often addressed in sugary drink policies, even though these beverages, which have no added caloric sweeteners, are technically not sugary beverages. This fact sheet discusses calorie-free beverages to the extent they are included in state and federal school food regulations.

What Beverages Can California Schools Sell to Students?

Both federal and California law restrict the beverages schools can sell to students. The National School Lunch Act regulates the beverages that are served as part of the school meal program (breakfast and/or lunch).⁷ All beverages sold at schools outside of federal school meals fall under the category of "competitive foods," and includes beverages sold in vending machines, snack bars, school stores, and à la carte lines.⁸

The State of California has been a leader in adopting nutrition standards for competitive foods and beverages. Since 2006, California law has included nutrition standards that limit the availability of sugary drinks in schools.⁹ At the federal level, the Healthy, Hunger-Free Kids Act of 2010 required the USDA to establish nutrition standards for competitive foods and beverages.¹⁰ In June 2013, the USDA released an Interim Final Rule on competitive foods, Smart Snacks in Schools, which school districts must implement by July 1, 2014.¹¹ (More information on Smart Snacks in Schools is available at www.fns.usda.gov/cnd/governance/legislation/allfoods.htm.)

The beverages allowed under the Smart Snacks in Schools rules are different from what is allowed under current California rules; in some cases the USDA rules are stricter and in some cases the California rules are. Usually when two sets of rules address the same thing, the more restrictive standard applies. The California Department of Education has indicated that it plans to release updated resources for California schools that will integrate California and federal law.¹² The existing California standards will remain in place for the 2013–2014 school year; the integrated standards will take effect on July 1, 2014.¹³

The charts below list the beverages that California schools are allowed to sell to students outside of the meal program. The chart for the 2013–2014 School Year shows what is allowed under California’s existing competitive food rules. The chart for the 2014–2015 School Year shows what is allowed under the new Smart Snacks in Schools rules, along with ChangeLab Solutions’ best approximation of how to integrate those with California’s standards. California school districts should look for more detailed guidance from the California Department of Education before the Smart Snacks in Schools rule must be implemented on July 1, 2014.

2013–2014 School Year (California Rules)

Beverages	Elementary Schools ¹⁴	Middle & High Schools ¹⁵
Water: no added sweetener; carbonated water may not be sold in the food service area during meal time	ALLOWED	ALLOWED
Milk: 2%*, 1%, or nonfat; flavored allowed if ≤ 28 g sugar per 8 ounces; ≥ 25% daily value for calcium per 8 ounces; Vitamins A and D added * Only 1% or nonfat milk will be allowed as of January 1, 2014. ¹⁶	ALLOWED	ALLOWED
Milk Substitutes: ≤ 5 g fat per 8 ounces; flavored allowed if ≤ 28 g sugar per 8 ounces; ≥ 25% daily value for calcium per 8 oz; Vitamins A and D added	ALLOWED	ALLOWED
Juice: ≥ 50% fruit or vegetable juice; no added sweetener	ALLOWED	ALLOWED
Electrolyte Replacement Beverages: first ingredient is water; ≤ 2.1 g sugar per ounce; 10–150 mg sodium and 10–90 mg potassium per 8 ounces; no added caffeine	NOT ALLOWED	ALLOWED
Calorie-Free Beverages	NOT ALLOWED	ALLOWED if meet Electrolyte Replacement Beverage requirements
Low-Calorie Beverages	NOT ALLOWED	ALLOWED if meet Electrolyte Replacement Beverage requirements
Caffeine	NOT ALLOWED	NOT ALLOWED
All Other Beverages	NOT ALLOWED May be sold ≥ 30 minutes after school ONLY for student fundraising	NOT ALLOWED May be sold ≥ 30 minutes before and after school

Starting in the 2014–2015 School Year, the only beverages California schools will be allowed to sell to students under an integrated California and USDA framework will be:

- water
- $\geq 50\%$ fruit or vegetable juice with no added sweetener
- 1% milk (unflavored)
- nonfat milk (flavored or unflavored)
- calorie-free beverages and low-calorie beverages (in high schools only)

It remains to be seen how the California Department of Education will integrate the USDA standards for calorie-free and low-calorie beverages with the California standards for electrolyte replacement beverages. Schools will continue to be allowed to sell any beverages during certain times outside of the school day, including at school events and for fundraisers.

2014-2015 School Year (*Integrated Federal and California Rules*)

Beverages	Elementary Schools	Middle and Junior High Schools	High Schools
Water: no added sweetener	ALLOWED No serving size limit	ALLOWED No serving size limit	ALLOWED No serving size limit
Milk: 1%, unflavored; nonfat, flavored allowed if ≤ 28 g sugar per 8 ounces; at least 25% DV for calcium per 8 fluid ounces; Vitamins A and D added	ALLOWED ≤ 8 -ounce serving	ALLOWED ≤ 12 -ounce serving	ALLOWED ≤ 12 -ounce serving
Milk Substitutes: ≤ 5 grams fat per 8 ounces; flavored allowed if ≤ 28 g sugar per 8 ounces; must also meet certain vitamins and mineral requirements* * per 8 fluid ounces, must include at least 276 mg calcium, 8 g protein, 500 IU Vitamin A, 100 IU Vitamin D, 24 mg magnesium, 222 mg phosphorus, 349 mg potassium, 0.44 mg riboflavin, and 1.1 mcg Vitamin B-12	ALLOWED ≤ 8 -ounce serving	ALLOWED ≤ 12 -ounce serving	ALLOWED ≤ 12 -ounce serving
Juice: $\geq 50\%$ fruit or vegetable juice; no added sweetener	ALLOWED ≤ 8 -ounce serving	ALLOWED ≤ 12 -ounce serving	ALLOWED ≤ 12 -ounce serving
Electrolyte Replacement Beverages: first ingredient is water; ≤ 2.1 g sugar per ounce; 10–150 mg sodium and 10–90 mg potassium per 8 ounces; no added caffeine	NOT ALLOWED	NOT ALLOWED	ALLOWED if meet Calorie Free or Low Calorie Beverage requirements
Calorie Free Beverages: ≤ 5 calories per 8 ounces or ≤ 10 calories per 20 ounces	NOT ALLOWED	NOT ALLOWED	ALLOWED if meet Electrolyte Replacement Beverage requirements ≤ 20 -ounce serving
Low Calorie Beverages: ≤ 40 calories per 8 ounces or ≤ 60 calories per 12 ounces	NOT ALLOWED	NOT ALLOWED	ALLOWED if meet Electrolyte Replacement Beverage requirements ≤ 12 -ounce serving
Caffeine	NOT ALLOWED	NOT ALLOWED	NOT ALLOWED
All Other Beverages	NOT ALLOWED May be sold ≥ 30 minutes after school ONLY for student fundraising	NOT ALLOWED May be sold ≥ 30 minutes after school	NOT ALLOWED May be sold ≥ 30 minutes after school

Why Address Sugary Drinks in a Local School Wellness Policy?

As of 2006, all school districts that participate in the National School Lunch Program were required by federal law to develop and adopt a Local School Wellness Policy.¹⁷ In addition to the new Smart Snacks in Schools rules, the 2010 Healthy, Hunger-Free Kids Act added new requirements for school wellness policies.¹⁸ In order to comply with these changes, school districts will have to adopt revised wellness policies. The USDA plans to release proposed new rules on school wellness policies in early 2014 and a final rule in late 2014.¹⁹ Many school districts started reviewing their existing school wellness policies during the 2011–2012 School Year, and all districts should plan to have a revised policy in place by the start of the 2015–2016 School Year.

Beyond the legal requirements, school wellness policies provide a platform for developing and presenting a comprehensive and coordinated strategy for improving student health. While school wellness policies typically focus on nutrition and physical activity, they can be expanded to address coordinated school health components, including, for example, mental health, tobacco use, staff wellness, and bullying and school violence. School wellness policies can also serve as a tool for communication across the school community, highlighting, celebrating, and refining the work a district is engaging in to improve school health.

Options for Districts That Wish to Further Limit Sugary Drink Access

School wellness policies must include nutrition guidelines for all foods available on school campuses.²⁰ In order to fulfill this requirement, school districts can choose to simply refer to or restate the California and federal competitive foods nutrition standards in their Local Wellness Policies. However, school districts can choose to go beyond these basic requirements and adopt stronger rules on sugary drinks, either as part of the local school wellness policy or as a stand-alone sugary drink policy. These stronger rules can further limit the beverages sold as competitive foods during the school day. They can also provide limits where the California and federal rules do not apply, such as when sugary drinks are served free in the classroom and at school celebrations, or when sugary drinks are sold after school hours at events or for fundraising. Below are possible sugary drink policy elements that go beyond the California and federal regulations.

Topic	Stronger Policy Language Options	Comments
Beverages Allowed	<i>The only beverages allowed to be sold or served to students are water with no added sweetener, unflavored nonfat or 1% milk, and 100% fruit and/or vegetable juice with no added sweetener.</i>	<p>Districts may choose which beverages allowed under the California and federal competitive foods regulations they want to sell and/or serve to students.</p> <p>This sample policy language limits allowable beverages to water, plain milk, and 100% juice. Alternatively, districts could allow fruit- and vegetable-based drinks that are at least 50% juice with no added sweetener.</p> <p>Districts can also choose to allow flavored nonfat milk, but adopt the Institute of Medicine recommendation of no more than 22 grams of sugar per 8-ounce serving.²¹</p> <p>Some California school districts have already chosen not to allow flavored milk²² or electrolyte replacement beverages in schools.²³</p>
Serving Sizes	<p><i>Portion sizes for juice are limited to 4 ounces for elementary and middle school students and 8 ounces for high school students.</i></p> <p><i>Portion size for milk is limited to 8 ounces for all students.</i></p>	<p>This sample policy language places smaller limits on serving sizes of juice and milk than the California and federal competitive foods regulations. The Institute of Medicine has recommended these serving sizes for schools.²⁴ For many children and adolescents, calcium intake is below adequate levels, and milk consumption is below levels recommended by the Dietary Guidelines for Americans.²⁵ For these reasons, districts may choose not to adopt smaller limits on serving sizes of milk.</p>

Topic	Stronger Policy Language Options	Comments
Outside the School Day	<p><i>Only beverages that meet the nutrition standards set forth in the Wellness Policy may be served or sold during the time when before- and after-school programs and activities are taking place.</i></p>	<p>This sample policy language extends the competitive foods restrictions to include any time that students are at the school site for before- or after-school activities or programs.²⁶</p>
Celebrations	<p><i>Celebrations of birthdays, holidays, and special achievements can be fun and special without food. The District will distribute a list of nonfood celebration ideas at the beginning of the school year.</i></p> <p><i>Option 1: Food and beverages are not allowed at celebrations.</i></p> <p><i>Option 2: Schools are encouraged to limit the number of food-based celebrations. Celebrations that include food and beverages shall be limited to [__] per class per year and healthy food and beverage choices should be encouraged.</i></p> <p><i>Option 3: Only foods and beverages that meet the nutritional standards set forth in the Wellness Policy may be served at celebrations.</i></p> <p><i>Option 4: Only [__] food and beverage item(s) that do[es] not meet the nutritional standards set forth in the Wellness Policy may be served at celebrations.</i></p>	<p>This sample policy language is aimed at encouraging nonfood-based celebrations in school.</p> <p>A variety of options are offered for districts to choose from:</p> <p>Option 1 does not allow food-based celebrations.</p> <p>Option 2 allows food-based celebrations, but limits the number per class per year. Option 2 can be used alone, or combined with either Option 3 or 4.</p> <p>Option 3 allows only foods and beverages that meet the nutritional requirements. San Francisco has adopted Option 3.²⁷</p> <p>Option 4 allows a specified number of food and beverage items that do not meet the nutritional requirements.</p>
Fundraisers	<p><i>Fundraising activities that promote physical activity and are not food-based can be fun and successful. The District will distribute a list of healthy fundraising ideas at the beginning of the school year.</i></p> <p><i>Option 1: Food based fundraising activities are not allowed. Instead, fundraising activities will focus on promoting physical activity.</i></p> <p><i>Option 2: Schools are encouraged to limit the number of food-based fundraising activities. Food-based fundraising activities shall be limited to [__] per [school/class/grade] per year and healthy food and beverage choices should be encouraged.</i></p> <p><i>Option 3: Only foods and beverages that meet the nutritional standards set forth in the Wellness Policy may be sold for fundraising activities.</i></p> <p><i>Option 4: Only [__] food and beverage items that do[es] not meet the nutritional standards set forth in the Wellness Policy may be sold for fundraising activities.</i></p>	<p>This sample policy language is aimed at encouraging physical activity focused and non-food based fundraising activities.</p> <p>A variety of options are offered for districts to choose from:</p> <p>Option 1 does not allow food-based fundraising activities.</p> <p>Option 2 allows food-based fundraising activities, but limits the number per year. Option 2 can be used alone, or combined with either Option 3 or 4.</p> <p>Option 3 allows only foods and beverages that meet the nutritional requirements.</p> <p>Option 4 allows a specified number of food and beverage items that do not meet the nutritional requirements.</p>
Events	<p><i>Only foods and beverages that meet the nutritional standards set forth in the Wellness Policy may be served or sold at school events, including performances, dances, and athletic events.</i></p>	<p>This sample policy language is aimed at encouraging healthy eating at school events.</p>
Brought from Home	<p><i>Option 1: Students may bring from home only those beverages that meet the nutritional standards set forth in the Wellness Policy.</i></p> <p><i>Option 2: Students will be encouraged to bring from home only those beverages that meet the nutritional standards set forth in the Wellness Policy.</i></p>	<p>This sample policy language includes two alternatives. Option 1 restricts all beverages brought from home to those that meet the nutritional standards. Option 2 encourages students to bring from home only those beverages that meet the nutritional standards.</p> <p>Washington, DC has adopted option 2.²⁸ Policies like option 1 may be seen as infringing on the personal freedoms and choices of students and parents. Districts that are interested in adopting option 1 may want to explore the policy with the broader school community, including parents.</p>

Topic	Stronger Policy Language Options	Comments
Water Access	<p><i>Students and employees will have access to clean, safe, palatable drinking water free of charge at every District facility in cafeteria and eating areas, classrooms, hallways, gymnasiums, play yards and athletic fields, and faculty lounges throughout the school day and at before- and after-school activities. Students may bring drinking water from home and take water into the classroom, provided that the water is in a capped container, such as a bottle, to prevent spills.</i></p>	<p>ChangeLab Solutions has developed a comprehensive <i>Model Policy for Water Access in Schools</i>, available at: www.changelabsolutions.org/publications/wellness-policy-water.</p>
Food and Beverage Marketing	<p><i>The District recognizes that students' health-related choices are influenced by many factors, but that advertising plays a key role in their decision making. The District endeavors to teach students how to make informed choices about nutrition, physical activity, and health. Those efforts can be impeded if students are subjected to advertising on District property that contains messages contrary to or inconsistent with the health information contained in the District's curriculum.</i></p> <p><i>Option 1: The District does not allow food and beverage advertising, regardless of point of view, on District property, including school grounds.</i></p> <p><i>Option 2: The District does not allow food and beverage advertising on District property, including school grounds, regardless of point of view, unless the advertising is for products that meet the nutritional standards set forth in the Wellness Policy.</i></p>	<p>This sample policy language includes two alternatives. Option 1 restricts all food and beverage advertising on school property. Option 2 allows food and beverage advertising only of products that meet the District's nutritional requirements.</p> <p>ChangeLab Solutions has developed a comprehensive <i>Model Policy Restricting Food and Beverage Advertising on School Grounds</i>, available at: www.changelabsolutions.org/publications/district-policy-school-food-ads</p>
Supporting Healthy Eating Outside of School	<p><i>The District recognizes that students need access to healthy foods before, during, and after the school day. Efforts to improve the nutritional quality of foods provided to children at school are undermined when students leave campus to buy fast food from restaurants nearby, or when they buy fast food on their way to or from school. The District will work together with the [city council, and local planning and public health departments] to explore the adoption of a Healthy School Zone Ordinance to restrict the availability of unhealthy foods, including sugary drinks, near schools.</i></p>	<p>ChangeLab Solutions has developed a <i>Model Healthy Food Zone Ordinance</i> that regulates the location of fast-food restaurants and/or mobile food vendors near schools, available at: www.changelabsolutions.org/publications/model-ord-healthy-food-zone.</p>

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- ¹ Wang YC, Bleich SN and Gortmaker SL. “Increasing Caloric Contribution from Sugar-Sweetened Beverages and 100% Fruit Juice Among US Children and Adolescents, 1988–2004.” *Pediatrics*, 121: e1604–1614, e1607, 2008. Available at: <http://pediatrics.aappublications.org/content/121/6/e1604.short>.
- ² Kit BK, Fakhouri TH, Park S, Nielsen SJ and Ogden CL. “Trends in sugar-sweetened beverage consumption among youth and adults in the United States: 1999–2010.” *The American Journal of Clinical Nutrition* 98(1): 180–188, 183, 2013.
- ³ Wang YC, et al., *supra* note 1 at e1609–e1610.
- ⁴ Briefel RR, Wilson A and Gleason PM. “Consumption of Low-Nutrient, Energy-Dense Foods and Beverages at School, Home, and Other Locations Among School Lunch Participating and Nonparticipants.” *Journal of the American Dietetic Association*, 109(Supp.2): S79–90, 2009.
- ⁵ Levy DT, Friend KB and Wang YC. “A Review of the Literature on Policies Directed at the Youth Consumption of Sugar Sweetened Beverages.” *Advances in Nutrition: An International Review Journal*, 2(2): 182S–200S, 183S, 194S–195S, 2011. Available at: <http://advances.nutrition.org/content/2/2/182S.full.pdf+html>.
- ⁶ *Influence of Competitive Food and Beverage Policies on Children’s Diets and Childhood Obesity*. Minneapolis, MN: Healthy Eating Research and Chicago, IL: Bridging the Gap, 2012, p. 6–7. Available at: www.healthyeatingresearch.org/images/stories/her_research_briefs/RRCompFoods7-2012.pdf.
- ⁷ 42 U.S.C. 1758(a) (2013); 7 CFR 210.10 (2013).
- ⁸ 7 CFR 210.11 (2013). *See also*, National School Lunch and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, 78 Fed. Reg. 39068, 39070 (Interim Final Rule, June 28, 2013) (to be codified at 7 CFR 210.11).
- ⁹ Cal. Educ. Code §§ 49430, 49431.5 (2013). Cal. Code Regs. tit. 5, § 15576 (2013). Senate Bill 965 was enacted in 2005 and the code was changed as of Jan. 1, 2006. Starting July 1, 2006, at least 50% of beverages sold to students had to meet the requirements; as of July 1, 2007, all beverages sold to students had to meet the requirements.
- ¹⁰ Healthy, Hunger-Free Kids Act of 2010, Pub. L. No. 111–296, § 208, 124 Stat. 3183, 3221–3222 (2010) (codified at 42 U.S.C. 1779).
- ¹¹ National School Lunch and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, 78 Fed. Reg. 39068 (Interim Final Rule, June 28, 2013) (to be codified at 7 CFR 210.11).
- ¹² Walter C. “USDA Releases Smart Snacks in School: The California Impact.” *Public Health Institute Blogs*, June 28, 2013. Available at: www.phi.org/news-events/496/usda-releases-smart-snacks-in-school-the-california-impact.
- ¹³ Some aspects of California’s law on competitive foods will change on January 1, 2014. *See* A.B. 626, 2013–2014 Reg. Sess. (Cal. 2013) (amending Cal. Educ. Code § 49431.5, among others).
- ¹⁴ Cal. Educ. Code § 49430 defines elementary school as kindergarten to grade 6.
- ¹⁵ Cal. Educ. Code § 49430(b) defines middle school as grades “7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.” Cal. Educ. Code § 49430(c) defines high school as “any of grades 9 to 12, inclusive.”
- ¹⁶ A.B. 626, 2013–2014 Reg. Sess. (Cal. 2013) (amending Cal. Educ. Code § 49431.5).
- ¹⁷ Child Nutrition and Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Reauthorization Act, Pub.L. No. 108–205, § 204, 118 Stat. 729, 780 (2004).
- ¹⁸ Healthy, Hunger-Free Kids Act of 2010, Pub. L. No. 111–296, § 204, 124 Stat. 3183, 3216 (2010) (codified at 42 U.S.C. 1758b).
- ¹⁹ “Local Process: How to Develop, Implement, and Evaluate a Wellness Policy.” USDA Food and Nutrition Service, last modified July 20, 2013, http://teammnutrition.usda.gov/healthy/wellnesspolicy_process.html.
- ²⁰ 42 U.S.C. 1758b(2) (2013).
- ²¹ *Nutrition Standards for Foods in Schools: Leading the Way Toward Healthier Youth*. Washington, D.C.: Institute of Medicine, 2007, p. 125, 129. Available at: www.nap.edu/catalog.php?record_id=11899.
- ²² *See, e.g.*, “Superintendent Bans Chocolate and Strawberry Milk: School Board Also Approves Adding More Vegetarian Entrees to Student Menus.” News Release, Los Angeles Unified School District, June 14, 2011. Available at: http://notebook.lausd.net/pls/ptl/docs/PAGE/CA_LAUSD/FLDR_LAUSD_NEWS/FLDR_ANNOUNCEMENTS/MILKANDVEGGIESTW.PDF.
- ²³ Kleske D, et al. *Case Studies: Eliminating Electrolyte Replacement Beverages in California Public Schools*. Sacramento, CA: California Project Lean, California Department of Public Health, 2010. Available at: www.californiaprojectlean.org/docuserfiles/Case%20Studies_ERBs_web.pdf.
- ²⁴ *Nutrition Standards for Foods in Schools*, *supra* note 18, at 123, 125.
- ²⁵ *Id.* at 42, 123.
- ²⁶ For more information on addressing after-school programs in Local Wellness Policies, *see* Cama S et al. *School Wellness Policy and Practice: Meeting the Needs of Low-Income Students*. Washington, DC: Food Research and Action Center, 2006, p. 52–57.
- ²⁷ *SFUSD Wellness Policy*. San Francisco Unified School District, last updated June 27, 2007, p. 6. Available at: www.sfusdfood.org/pdfs/SFUSDWellness.pdf.
- ²⁸ *DCPS Local Wellness Policy*. District of Columbia Public Schools, August 2011 (amended, August 2012), p. 9. Available at: <http://dc.gov/DCPS/Files/downloads/In-the-Classroom/Health%20and%20Wellness/LWP%20Amended%20Version%202012%2007132012.pdf>.