

~~Other Food Sales~~ OTHER FOOD SALESA. ~~Purpose and Scope~~

~~Any food sales conducted outside the district's food service program shall meet nutritional standards specified in law, Board policy, and administrative regulation and shall not reduce student participation in the district's food service program.~~

B. ~~General~~

~~Food and beverage sales outside the district's food service program shall comply with applicable nutritional standards specified in Education Code 4931, 49431.2, 49431.5, and 49431.7.~~

C. ~~Forms Used and Additional References~~

~~N/A~~

D. ~~Procedure~~

~~At an elementary school, the sale of foods or beverages that do not comply with the standards in Education Code 49431 and 49431.5 may be permitted, as part of a fundraising event, only when the items are sold by students of the school and the sale meets either of the following conditions: (Education Code 49431, 49431.5)~~

- ~~1. It takes place off and away from school premises.~~
- ~~2. It takes place at least one half hour after the end of the school day.~~

~~At a middle, junior high, or high school, the sale of food items that do not comply with the standards in Education Code 49431.2 may be permitted in any of the following circumstances: (Education Code 49431.2)~~

- ~~1. The sale takes place off and away from school premises.~~
- ~~2. The sale takes place on school premises at least one half hour after the end of the school day.~~
- ~~3. The sale occurs during a school sponsored student activity after the end of the school day.~~

~~Beverage sales that do not comply with the standards in Education Code 49431.5 may be permitted at a middle or junior high school as part of a school event under either of the following circumstances: (Education Code 49431.5)~~

- ~~1. The sale occurs during a school-sponsored event and takes place at the location of the event at least one half hour after the end of the school day.~~
- ~~2. Vending machines, student stores, and cafeterias are used later than one half hour after the end of the school day.~~

Other Food Sales OTHER FOOD SALES**Additional Requirements for Schools Participating in Federal Meal Program Program**

~~The sale of foods~~ **For any district school participating in the National School Lunch and/or Breakfast Program, food or beverage sales conducted** outside of the district's food service program **on school campuses** during meal periods in food service areas **the school day** shall comply with applicable standards specified in ~~be allowed only if all income from the sale, including the sale of approved foods or drinks from vending machines, accrues to the benefit of the school, the school food service program, or the student organization(s) sponsoring the sale.~~ **(7 CFR 210.11 and 220.12 or with state nutrition standards in Education Code 49431-49431.7 and 5 CCR 15500-15501 and 155754-15578, whichever rule is stricter.**

These standards shall apply to all competitive foods and beverages sold from midnight before the school day to one-half hour after the end of the school day. (7 CFR 210.11)

~~No foods of minimal nutritional value, as listed in 7 CFR 210, Appendix B, and 7 CFR 220, Appendix B, shall be sold in food service areas during breakfast and lunch periods. (7 CFR 210.11, 220.12)~~

In a school with any of grades K-8 that is participating in the National School Lunch and/or Breakfast Program, the Superintendent or designee shall not permit the sale of foods by a student organization except when all of the following conditions are met: (5 CCR 15500)

1. The student organization shall sell only one food item per sale.
2. The specific nutritious food item is approved by the Superintendent or designee **in accordance with Board policy.**
3. The sale does not begin until after the close of the regularly scheduled midday food service period.
4. The sale during the regular school day is not of food items prepared on the premises.
5. There are no more than four such sales per year per school.
6. ~~The food sold is a dessert type food, such as pastry, ice cream, or fruit.~~
7. The food sold is not one sold in the district's food service program at that school during that school day.

In junior high and **any middle or high schools**, a student organization may be approved to sell food items during or after the school day if all of the following conditions are met: (5 CCR 15501)

~~Other Food Sales~~ **OTHER FOOD SALES**

1. Only one student organization conducts a food sale on a given school day and the organization sells no more than three types of food or beverage items, except that up to four days during the school year may be designated on which any number of organizations may conduct the sale of any food items.
2. The specific nutritious food items are approved by the Superintendent or designee **in accordance with Board policy.**
3. Food items sold during the regular school day are not prepared on the premises.
4. The food items sold are not those sold in the district's food service program at that school during that school day.

The Superintendent or designee shall maintain records and shall require organizations selling foods and beverages to maintain records, to document compliance with federal nutrition standards for all competitive foods and beverages sold through and outside the district's food services program. At a minimum, these records shall include receipts, nutrition labels, and/or product specifications. (7 CFR 210.11)

(11/03 11/05) 11/07

Board Acknowledged: 11/18/2008

~~Other Food Sales~~ **OTHER FOOD SALES**

The Governing Board believes that sales of foods and beverages at school during the school day should be aligned with the district’s goals to promote student wellness. Any food sales conducted outside the district’s food service program shall meet nutritional standards specified in law, Board policy, and administrative regulation and shall not reduce student participation in the district’s food service program.

- ~~(cf. 3550 – Food Service/Child Nutrition Program)~~
- ~~(cf. 3551 – Food Service Operations/Cafeteria Fund)~~
- ~~(cf. 3553 – Free and Reduced Price Meals)~~
- ~~(cf. 5030 – Student Wellness)~~
- ~~(cf. 5141.27 – Food Allergies/Special Dietary Needs)~~

The Board authorizes the Superintendent or designee to approve the sale of foods and beverages outside the district’s food service program, including sales by student or school-connected organizations, sales through vending machines, and/or sales at secondary school student stores for fundraising purposes.

- ~~(cf. 1230 – School Connected Organizations)~~
- ~~(cf. 1321 – Solicitations of Funds from and by Students)~~

When vending machines are sponsored by the district or a student or adult organization, the Superintendent or designee shall determine how and where vending machines may be placed at school sites, district offices, or other school facilities.

- ~~(cf. 3312 – Contracts)~~

Legal Reference:

CALIFORNIA CODE OF REGULATIONS, TITLE 5:

- 15500 Food sales in elementary schools
- 15501 **Food Sales** in high schools and junior high schools
- 15575-15578 Requirements for foods and beverages outside the federal meals program

EDUCATION CODE:

- 35182.5 Contracts, ~~non-nutritious beverages~~ **for advertising**
- 48931 Authorization ~~and~~ **for** sale of food by student organization
- 49430-494346 Pupil Nutrition, Health, and Achievement Act of 2001
- 51520 ~~School premises; p~~**Prohibited solicitations on school premises**

HEALTH AND SAFETY CODE:

- 113700-114437 California Retail Food Code; **sanitation and safety requirements**

UNITED STATES CODE, TITLE 42:

~~Other Food Sales~~ **OTHER FOOD SALES**

1751-1769j ~~National School Lunch Act, including:~~ **School Lunch Program**
1758b Note Local wellness policy
1771-1791 ~~Child nutrition, School Breakfast Program~~

CODE OF FEDERAL REGULATIONS, TITLE 7:

210.1-210.343 National School Lunch Program
220.1-220.21 National School Breakfast Program

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT BULLETINS

06-110 Restriction on Food and Beverage Sales Outside of the School Meal Program, August 2006

CSBA PUBLICATIONS

Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007
Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. October 2007
Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM PUBLICATIONS

Associated Student Body Accounting Manual and Desk Reference, 2002

NATIONAL ASSOC. OF STATE BOARDS OF EDUCATION PUBLICATIONS

Fit, Healthy and Ready to Learn, 2000

WEB SITES

CSBA District and County Office of Education Legal Services
<http://www.csba.org>

U.S. Dept. of Agriculture, Food and Nutrition Information Center:
<http://www.nal.usda.gov/fnic>

California Project LEAN (Leaders Encouraging Activity and Nutrition)
<http://www.californiaprojectlean.org>

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Centers for Disease Control and Prevention

<http://www.cdc.gov>

National Association of State Boards of Educations

<http://www.nasbe.org>

California Department of Education, Nutrition Services Division

<http://www.cde.ca.gov/ls/nu>

California Department of Public Health

<http://www.cdph.ca.gov>

California Healthy Kids Resource Center

<http://www.californiahealthykids.org>

CSBA

<https://www.csba.org>

Fiscal Crisis and Management Assistance Team

<http://www.fcmat.org>

NUTRITION PROGRAM COMPLIANCE

NONDISCRIMINATION STATEMENT FOR NUTRITION PROGRAMS

The following statement shall be included in a prominent location, on all forms available to the public regarding the availability of the district's child nutrition programs:

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language, etc.), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to the USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

(2) fax: (833) 256-1665 or (202) 690-7442; or

(3) email: Program.Intake@usda.gov

This institution is an equal opportunity provider."

On pamphlets, brochures, and flyers, in the same print size as the rest of the text, the district may print a short version of the nondiscrimination statement, as follows:

"This institution is an equal opportunity provider."

~~Nutrition Program Compliance~~ **NUTRITION PROGRAM
COMPLIANCE**

The Governing Board recognizes the district's responsibility to comply with state and federal nondiscrimination laws as they apply to the district's nutrition programs. The district shall not deny any individual the benefits or service of any nutrition program or discriminate against him/her on any basis prohibited by law.

~~(cf. 0410—Nondiscrimination in District Programs and Activities)~~

~~(cf. 3550—Food Service/Child Nutrition Program)~~

~~(cf. 3552—Summer Meal Program)~~

~~(cf. 3553—Free and Reduced Price Meals)~~

~~(cf. 5030—Student Wellness)~~

Compliance Coordinator

The Board ~~designates the~~ **shall designate a compliance coordinator for nutrition programs, who may also be the compliance officer(s)** specified in AR 1312.3 - Uniform Complaint Procedures, ~~as the district's civil rights coordinator to ensure compliance with the laws governing it's the district's nutrition programs. and to investigate any related complaints.~~

The responsibilities of the compliance ~~officer/~~coordinator include, but are not limited to:

1. Providing the name of the ~~civil rights~~ **compliance** coordinator, ~~the~~ Section 504 coordinator, and ~~the~~ Title IX coordinator, if different from the ~~civil rights~~ **compliance** coordinator, to the California Department of Education and other interested parties
~~(cf. 6164.6—Identification and Education Under Section 504)~~
2. Annually providing mandatory civil rights training to all frontline staff who interact with program applicants or participants and to those who supervise frontline staff

The subject matter of such training shall include, but not be limited to, collection and use of data, effective public notification systems, complaint procedures, compliance review techniques, resolution of noncompliance, requirements for reasonable accommodation of persons with disabilities, requirements for language assistance, conflict resolution, and customer service.

3. Establishing admission and enrollment procedures that do not restrict enrollment of students on the basis of race, ethnicity, national origin, or disability, including preventing staff from incorrectly denying applications and ensuring that such persons have equal access to all programs
~~(cf. 6159—Individualized Education Program)~~
4. Sending a public release announcing the availability of the child nutrition programs and/or changes in the programs to public media and to community and grassroots organizations that interact directly with eligible or potentially eligible participants
5. Communicating the program's nondiscrimination policy and applicable complaint procedures, as provided in the section "Notifications" below
6. Providing appropriate translation services when a significant number of persons in the surrounding population have limited English proficiency
7. Ensuring that every part of a facility is accessible to and usable by persons with

disabilities and that participants with disabilities are not excluded from the benefits or services due to inaccessibility of facilities

8. Ensuring that special meals are made available to participants with disabilities who have a medical statement on file documenting that their disability restricts their diet
(~~cf. 5141.27 – Food Allergies/Special Dietary Needs~~)
9. Implementing procedures to process and resolve civil rights (~~discrimination~~) complaints, **including alleged discrimination on the basis of race, color, national origin, age, sex, sexual orientation, gender identity or disability** and program-related complaints, including maintaining a complaint log, and working with the appropriate person to resolve any complaint, **and referring the complaint to the appropriate state or federal agency when necessary.**
10. Developing a method, which preferably uses self-identification or self-reporting, to collect racial and ethnic data for potentially eligible populations, applicants, and participants
(~~cf. 5022 – Students and Family Privacy Rights~~)
(~~cf. 5125 – Student Records~~)

Notifications

The compliance coordinator shall ensure that ~~the~~ U.S. Department of Agriculture's (USDA) "And Justice for All" civil rights poster or a substitute poster approved by the USDA's Food and Nutrition Service, ~~shall be~~ **is** displayed in areas visible to the district's nutrition program participants, such as food service areas and school offices.

The **compliance** coordinator shall notify the public, all program applicants, participants, and potentially eligible persons of their ~~program~~ rights and responsibilities and steps necessary ~~for participation to participate in the nutrition programs, including program requirements and program availability.~~ Applicants, participants, and the public also shall be advised of their right to file a complaint, how to file a complaint, the complaint procedures, and that a complaint may be file anonymously or by a third party.

(~~cf. 5145.6 – Parental Notifications~~)

In addition, **the compliance coordinator shall ensure that** all forms of communication available to the public regarding program availability shall contain, in a prominent location, ~~the following statement:~~ **the most current version of the nondiscrimination statement provided by the USDA about the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints against the district.**

~~"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.~~

~~Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of~~

hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.asec.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider."

Forms of communication requiring this nondiscrimination statement include, but are not limited to, web sites, public information releases, publications, and posters, but exclude **items such as cups, buttons, magnets, menus, and pens that identify the program when the size or configuration makes it impractical.** The nondiscrimination statement need not be included on every page of program information on the district's or school's web site, but the statement or a link to the statement shall be included on the home page of the program information.

A short version of the nondiscrimination statement, stating "This institution is an equal opportunity provider," as provided by the USDA, may be used on pamphlets, brochures, and flyers in the same print size as the rest of the text.

Complaints of Discrimination

Any complaint concerning the district's nutrition programs shall be investigated using the process identified in AR 1312.3—Uniform Complaint Procedures.
(cf. 1312.3—Uniform Complaint Procedures)

When a complaint alleging discrimination on the basis of race, color, national origin, sex, age, or disability is unresolved at the district level, the coordinator shall notify the complainant of the option to contact and/or forward his/her complaint to one of the following agencies:

1. Child Nutrition Program Civil Rights and Program Complaint Coordinator, California Department of Education, Nutrition Services Division, 1430 N Street, Room 4503, Sacramento, CA 95814-2342 or call (916) 323-8531 or (800) 952-5609
2. U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, (866) 632-9992, (800) 877-8339 (Federal Relay Service—English), (800) 845-6136 (Federal Relay Service—Spanish), fax (202) 690-7442, or email program.intake.usda.gov.

A complaint alleging discrimination in the district's nutrition program(s) on the basis of race, color, national origin, sex, sexual orientation, gender identity, age, or disability shall, within 180 days of the alleged discriminatory act, be filed or referred to USDA at any of the following: (5 CCR 15582)

**Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410
Phone: (866) 632-9992, (800) 877-8339 (Federal Relay Service - English, deaf, hard of hearing, or speech disabilities), (800) 845-6136 (Federal Relay Service - Spanish)
Fax: (833) 256-1665 or (202) 690-7442
Email: program.intake@usda.gov**

Complaints of discrimination on any other basis shall be investigated by the district using the process identified in AR 1312.3 - Uniform Complaint Procedures.

Complaints Regarding Noncompliance with Program Requirements

Any complaint alleging that the district has not complied with program requirements pertaining to meal counting and claiming, reimbursable meals, eligibility of a child or adult, use of cafeteria funds and allowable expenses in relation to any child nutrition program specified in Education Code 49550-49564.5 shall be filed with or referred to CDE. (Education Code 49556; 5 CCR 15584)

Complaints against a program operator that is not an educational agency shall be filed with or referred to CDE. (5 CCR 15584)

Complaints of noncompliance with any other nutrition program requirements shall be submitted to and investigated by the district using the following procedures.

Complaints may be filed by a student or the student's duly authorized representative by phone, email, or letter. The complaint shall be submitted within one year from the date of the alleged violation and shall include the following: (5 CCR 15581)

- 1. A statement that the district has violated a law or regulation relating to its child nutrition program**
- 2. The facts on which the statement is based**
- 3. The name of the district or the school against which the allegations are made**
- 4. The complainant's contact information**
- 5. The name of the student if alleging violations regarding a specific student**

The district shall investigate and prepare a written report pursuant to 5 CCR 4631. (5 CCR 15583)

The district shall investigate and prepare a written report pursuant to 5CCR 4631. (5 CCR 15583)

Unless extended by written agreement with the complainant, the district's compliance coordinator shall investigate the complaint and prepare a written report to be sent to the complainant within 30 calendar days of the district's receipt of the complaint. If the complainant is dissatisfied with the compliance coordinator's decision, the complainant may, within five business days, file the complaint in writing with the Board.

If the complainant is not satisfied with the findings in the district's report, the complainant may appeal the decision to CDE by filing a written appeal within 30 days of receiving the decision. (5 CCR 4632)

Legal Reference:

CODE OF REGULATIONS, TITLE 5:

- 15580-15584 **Child nutrition programs complaint procedures**
- 3080 ~~Application of section~~ **Applicability of uniform complaint procedures regarding students with disabilities**
- 4600-468770 Uniform complaint procedures
- 4900-4965 Nondiscrimination in elementary and secondary education programs receiving state or federal financial assistance

EDUCATION CODE:

- 200-262.4 Prohibition of discrimination
- 42238.01** **Definitions for purposes of funding**
- 48985 Notices to parents in language other than English
- 49060-49079 Student records
- 49490-49590 Child nutrition programs

PENAL CODE:

- 422.6 ~~Interference with constitutional right or privilege~~ **Crimes; harassment**

UNITED STATES CODE, TITLE 20:

- 1400-1482 Individuals with Disabilities in Education Act
- 1681-1688 Title IX **of the Education Amendments of 1972**; discrimination based on sex or blindness;

CODE OF FEDERAL REGULATIONS, TITLE 28:

- 35.101-35.190 Americans with Disabilities Act
- 36.303 **Nondiscrimination on the basis of disability, public accommodations, Auxiliary aids, and services**

UNITED STATES CODE, TITLE 29:

794 Section 504 of the Rehabilitation Act of 1973

CODE OF FEDERAL REGULATIONS, TITLE 34:

100.1-100.13 Nondiscrimination in federal programs; effectuating Title VI
104.1-104.39 Section 504 of the Rehabilitation Act of 1973
106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:
106.9 Dissemination of policy

UNITED STATES CODE, TITLE 42:

12101-12213 Americans with Disabilities Act
2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
2000h-2000h-6 Title IX

CODE OF FEDERAL REGULATIONS, TITLE 7:

210.19 National School Lunch Program; additional responsibilities
210.23 National School Lunch Program; district responsibilities
215.14 Special Milk Program; nondiscrimination
215.7 Special Milk Program; requirements for participation
220.13 School Breakfast Program; special responsibilities of state agencies
220.7 School Breakfast Program; requirements for participation
225.3 Summer Food Service Program; administration
225.7 Summer Food Service Program; program monitoring
226.6 Child and Adult Care Food Program; state agency administrative responsibilities
250.15 Out-of-condition donated foods, food recalls, and complaints

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATION

Civil Rights and Complaint Procedures for the U.S. Department of Agriculture Child Nutrition Programs, rev. November 2015 **June 2018**

U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE
PUBLICATIONS

USDA Nondiscrimination Statement, December 2022

Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update, CRD 01-2022, May 2022

Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, November 2005

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATION

Notice of Non-Discrimination, August 2010

WEB SITES

CSBA District and County Office of Education Legal Services:
<https://legalservices.csba.org>

U.S. Department of Agriculture, Office for Civil Rights:
<http://www.ascr.usda.gov>

U.S. Department of Agriculture, Food and Nutrition Services:
<http://www.fns.usda.gov>

California Department of Education, Nutrition Services Division:
<http://www.cde.ca.gov/ls/nu>

U.S. Department of Education, Office for Civil Rights:
<http://www2.ed.gov/ocr>

Approved: 6/27/17

