



Texas Public School Nutrition Policy

(Updated to include all clarifications and exemptions)

TODD STAPLES, COMMISSIONER

Texas Department of Agriculture

Policy Originally Effective August 1, 2004

REVISIONS EFFECTIVE AUGUST 1, 2007

I. INTRODUCTION

Unless otherwise noted in this document, all Texas public schools participating in the federal child nutrition programs (National School Lunch Program, School Breakfast Program and the After School Snack Program) must comply with the nutrition policies outlined below beginning on August 1, 2007. These policies are intended to supplement federal policies defined by the U.S. Department of Agriculture's Food and Nutrition Services. As a result of local nutrition and wellness policies, school districts may have stricter nutrition guidelines.

Any questions or concerns regarding the Texas Public School Nutrition Policy may be directed to:

Texas Department of Agriculture
Food and Nutrition Division
P.O. Box 12847, Austin, Texas 78711
1-888-TEX KIDS
or
Squaremeals@agr.state.tx.us

II. DEFINITIONS

The following definitions apply to the Texas Public School Nutrition Policy:

- A) A La Carte:** Refers to individually priced food items provided by the school food service department. These items may or may not be part of the reimbursable meal.

- B) Competitive Foods:** Foods and beverages sold or made available to students that compete with the school's operation of the National School Lunch Program, School Breakfast Program and/or After School Snack Program. This definition includes, but is not limited to, food and beverages sold or provided in vending machines, in school stores or as part of school fundraisers. School fundraisers include food sold by school administrators or staff (principals, coaches, teachers, etc.), students or student groups, parents or parent groups, or any other person, company or organization.

- C) FMNV:** Foods of Minimal Nutritional Value. Refers to the four categories of foods and beverages (soda water, water ices, chewing gum, and certain candies) that are restricted by the U. S. Department of Agriculture under the child nutrition programs. See Section VI (below).

- D) Food Service:** Refers to the school's operation of the National School Lunch Program, School Breakfast Program and After School Snack Programs and includes all food service operations conducted by the school principally for the benefit of schoolchildren and all of the revenue from which is used solely for the operation or improvement of such food services.
- E) Fried Foods:** Foods that are cooked by total immersion into hot oil or other fat, commonly referred to as "deep-fat frying." This definition does not include foods that are stir-fried or sautéed.
- F) Fruit or Vegetable Drink:** Beverages labeled as containing fruit or vegetable juice in amounts less than 100 percent.
- G) Fruit or Vegetable Juice:** Beverages labeled as containing 100 percent fruit or vegetable juice.
- H) School Day:** The school day begins with the start of the first breakfast period and continues until the end of the last instruction period of the day (last bell).
- I) School Meals:** Meals provided under the National School Lunch Program, School Breakfast Program and After School Snack Program for which schools receive reimbursement in accordance with all applicable federal regulations, policies, instructions and guidelines.
- J) Snacks:** Defined as either competitive foods or a la carte (see definitions above), depending on whether or not they are provided by the school food service department.
- K) Trans Fat:** Occurs in foods when manufacturers use hydrogenation, a process in which hydrogen is added to vegetable oil to turn the oil into a more solid (saturated) fat. Trans fats may be found in such foods as margarine, crackers, candies, cookies, snack foods, fried foods, baked goods, salad dressings and other processed foods.

III. ELEMENTARY SCHOOLS

For purposes of this policy, an elementary school campus is defined as any campus containing a combination of grades EE-6. K-12 schools may follow the policy requirements designated for middle and junior high schools.

A. Foods of Minimal Nutritional Value (FMNV) Policy

Elementary school campuses may not serve or provide access for students to FMNV and all other forms of candy at any time anywhere on school premises until the end of the last scheduled class.

Such foods and beverages may not be sold or given away to students on school premises by school administrators or staff (principals, coaches, teachers, etc.), students or student groups, parents or parent groups, guest speakers or any other person, company or organization. For exemptions and a listing of foods and beverages restricted by the FMNV policy, see Section VI (below).

B. Nutrition Standards

The following specific nutrition standards pertain to all foods and beverages served or made available in reimbursable meals, a la carte, and nutritious classroom snacks to students on elementary school campuses.

1. Fats and Fried Foods:

- a) Schools and other vendors may not serve individual food items that contain more than 23 grams of fat with an exception of one individual food item per week. No individual food items can exceed 28 grams of fat at any time. This excludes peanut butter when served as part of a reimbursable meal.
- b). Schools must eliminate deep-fat frying as a method of on-site preparation for foods served as part of reimbursable school meals and a la carte. For the definition of fried foods see Section II. This standard is effective immediately. Schools that must make extensive equipment or facility changes must be in compliance by the 2009-10 school year.
- c). Foods that have been pre-fried, flash-fried or par-fried by the manufacturer may be served but must be baked or heated by a method other than deep-fat frying.

d). Potato products

1. French fries and other fried potato products that have been pre-fried, flash-fried or par-fried by the manufacturer may be served but must be baked or heated by a method other than deep-fat frying. Servings must not exceed 3 ounces, may not be offered more than once per week, and students may only purchase one serving at a time. (This does not pertain to potato chips, which are mentioned specifically in “2. Portion Sizes” below.)
2. Baked potato products (wedges, slices, whole, new potatoes) that are produced from raw potatoes and have not been pre-fried, flash-fried or par-fried in any way may be served without restriction.

e). Schools must include a request for trans fat information in all product specifications. Beginning with the 2007-08 school year, schools must reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products was required by January 1, 2006.)

2. Portion Sizes:

a) The following maximum portion size and nutrient restrictions pertain to all foods and beverages served or made available to students on school campuses with the exception of reimbursable school meals, which are governed by USDA regulations.

Elementary Schools

| Food or Beverage | Portion Size |
|---|--|
| Chips (baked or fried) must have no more than 7.5 grams of fat per bag. | 1.5 ounces |
| Crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, jerky, and pretzels. | 1.5 ounces |
| Cookies/cereal bars, bakery items (e.g., pastries, muffins.) This excludes items that count as two-bread components served/sold only at breakfast. Total fat: Not to exceed 30 percent of calories or contain no more than 3 grams per 100 calories; Saturated fat: Not to exceed 10 percent of calories or contain no more than 1 gram per 100 calories; Sugar: Contain no more 10 grams per ounce. | 2 ounces cookies/cereal bars ----- 3 ounces bakery items |
| Frozen desserts, ice cream, frozen yogurt, pudding, and gelatin. | 4 fluid ounces (1/2 cup) |
| Yogurt. | 8 fluid ounces (1 cup) |
| Whole milk, flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 fluid ounce serving.) | 8 fluid ounces (1 cup) |
| Reduced fat milk (2 percent or less), flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 fluid ounce serving.) | 16 fluid ounces (2 cups) |
| Non-carbonated, unflavored water. | No limit |
| Juices (100 percent fruit and/or vegetable juice) may contain no more than 30 grams total sugar per 6 fluid ounce serving. | 6 fluid ounces (3/4 cup) |
| Frozen fruit slushes. (Must contain a minimum of 50 percent fruit juice.) | 6 fluid ounces (3/4 cup) |

- b) The Texas Public School Nutrition Policy does not provide exceptions or phase-in periods for school districts with vending contracts.

3. Other:

- a) Fruit and/or vegetables must be offered daily on all points of service. Fruits and vegetables should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water or light syrup whenever possible.
- b) Schools must offer 2 percent, 1 percent or skim milk at all points where milk is served.
- c) Elementary schools must serve only milk, unflavored water and 100 percent fruit and or vegetable juice. No electrolyte replacement beverages (sports drinks) may be served or sold.

C. Competitive Foods and Snacks

An elementary school campus may not serve competitive foods (or provide access to them through direct or indirect sales) to students anywhere on school premises throughout the school day until the end of the last scheduled class. This does not pertain to food items made available by the school food service department. All foods, beverages and snack items must comply with the nutrition standards and portion size restrictions in this policy.

Elementary classrooms may allow one nutritious snack per day under the teacher's supervision. The snack may be in the morning or afternoon but may not be at the same time as the regular meal periods for that class. The snack may be provided by the school food service, the teacher, parents or other groups and should be at no cost to students.

Prepackaged snacks must comply with the fat and sugar limits of the Texas Public School Nutrition Policy, and must be single-size servings. All snacks (homemade and prepackaged) may not contain any FMNVs or consist of candy or dessert type items (cookies, cakes, cupcakes, pudding, ice cream or frozen desserts, etc).

IV. MIDDLE/JUNIOR HIGH SCHOOLS

For purposes of this policy, a middle school campus is defined as a campus containing grades 6, 7 and 8. A junior high school campus may contain either grades 7 and 8, or grades 7, 8 and 9. K-12 schools may follow the policy requirements designated for middle and junior high schools.

A. Foods of Minimal Nutritional Value (FMNV) Policy

Middle school and junior high school campuses may not serve or provide access for students to FMNV and all other forms of candy at any time anywhere on school premises until after the end of the last scheduled class.

Such foods and beverages may not be sold or given away to students on school premises by school administrators or staff (principals, coaches, teachers, etc.), students or student groups, parents or parent groups, guest speakers or any other person, company or organization. For exemptions and a listing of foods and beverages restricted by the FMNV policy, see Section VI (below).

B. Nutrition Standards

The following specific nutrition standards pertain to all foods and beverages served or made available in reimbursable school meals, a la carte and competitive foods to students on middle and junior high school campuses.

1. Fats and Fried Foods:

- a) Schools and other vendors may not serve individual food items that contain more than 23 grams of fat with an exception of one individual food item per week. No individual food items can exceed 28 grams of fat at any time. This excludes peanut butter when served as part of a reimbursable meal.
- b) Schools must eliminate deep-fat frying as a method of on-site preparation for foods served as part of reimbursable school meals, a la carte, snack lines and competitive foods. For the definition of fried foods see Section II. This standard is effective immediately. Schools that must make extensive equipment or facility changes must be in compliance by the 2009-10 school year.
- c) Foods that have been pre-fried, flash-fried or par-fried by the manufacturer may be served but must be baked or heated by a method other than deep-fat frying.

d) Potato products

1. French fries and other fried potato products that have been pre-fried, flash-fried or par-fried by the manufacturer may be served but must be baked or heated by a method other than deep-fat frying. Servings must not exceed 3 ounces, may not be offered more than three times per week, and students may only purchase one serving at a time. (This does not pertain to potato chips, which are mentioned specifically in “2. Portion Sizes” below.)
2. Baked potato products (wedges, slices, whole, new potatoes) that are produced from raw potatoes and have not been pre-fried, flash-fried or par-fried in any way may be served without restriction.

- e) Schools must include a request for trans fat information in all product specifications. Beginning with the 2007-08 school year, schools must reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products was required by January 1, 2006.)

2. Portion Sizes:

- a) The following maximum portion size and nutrient restrictions pertain to all foods and beverages served or made available to students on school campuses with the exception of reimbursable school meals, which are governed by USDA regulations.

Middle/Junior High Schools

| Food or Beverage | Portion Size |
|---|--|
| Chips (baked or fried) must have no more than 7.5 grams of fat per bag. | 1.5 ounces |
| Crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, jerky, and pretzels. | 1.5 ounces |
| Cookies/cereal bars, bakery items (e.g., pastries, muffins.) This excludes items that count as two-bread components served/sold only at breakfast. Total fat: Not to exceed 30 percent of calories or contain no more than 3 grams per 100 calories; Saturated fat: Not to exceed 10 percent of calories or contain no more than 1 gram per 100 calories; Sugar: Contain no more 10 grams per ounce. | 2 ounces cookies/cereal bars ----- 3 ounces bakery items |
| Frozen desserts, ice cream, frozen yogurt, pudding, and gelatin. | 4 fluid ounces (1/2 cup) |
| Yogurt. | 8 fluid ounces (1 cup) |
| Whole milk, flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 fluid ounce serving.) | 8 fluid ounces (1 cup) |
| Reduced fat milk (2 percent or less), flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 fluid ounce serving.) | 16 fluid ounces (2 cups) |
| Beverages (other than milk) may contain no more than 30 grams total sugar per 8 fluid ounce serving. No limit on non-carbonated, unflavored bottled water. | 12 fluid ounces (1 1/2 cups) |
| Frozen fruit slushes. (Must contain a minimum of 50 percent fruit juice.) | 8 fluid ounces (1 cup) |

- b) The Texas Public School Nutrition Policy does not provide exceptions or phase-in periods for school districts with vending contracts.

3. Other:

- a) Fruit and/or vegetables must be offered daily on all points of service. Fruits and vegetables should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water or light syrup whenever possible.
- b) Schools must offer 2 percent, 1 percent or skim milk at all points where milk is served.

C. Competitive Foods

A middle or junior high school campus may not serve competitive foods (or provide access to them through direct or indirect sales) to students anywhere on school premises from 30 minutes before to 30 minutes after meal periods. This does not pertain to food items made available by the school food service department.

All foods, beverages and snack items must comply with the nutrition standards and portion size restrictions in this policy.

V. HIGH SCHOOLS

For purposes of this policy, a high school campus is defined as any campus containing a combination of grades 9, 10, 11 and 12. K-12 schools may follow the policy requirements designated for middle and junior high schools.

A. Foods of Minimal Nutritional Value (FMNV)

1. High schools may not serve or provide access to FMNV during meal periods in areas where reimbursable meals are served and/or consumed. For exemptions and a listing of foods and beverages restricted by the FMNV policy, see Section VI (below).

New contracts, contract renewals and amendments executed after March 3, 2004, must expressly prohibit the sale of sugared, carbonated beverages in containers larger than 12 ounces.

2. No more than 30 percent of the beverages made available through each vending machine or other service point on high school campuses are allowed to be sugared, carbonated soft drinks. Sugared, carbonated beverages are limited to containers holding no more than 12 ounces.

B. Nutrition Standards

The following specific nutrition standards pertain to all foods and beverages served or made available in reimbursable school meals, a la carte and competitive foods to students on high school campuses.

1. Fats and Fried Foods:

- a) Schools and other vendors may not serve individual food items that contain more than 23 grams of fat with an exception of one individual food item per week. No individual food items can exceed 28 grams of fat at any time. This excludes peanut butter when served as part of a reimbursable meal.
- b) Schools must eliminate deep-fat frying as a method of on-site preparation for foods served as part of reimbursable school meals, a la carte, snack lines and competitive foods. For the definition of fried foods see Section II. This standard is effective immediately. Schools that must make extensive equipment or facility changes must be in compliance by the 2009-10 school year.
- c) Foods that have been pre-fried, flash-fried or par-fried by the manufacturer may be served but must be baked or heated by a method other than deep fat frying.

d) Potato products

1. French fries and other fried potato products that have been pre-fried, flash-fried or par-fried by the manufacturer may be served but must be baked or heated by a method other than deep-fat frying. Servings must not exceed 3 ounces, and students may only purchase one serving at a time. (This does not pertain to potato chips, which are mentioned specifically in “2. Portion Sizes” below.)
2. Baked potato products (wedges, slices, whole, new potatoes) that are produced from raw potatoes and have not been pre-fried, flash-fried or par-fried in any way may be served without restriction.

- e) Schools must include a request for trans fat information in all product specifications. Beginning with the 2007-08 school year, schools must reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products was required by January 1, 2006.)

2. Portion Sizes:

- a) The following maximum portion size and nutrient restrictions pertain to all foods and beverages served or made available to students on school campuses with the exception of reimbursable school meals, which are governed by USDA regulations.

High Schools

| Food or Beverage | Portion Size |
|--|--|
| Chips (baked or fried) must have no more than 7.5 grams of fat per bag, | 1.5 ounces |
| Crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, jerky, and pretzels. | 1.5 ounces |
| Cookies/cereal bars, bakery items (e.g., pastries, muffins.) This excludes items that count as two-bread components served/sold only at breakfast. Total fat: Not to exceed 30 percent of calories or contain no more than 3 grams per 100 calories; Saturated fat: Not to exceed 10 percent of calories or contain no more than 1 gram per 100 calories; Sugar: Contain no more 10 grams per ounce. | 2 ounces cookies/cereal bars ----- 3 ounces bakery items |
| Frozen desserts, ice cream, frozen yogurt, pudding, and gelatin. | 4 fluid ounces (1/2 cup) |
| Yogurt. | 8 fluid ounces (1 cup) |
| Whole milk, flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 fluid ounce serving.) | 8 fluid ounces (1 cup) |
| Reduced fat milk (2 percent or less), flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 fluid ounce serving.) | 16 fluid ounces (2 cups) |
| Beverages (other than milk) and those restricted as FMNVs may contain no more than 30 grams total sugar per 8 fluid ounce serving. No limit on non-carbonated, unflavored bottled water. | 12 fluid ounces (1 1/2 cups) |
| Candy bars and packaged candies. | 1.5 ounces |
| Frozen fruit slushes. (Must contain a minimum of 50 percent fruit juice.) | 12 fluid ounces (1 1/2 cups) |

- b) The Texas Public School Nutrition Policy Implementation Schedule for school years 2006-2010 initially limits then (beginning with the 2009-2010 school year) prohibits high school students' access to FMNV at any time anywhere on school premises until the end of the last scheduled class. Certain carbonated beverages such as soda water fall within the FMNV category. The Texas Public School Nutrition Policy does not provide exceptions or phase-in periods for school districts with vending contracts.

3. Other:

- a) Fruit and/or vegetables must be offered daily on all points of service. Fruits and vegetables should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water or light syrup whenever possible.
- b) Schools must offer 2 percent, 1 percent or skim milk at all points where milk is served.

C. Competitive Foods

High schools may not serve competitive foods (or provide access to them through direct or indirect sales) to students during meal periods in areas where reimbursable meals are served and/or consumed. This does not pertain to food items made available by the school food service department.

All foods, beverages and snack items must comply with the nutrition standards and portion size restrictions in this policy.

VI. FOODS OF MINIMAL NUTRITIONAL VALUE (FMNV)

Federal regulations prohibit the sale of certain foods, determined to be of minimal nutritional value, in the foodservice area during meal periods.

A. Restricted Foods

Foods and beverages that are restricted from sale to students are classified in the following four categories:

1. **Soda Water:** Any carbonated beverage. No product shall be excluded from this definition because it contains discrete nutrients added to the food such as vitamins, minerals and protein.
2. **Water Ices:** Any frozen, sweetened water such as "...sicles" and flavored ice with the exception of products that contain fruit or fruit juice.
3. **Chewing Gum:** Any flavored products from natural or synthetic gums and other ingredients that form an insoluble mass for chewing.
4. **Certain Candies:** Any processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients that characterize the following types:
 - a) **Hard Candy:** A product made predominantly from sugar (sucrose) and corn syrup that may be flavored and colored, is characterized by a hard, brittle texture and includes such items as sour balls, lollipops, fruit balls, candy sticks, starlight mints, after dinner mints, jaw breakers, sugar wafers, rock candy, cinnamon candies, breath mints and cough drops.
 - b) **Jellies and Gums:** A mixture of carbohydrates that are combined to form a stable gelatinous system of jellylike character and are generally flavored and colored, and include gum drops, jelly beans, jellied and fruit-flavored slices.
 - c) **Marshmallow Candies:** An aerated confection composed of sugar, corn syrup, invert sugar, 20 percent water, and gelatin or egg white to which flavors and colors may be added.
 - d) **Fondant:** A product consisting of microscopic-sized sugar crystals that are separated by a thin film of sugar and/or invert sugar in solution such as candy corn or soft mints.
 - e) **Licorice:** A product made predominantly from sugar and corn syrup that is flavored with an extract made from the licorice root.

- f) **Spun Candy:** A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine.
- g) **Candy Coated Popcorn:** Popcorn that is coated with a mixture made predominantly from sugar and corn syrup.

Note: USDA has approved exceptions for certain products included in the above categories. See TDA, Food and Nutrition Division, Administrators Reference Manual, for the current list of these exemptions.

B. FMNV and Policy Exemptions

1. **School Nurses:** This policy does not apply to school nurses using FMNVs during the course of providing health care to individual students.
2. **Accommodating Students with Special Needs:** Special Needs Students whose Individualized Education Program (IEP) plan indicates the use of an FMNV or candy for behavior modification (or other suitable need) may be given FMNV or candy items.
3. **School Events:** Students may be given FMNV, candy items or other restricted foods during the school day for up to three different events each school year to be determined by campus. The exempted events must be approved by a school official. During these events, FMNV may not be given during meal times in the areas where school meals are being served or consumed, and regular meal service (breakfast and lunch) must continue to be available to all students in accordance with federal regulations.
4. **TAKS Test Days:** Schools and parents may provide one additional nutritious snack per day for students taking the TAKS tests. The snack must comply with the fat and sugar limits of the Public School Nutrition Policy and may not contain any FMNV or consist of candy, chips or dessert type items (cookies, cakes, cupcakes, pudding, ice cream or frozen desserts, etc.). Packaged snacks must be in single size servings.

5. **Instructional Use of Food in Classroom:** For instructional purposes, teachers may use foods as long as the food items are not considered FMNV or candy. Students may consume food prepared in class for instructional purposes. However, this should be on an occasional basis, and food may not be provided or sold to other students or classes. Food provided for students as part of a class or school cultural heritage event for instructional or enrichment purposes would be exempt from the policy. However, FMNV may not be served during meal periods in the areas where school meals are being served or consumed, and regular meal service (breakfast and lunch) must continue to be available to all students.
 6. **Field Trips:** School-approved field trips are exempt from the nutrition policy. A school official must approve the dates and purposes of the field trips in advance.
 7. **Athletic, UIL, Band and Other Competitions:** The nutrition policy does not apply to students who leave campus to travel to athletic, UIL, band or other competitions. The school day is considered to have ended for these students. School activities, athletic functions, etc. that occur after the normal school day are not covered by the policy.
- C. This policy does not restrict what parents may provide for their own child's lunch or snacks. Parents may provide FMNV or candy items for their own child's consumption, but they may not provide restricted items to other children at school. A school may adopt a more restrictive rule, however, as local policy.

VII. HEALTHY NUTRITION ENVIRONMENT

All school cafeterias and dining areas should be healthy nutrition environments. Texas public schools participating in federal child nutrition programs should ensure that all students have daily access to school meals (breakfast and lunch). Schools should not establish policies, class schedules, bus schedules or other barriers that directly or indirectly restrict meal access.

Adequate time should be allowed for students to receive and consume meals, and cafeterias should provide a pleasant dining environment. The minimum recommended eating time for each student after being served is at least 10 minutes for breakfast and 20 minutes for lunch.

We encourage all school districts to adhere closely to the coordinated school health and physical activity components of the Texas Education Code. It is strongly recommended that PE or recess should be scheduled before lunch whenever possible.

VIII. COMPLIANCE AND PENALTIES

The Texas Department of Agriculture (TDA) administers the National School Lunch Program, School Breakfast Program and After School Snack Program through its Food and Nutrition Division. Responsibilities include processing claims for reimbursement, providing special marketing projects and procurement assistance to promote more nutritious eating habits, conducting on-site compliance monitoring, and coordinating training through the 20 regional Education Service Centers.

TDA will aggressively enforce and diligently monitor the Texas School Nutrition Policy to ensure compliance. When violations of this policy are noted, TDA will disallow all meal reimbursement for the week when the violation occurred and require the school to reimburse the food service account for the lost reimbursement. In appropriate cases, TDA compliance monitors will interview school staff and collect any evidence that is needed to determine the longevity and severity of the TPSNP violation. Based on the evidence collected, TDA may impose additional sanctions on the school or school district, including disallowance of all meal reimbursements for the three weeks immediately preceding the week of the TPSNP violation. In all cases, a documented corrective action plan will be required and will be monitored diligently to ensure continued compliance.