

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING NUTRITION AND PHYSICAL ACTIVITY STANDARDS IN
ARKANSAS PUBLIC SCHOOLS
August 2005

1.0 PURPOSE

- 1.01 The purpose of these rules is to establish the requirements and procedures for governing nutrition and physical activity standards in Arkansas Public Schools.

2.0 REGULATORY AUTHORITY

- 2.01 These shall be known as the Arkansas Department of Education Rules Governing Nutrition and Physical Activity Standards in Arkansas Public Schools.
- 2.02 These regulations are enacted pursuant to the authority of the State Board of Education under Ark. Code Ann. §§ 20-7-133, 20-7-134, and 20-7-135.

3.0 DEFINITIONS

For the purpose of these rules, the following terms mean:

- 3.01 Adult – A licensed or qualified physical education teacher or a classified employee trained and assigned to supervise physical education classes.
- 3.02 A la' carte - Food items and /or beverages, individually priced, provided by the non-profit school food service program. These items may or may not be part of the reimbursable meal.
- 3.02 Arkansas Child Health Advisory Committee - A state level committee that was established by Act 1220 of 2003 to develop nutrition and physical activity standards and make policy recommendations to the Arkansas Board of Education and the State Board of Health.
- 3.03 Arkansas Consolidated School Improvement Plan (ACSIP) - A plan of action to address deficiencies in student performance that is reviewed annually and monitored at least every two years.
- 3.04 Child Nutrition Programs - The federal child nutrition programs operated by Arkansas public and charter schools which include the National School Lunch Program, the School Breakfast Program, the After School Snack Program, the Special Milk Program and the Summer Feeding Program, as established by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 (as amended through PL-108-269, July 2, 2004).

- 3.05 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, including, but not limited to, food and beverages sold or provided in vending venue (machines, ice chests, cabinets) in school stores or as part of school fundraisers to students on school premises during the declared school day.

Note: The federal definition of Competitive Foods, found in 7CFR 210.12(a)(1), is foods sold in competition with the National School Lunch Program to children in food service areas during the lunch period.

- 3.06 Declared School Day - The official schedule as required for students and staff in a specific Local Education Agency (LEA) location.
- 3.07 Elementary School - A campus with a designated Local Education Agency (LEA) number containing any combination of grades pre-kindergarten through sixth grade.
- 3.08 Foods of Minimal Nutritional Value (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 United States Department of Agriculture (USDA) under the Child Nutrition Programs. Definitions within the federal regulations concerning the four categories of FMNV are

3.08.1 Certain Candies - Certain Candies are FMNV according to United States Department of Agriculture (USDA) Regulations, including any processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients that characterize the following types:

3.08.1.1 Candy Coated Popcorn - Popcorn that is coated with mixture made predominantly from sugar and corn syrup.

3.08.1.2 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.

3.08.1.3 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.

3.08.1.4 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.

3.08.1.5 Licorice - A product made predominantly from sugar and corn syrup that is flavored with an extract made from the licorice root.

3.08.1.6 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.

3.08.1.7 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.

3.08.2 Chewing Gum - Chewing gum is a FMNV according to United States Department of Agriculture (USDA) regulations and include any flavored products from natural or synthetic gums and other ingredients that form an insoluble mass for chewing.

3.08.3 Soda Water - Soda water is a FMNV according the United States Department of Agriculture (USDA) regulations and includes 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.

3.08.4 Water Ices - Water ices are FMNV according to United States Department of Agriculture (USDA) regulations and include any frozen, sweetened water and flavored ice with the exception of products that contain fruit or fruit juice.

3.09 Fried Food – Foods that are cooked by total or partial immersion into hot oil or other fat, commonly referred to as “deep fat frying” or “pan frying”.

3.10 Healthy Nutrition Environment - A healthy school nutrition environment gives students consistent, reliable health information and ample opportunity to use it. (Source: United States Department of Agriculture.)

3.11 High School – Public school(s) having some combination of grades 9-12.

3.12 Junior High School - Public school(s) having some combination of grades 7- 9.

- 3.13 Local Wellness Policy – A policy required for public schools participating in a nutrition program authorized by the Richard B. Russell National School Lunch Act (42 U. S. C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U. S. C. 1771 et seq.)
- 3.14 Middle School - Public school(s) having some combination of grades 5-8.
- 3.15 Physical Activity - Any bodily movement produced by skeletal muscles that results in energy expenditure.
- 3.16 Physical Education - A planned, sequential K-12 curriculum that provide cognitive content and learning experiences in a variety of activity areas including basic movement skills; physical fitness, rhythms, and dance; games; team, dual, and individual sports; tumbling and gymnastics; and aquatics.
- 3.17 Regular Basis - A regularly repeated or continuing occurrence at a specific school site. For example: every day, or on a particular day each week, or repeated on a defined schedule.
- 3.18 Reimbursable Meal - A meal which meets the United States Department of Agriculture (USDA) criteria for reimbursement for one of the Child Nutrition Programs in Arkansas.
- 3.19 School Events – Any occasion such as field day, holiday, school recognition activities, end of school events, etc. designated at the discretion of the school administration.
- 3.20 School Fundraisers - For purposes of this rule, all food and beverage items sold by school administrators or school classified or certified staff (principals, coaches, teachers, club sponsors, etc.), students or student groups, parents or parent groups, or any other person, company or organization directly associated with the school programs.
- 3.21 *School Health Index* - The *School Health Index* (SHI) is a self-assessment and planning guide designed by the Centers for Disease Control (CDC) to help schools identify strengths and weaknesses of the school's health promotion policies and programs, develop an action plan for improving student health, and involving teachers, parents, students and various members of the community in improving the school's policies and programs.
- 3.22 School Nutrition and Physical Activity Advisory Committee - (SNPAA) A local committee that shall help raise the awareness of the importance of nutrition and physical activity and shall include members from school district governing boards, school administrators, food service personnel, teacher organizations, parents, students and professional groups such as nurses and community members.

- 3.23 School Site - Any and all locations associated with a Local Education Agency (LEA) number.
- 3.24 Vending - Means to sell or give away foods and beverages anywhere at a school site on a regular basis, including but not limited to a classroom, school store or concession stand, or equipment such as heated cabinets, hot or cold vending machines, ice chests coolers, etc.

4.0 SCHOOL NUTRITION AND PHYSICAL ACTIVITY ADVISORY COMMITTEE

- 4.01 The committee will assist in the development of local policies that address issues and goals, including, but not limited to the following
 - 4.01.1 Assist with the implementation of nutrition and physical activity standards developed by the committee with the approval of the Arkansas Department of Education and the State Board of Health;
 - 4.01.2 Integrate nutrition and physical activity in the overall curriculum;
 - 4.01.3 Ensure that professional development for staff includes nutrition and physical activity issues;
 - 4.01.4 Ensure that students receive nutrition education and engage in healthy levels of vigorous physical activity;
 - 4.01.5 Improve the quality of physical education curricula and increasing training of physical education teachers;
 - 4.01.6 Enforce existing physical education requirements; and
 - 4.01.7 Pursue vending contracts that both encourage healthy eating by students and reduce school dependence on profits from the sale of foods of minimal nutritional value.
- 4.02 The School Nutrition and Physical Activity Advisory Committee shall be structured in a way as to ensure age-appropriate recommendations that are correlated to the current grade configuration of the school district utilizing one of the following options:
 - 4.02.1 Establish a School Nutrition and Physical Activity Advisory Committee at each school in addition to the district committee;
 - 4.02.2 Establish subcommittees of the District Committee, representing the appropriate age and grade configuration for that school district; and
 - 4.02.3 Include representatives from each appropriate grade level group

(elementary, middle, junior and senior high) on the membership of the district committee;

- 4.03 Beginning with the 2005 school year, at a minimum, the School Nutrition and Physical Activity Advisory Committee will:
- 4.03.1 Annually, assess each school campus, using the School Health Index for Physical Activity, Healthy Eating and a Tobacco-Free Lifestyle using the following modules:
 - #1 - School Health Policies and Environment,
 - #2 - Health Education,
 - #3 - Physical Education and other Physical Activity Programs,
 - #4 - Nutrition Services, and
 - #8 - Family and Community Involvement Assessment;
 - 4.03.2 Compare the physical education and health education assessment from the *School Health Index* to the standards defined by the Arkansas Department of Education Physical Education and Health Curriculum Framework;
 - 4.03.3 Compile the results of the School Health Index and provide a copy to the school principal to be included in the individual school improvement plan (ACSIP);
 - 4.03.4 Provide the annual completed *School Health Index* assessment results and the physical activity standards comparison to the school principal to be included in the school improvement plan (ACSIP) and to the local school board;
 - 4.03.5 Assist the schools in implementing the Arkansas Child Health Advisory Committee recommendations for all foods and beverages sold or served anywhere on the school campus, including all foods and beverages other than those offered as part of reimbursable meals, including a la carte, vending machines, snack bars, fund raisers, school stores, class parties, and other venues that compete with healthy school meals;
 - 4.03.6 Maintain and update annually a written list of recommended locally available, healthier options for food and beverages available for sale to students;
 - 4.03.7 Encourage the use of non-food alternatives for fund-raisers;

- 4.03.8 Review and make written recommendations to the local school board regarding the components to be included in food and beverage vending contracts; and
 - 4.03.9 Report as part of the annual report to parents and the community the amount of funds received and expenditures made from competitive food and beverage contracts.
- 4.04 The Local Wellness Policy is required under the current version of the Richard B. Russell National School Lunch Act (42 U.S.C.1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).
- 4.04.1 Not later than the first day of the school year beginning after June 30, 2006, each local educational agency participating in a program authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for schools under the local educational agency that
 - 4.04.1.1 Includes goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the local educational agency determines is appropriate;
 - 4.04.1.2 Includes nutrition guidelines selected by the local educational agency for all foods available on each school campus under the local educational agency during the school day with the objectives of promoting student health and reducing childhood obesity;
 - 4.04.1.3 Provides an assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issues by the Secretary of Agriculture pursuant to subsections (a) and (b) of Section 10 of the Child Nutrition Act (42 U.S.C. 1779) and Sections 9(f)(1) and 17 (a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1), 1766(a)), as those regulations and guidance apply to public schools;
 - 4.04.1.4 Establishes a plan for measuring implementation of the local wellness policy, including designation of 1 or more persons within the local educational agency or at each school, as appropriate, charged with the operational responsibility for ensuring that the school meets the local wellness policy; and

- 4.04.1.5 Involves parents, students, representatives of the school food authority, the school board, school administrators, and the public in the development of the school wellness policy.

5.0 GENERAL REQUIREMENTS FOR FOOD AND BEVERAGES IN PUBLIC SCHOOLS

5.01 Access to Foods and Beverages in Public Schools

- 5.01.1 Elementary students will not have access to vended food and beverages anytime, anywhere on school premises during the declared school day.
- 5.01.2 Effective July 1, 2005, during the declared school day, an elementary school site may not serve, provide access to, through direct or indirect sales, or use as a reward, any FMNV or competitive food. This includes FMNV and competitive foods given, sold, or provided by school administrators, or staff (principals, coaches, teachers, club sponsors, etc.) students or student groups, parents or parent groups, or any other person, company or organization associated with the school site. Exceptions to this requirement are listed in 5.02.
- 5.01.3 In elementary schools, the Child Nutrition Program may only sell food items in the cafeteria, during meal periods that are already offered as a component of a reimbursable meal during the school year, including extra milk, fresh fruits, vegetables, and/or an extra meal meeting the same requirements of the reimbursable meal. School food service departments shall not sell or give extra servings of desserts, french fries and/or ice cream.
- 5.01.4 Effective July 1, 2005, during the declared school day, at middle, junior high and high school sites, schools shall not serve, provide access to, through direct or indirect sales, or use as a reward, any FMNV or competitive food to students anywhere on school premises until 30 minutes after the last lunch period has ended. This includes FMNV and competitive foods given, sold or provided by school administrators, or staff (principals, coaches, teachers, club sponsors, etc.) students or student groups, parents or parent groups, or any other person, company or organization associated with the school site.
- 5.01.5 In middle, junior high, and high schools, the Child Nutrition Program may only sell food items in the cafeteria, during meal periods that are already offered as a component of a reimbursable meal during the school year, including extra milk, fresh fruits, vegetables, unsweetened

unflavored water, other food/beverage items that meet standards of maximum portion size and/or an extra meal meeting the same requirements of the reimbursable meal.

5.02 Exceptions to Limiting Access to Foods and Beverages in All Schools

5.02.1 Parents Rights - 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.

5.02.2 School Nurses - This policy does not apply to school nurses using FMNVs or candy during the course of providing health care to individual students.

5.02.3 Special Needs Students – This policy does not apply to special needs students whose Individualized Education Program (IEP) plan indicates the use of an FMNV or candy for behavior modification (or other suitable need).

5.02.4 School Events - Students may be given any food and/or beverage items during the school day for up to nine different events each school year to be determined and approved by school officials. These items may not be given during meal times in the areas where school meals are being served or consumed.

5.02.5 Snacks During the Declared School Day – Snacks may be provided or distributed by the school as part of the planned instructional program, for example, afternoon snack for kindergarten students who eat early lunch. Snacks shall meet the United States Department of Agriculture Child and Adult Care Snack Patterns.

5.02.6 Foods for Instructional Purposes – Foods integrated as a vital part of the instructional program are allowed at any time. Examples include edible manipulatives such as a square of cheese to teach fractions, a nutrition food experience, food production in family and consumer science units, and food science units.

5.03 New or renewed vending contracts for carbonated and sweetened non-carbonated beverages will be restricted to no more than 12 ounces per vended container. This requirement does not apply to contracts with an effective date on or before August 8, 2005.

6.0 NUTRITION STANDARDS FOR FOODS AND BEVERAGES

- 6.01 As of July 1, 2005, the Arkansas Child Health Advisory Committee nutrition standards will apply to all foods and beverages served, sold, or made available to students on elementary, middle, junior high and high school campuses (except the reimbursable school meals, which are governed by United States Department of Agriculture (USDA) federal regulations).
- 6.02 A list of the maximum portion size restrictions and nutrition standards will be provided to school districts. This list, effective July 1, 2005, will apply to all foods and beverages served, sold, or made available to students during the declared school day at any school site with the exception of reimbursable school meals which have nutrition standards governed by the United States Department of Agriculture (USDA) federal law and regulations.
 - 6.02.1 Prior to each school year, on or before April 1, the updated list of maximum portion sizes and nutrition standards for foods and beverages will be developed by the Arkansas Child Health Advisory Committee and distributed by the Arkansas Department of Education (ADE) via ADE Director's Memo Communication.
 - 6.02.2 Compliance will be monitored by the Arkansas Department of Education in addition to the self-monitoring by the Local School Nutrition and Physical Activity Advisory Committee.
 - 6.02.3 All FMNV or competitive food beverages sold to students will be restricted to no more than 12 ounces per vended container. The only exception for a larger portion size will be unsweetened unflavored water.
 - 6.02.4 A choice of two (2) fruits and/or 100% fruit juices must be offered for sale at the same time and place whenever competitive foods are sold. Fruits should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water, or light syrup.
 - 6.02.5 At the point of choice, at least 50% of beverages selections in vending machines, school stores and other sales venues shall be 100% fruit juice, low-fat or fat-free milk, and unflavored unsweetened water.
 - 6.02.6 At middle school and high school levels, local leaders are encouraged to implement vending policies that encourage healthy eating by students.
 - 6.02.7 Beginning August 8, 2005 any modification or revisions of vending contracts in existence prior to August 8, 2005, must be in full compliance with all sections of the Rules Governing Nutrition and Physical Activity Standards in Arkansas Public Schools as approved

by the State Board of Education.

6.02.8 Nothing in these rules shall be construed to prohibit or limit the sale or distribution of any food or beverage item through fund raisers by students, teachers, or other groups when the items are sold off the school campus.

7.0 NUTRITION EDUCATION

- 7.01 The Arkansas Department of Education shall promote grade- appropriate nutrition education as part of a broad based integrated health education program that is aligned with the Arkansas Physical Education and Health Education Framework. The Child Nutrition Unit of the Department of Education shall review nutrition standards prior to implementation. Examples of integration into the curriculum include comprehensive health education courses and Workforce Education courses which are taught within Family and Consumer Sciences, such as Nutrition and Wellness and/or Foods and Nutrition.
- 7.02 The Arkansas Department of Education and the Department of Workforce Education will provide technical assistance in helping schools integrate health education curricula that will include the nutrition components.
- 7.03 Implementation of grade-appropriate nutrition education through a comprehensive education program will be included in the school improvement process.

8.0 HEALTHY SCHOOL ENVIRONMENT

- 8.01 No food or beverage shall be used as rewards for academic, classroom or sport performances and/or activities. For exceptions to this requirement, see section 5.02 of this rule.
- 8.02 All school cafeterias and dining areas should reflect healthy nutrition environments.
- 8.03 Schools should ensure that all students have access to school meals. Schools should not establish policies, class schedules, bus schedules or other barriers that directly or indirectly restrict meal access.
- 8.04 Drinking water via water fountains or other service receptacle should be available without charge to all students on campus according to Arkansas Health Department standards.

9.0 PHYSICAL EDUCATION AND PHYSICAL ACTIVITY STANDARDS

- 9.01 Public schools must establish strategies to achieve thirty (30) minutes of physical activity each day in grades K-12 and must have begun implementation of those strategies before the end of the 2005-2006 school year.
- 9.02 Beginning in the school year 2006-2007, physical education classes in grades kindergarten through six (K-6) will have a maximum student to adult ratio of 30:1. At least one of the adults supervising as referenced in this section must be a certified or qualified physical education teacher with the responsibility for instruction. Classified personnel may assist in fulfilling this requirement
- 9.03 Beginning in the school year 2005-06, at a minimum, school districts will work with the local School Nutrition and Physical Activity Advisory Committee to
 - 9.03.1 Encourage participation in extracurricular programs that support physical activity, e.g., as walk-to-school programs, biking clubs, after-school walking etc.;
 - 9.03.2 Encourage the implementation of developmentally-appropriate Physical activity in after-school child care programs for participating children;
 - 9.03.3 Promote the reduction of time youth spend engaged in sedentary activities such as watching television and playing video games; and
 - 9.03.4 Encourage the development of and participation in family-oriented community-based physical activity programs.
 - 9.03.5 Incorporate into the school ACSIP the strategies to be employed to achieve the activities required in Section 9.01.
- 9.04 Beginning in the 2008-2009 school year, for grades K-6, the district will employ at least one certified and/or qualified physical education full-time equivalent (FTE) teacher for every 500 students. This certified and/or qualified physical education teacher will directly supervise physical education instruction
- 9.05 Beginning in the 2007-2008 school year, the Arkansas Department of Education will devise and implement standards regarding the amount of instructional time to be devoted to various curriculum components, to ensure that:

- 9.05.1 Elementary students in grades K-6 will receive at a minimum a total of 150 minutes per week of physical activity. The 150 minutes shall include 60 minutes of scheduled physical education. The additional physical activities may include additional scheduled physical education classes, physical activity during the regular school day through activities such as daily recess periods, walking programs, intramurals, and the integration of physical activity into the academic curriculum.
- 9.05.2 Students in grades 7-8 shall receive a minimum of 150 minutes of physical activity weekly. This requirement may be met through scheduled physical education classes, physical activity during the regular school day through activities such as walking programs, intramurals, activity periods, and the integration of physical activity into the academic curriculum.
- 9.05.3 Students in grades 9-12 shall be required to take one semester of physical education to comply with current Standards of Accreditation. In addition, students in grades 9-12 shall receive a minimum of 150 minutes of physical activity weekly. This requirement may be met through scheduled physical education classes, physical activity during the regular school day through activities such as walking programs, intramurals, activity periods, the integration of physical activity into the academic curriculum, lifestyle wellness education from the Department of Workforce Education, and organized physical activity courses.
- 9.06 Beginning with the 2012 school year, all personnel teaching physical education in grades K-12 will hold a physical education certification appropriate for grade level being taught.