

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING NUTRITION AND PHYSICAL ACTIVITY STANDARDS
AND BODY MASS INDEX FOR AGE ASSESSMENT PROTOCOLS IN ARKANSAS
PUBLIC SCHOOLS
August 2007

1.0 PURPOSE

- 1.01 The purpose of these rules is to establish the requirements and procedures for governing nutrition and physical activity standards and body mass index for age assessment protocols 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 and Body Mass Index for Age Assessment Protocols in Arkansas Public Schools.
- 2.02 These regulations are enacted pursuant to the authority of the State Board of Education under Ark. Code Ann. §§ 6-16-132, 20-7-133, 20-7-134, 20-7-135 and ~~Acts 201 and 317 of 2007~~ and Act 981 of 2011.

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.~~
- 3.021 A la² 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.
- 3.032 Arkansas Child Health Advisory Committee - A state level committee that was established by ~~Act 1220 of 2003~~ Ark. Code Ann. § 20-7-133 to develop nutrition and physical activity standards and make policy recommendations to the Arkansas Board of Education and the State Board of Health.
- 3.043 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.

- 3.054 Body Mass Index (BMI) - Weight in pounds divided by height in inches squared multiplied by 703 (metric: weight in kilograms divided by height in meters squared).
- 3.065 BMI for age assessment- Calculating the height and weight as in the definition for BMI and applying the CDC growth charts for age and gender.
- 3.076 BMI for age assessment protocols- A detailed plan designed to describe appropriate procedure for assessment.
- 3.087 Body Mass Index Percentile for Age - An indicator to assess the size and growth patterns of individual children based on the Centers for Disease Control and Prevention's (CDC) BMI-for-age growth charts for boys and girls.
- 3.098 Carpenter's square – An instrument for ensuring a level reading of height.
- ~~3.10 Certificate of completion – A document provided upon completion of BMI assessment training protocol.~~
- 3.419 Child Nutrition Programs - The federal child nutrition programs operated by Arkansas public ~~and charter~~ schools, including public 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 (42 U.S.C. § 1751 et seq.) and the Child Nutrition Act of 1966 (~~as amended through PL 108-269, July 2, 2004~~) (42 U.S.C. § 1771 et seq.).
- 3.4210 Community Health Nurse Specialist (CHN) – Arkansas Department of Health Nurses located at educational cooperatives.
- 3.4311 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 7 CFR ~~210.12(a)(1)~~ 210.11(a)(1), is any foods sold in competition with the National School Lunch Program to children in food service areas during the lunch periods.

- 3.4412 Confidential - Information marked or intended for a specific person or persons.
- 3.4513 Declared School Day - The official schedule as required for students and staff in a specific Local Education Agency (LEA) location.
- 3.4614 Designee – A person approved or designated by school district.
- 3.4715 Digital Scale or Scale – A digital instrument for measuring weight.
- 3.4816 Elementary School - A campus with a designated Local Education Agency (LEA) number containing any combination of grades ~~pre-kindergarten~~ through sixth grade.
- 3.4917 Foods of Minimal Nutritional Value (FMNV) – The phrase “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:
- 3.4917.1 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:
- 3.4917.1.1 Candy Coated Popcorn - Popcorn that is coated with mixture made predominantly from sugar and corn syrup.
- 3.4917.1.2 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.
- 3.4917.1.3 Hard Candy - A product made predominantly from sugar (sucrose) and corn syrup ~~that~~ which 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~~ sour balls, fruit balls, candy sticks, lollipops,

starlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers and cough drops.

3.4917.1.4 Jellies and Gums - A mixture of carbohydrates ~~that~~ which 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.

3.4917.1.5 Licorice - A product made predominantly from sugar and corn syrup ~~that~~ which is flavored with an extract made from the licorice root.

3.4917.1.6 Marshmallow Candies - An aerated confection composed ~~of as~~ sugar, corn syrup, invert sugar, 20 percent water, and gelatin or egg white to which flavors and colors may be added.

3.4917.1.7 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.

3.4917.2 Chewing Gum - Chewing gum is a FMNV according to United States Department of Agriculture (USDA) regulations and includes ~~any~~ flavored products from natural or synthetic gums and other ingredients that form an insoluble mass for chewing.

3.4917.3 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~~ is a class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60 degrees F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product is excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and proteins.

3.4917.4 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.

~~3.20 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.”~~

~~3.21~~18 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.)

~~3.22~~19 Height – A standing measurement in inches or meters.

~~3.23~~0 High School – Public school(s) having some combination of grades 9-12.

~~3.24~~1 Junior High School - Public school(s) having some combination of grades 7- 9.

~~3.25 Licensed Teacher – An individual who holds a valid Arkansas teaching license with a certification or approval in the subject area to be taught.~~

~~3.26~~2 Local Wellness Policy – A policy required by federal law 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.)

~~3.27~~3 Middle School - Public school (s) having some combination of grades 5-8.

~~3.28~~4 Physical Activity - Any bodily movement produced by skeletal muscles that results in energy expenditure.

~~3.29~~5 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.

~~3.30~~26 Private - Not openly or in public.

~~3.31 Recorder – A person who writes down student heights and weights or enters measurements into database.~~

~~3.32~~27 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.

~~3.33~~28 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.

~~3.34~~29 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.

- ~~3.35~~0 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.
- ~~3.36~~1 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.
- ~~3.37~~2 Stadiometer – An instrument for measuring standing height.
- ~~3.38~~3 Student Health Report – A written notice to parents with student's health screening information.
- ~~3.39~~4 School Nurse - Nurses employed by school districts.
- ~~3.40~~35 School Nutrition and Physical Activity Advisory Committee - (SNPAA) A committee operating within each public school district; that shall help raise the awareness of the importance of nutrition and physical activity and shall include members from the school district's governing boards, school administrators, food service personnel, teacher organizations, parents, students and professional groups such as nurses and community members. The SNPAA may also be referred to as the "Wellness Committee."
- ~~3.41~~36 School Site - Any and all locations associated with a Local Education Agency (LEA) number.
- ~~3.42~~37 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.
- ~~3.43~~38 Weight – A measurement in pounds or kilograms.

- 3.44³⁹ Written Refusal – A document to school district requesting a child ~~NOT~~ not be included in assessing BMI.

For the purposes of any protocols developed pursuant to these rules, the following terms mean:

- 3.40 Certificate of Completion – A document provided upon completion of BMI assessment training protocol.
- 3.41 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.”
- 3.42 Recorder – A person who writes down student heights and weights or enters measurements into a database.

4.0 CHILD HEALTH ADVISORY COMMITTEE

- 4.01 There is created a Child Health Advisory Committee to consist of twenty (20) members.
- 4.02 The Committee will consist of the following eleven (11) members appointed by the Director of the Department of Health:
- 4.02.1 One (1) member to represent the Department of Health;
- 4.02.2 One (1) member to represent the Arkansas Dietetic Association;
- 4.02.3 One (1) member to represent the American Academy of Pediatrics, Arkansas Chapter;
- 4.02.4 One (1) member to represent the Arkansas Academy of Family Practice;
- 4.02.5 One (1) member to represent they Arkansas Association for Health, Physical Education, Recreation and Dance;
- 4.02.6 One (1) member to represent jointly the Arkansas Heart Association, the American Cancer Society, and the American Lung Association;
- 4.02.7 One (1) member to represent the Fay W. Boozman College of Public Health of the University of Arkansas for Medical Sciences;

4.02.8 One (1) member to represent the Arkansas Center for Health Improvement;

4.02.9 One (1) member to represent the Arkansas Advocates for Children and Families;

4.02.10 One (1) member to represent the University of Arkansas Cooperative Extension Service; and

4.02.11 One (1) member to represent the Office of Minority Health and Health Disparities of the Department of Health.

4.03 The Committee will also consist of the following nine (9) members appointed by the Commissioner of Education:

4.03.1 One (1) member to represent the Department of Education;

4.03.2 One (1) member to represent the Arkansas School Food Service Association (now known as the Arkansas School Nutrition Association);

4.03.3 One (1) member to represent the Arkansas School Nurses Association;

4.03.4 One (1) member to represent the Arkansas Association of Educational Administrators;

4.03.5 One (1) member to represent the Arkansas Parent Teacher Association;

4.03.6 One (1) member to represent the Arkansas School Boards Association;

4.03.7 One (1) member to represent the Arkansas Association of School Business Officials;

4.03.8 One (1) member to represent the Arkansas Association for Supervision and Curriculum Development; and

4.03.9 One (1) member who is a classroom teacher.

4.04 Terms of the committee members will be three (3) years.

4.05 If a vacancy occurs, the officer who made the original appointment shall appoint a person who represents the same constituency as the member being replaced.

- 4.06 The committee will elect one (1) of its members to act as chair for a term of one (1) year.
- 4.07 A majority of the members shall constitute a quorum for the transaction of business.
- 4.08 The committee shall meet at least monthly and will make recommendations to the State Board of Education and the State Board of Health consistent with the intent and purpose of these rules and with Ark. Code Ann. §§ 20-7-133, 20-7-134 and 20-7-135.
- 4.09 The committee shall develop nutrition and physical activity standards and policy recommendations with consideration of the following:
- 4.09.1 Foods sold individually in school cafeterias but outside the regulated National School Lunch Program;
- 4.09.2 Competitive foods as defined by the United States Department of Agriculture as the definition is in existence on January 1, 2003, and offered at schools typically through vending machines, student stores, school fundraisers, food carts, or food concessions;
- 4.09.3 The continuing professional development of food service staff;
- 4.09.4 The expenditure of funds derived from competitive food and beverage contracts;
- 4.09.5 Physical education and activity;
- 4.09.6 Systems to ensure the implementation of nutrition and physical activity standards; and
- 4.09.7 The monitoring and evaluating of results and reporting of outcomes.
- 4.10 The committee shall examine the progress of the Arkansas Coordinated School Health Program and make recommendations to the Department of Education and the Department of Health concerning the implementation of the Arkansas Coordinated School Health Program.

5.0 IMPLEMENTATION OF NUTRITION AND PHYSICAL ACTIVITY STANDARDS

- 5.01 After having consulted the Child Health Advisory Committee and the State Board of Health, the State Board of Education shall promulgate appropriate rules and regulations to ensure that nutrition and physical activity standards

and body mass index for age assessment protocols are implemented to provide students with the skills, opportunities, and encouragement to adopt healthy lifestyles.

5.02 Every school district shall:

5.02.1 Prohibit for elementary school students in-school access to vending machines offering food and beverages;

5.02.2 Require schools to include as part of the annual report to parents and the community the amounts and specific sources of funds received and expenditures made from competitive food and beverage contracts;

5.02.3 Beginning with kindergarten and then in even-numbered grades, require schools to include as a part of a student health report to parents a body mass index percentile by age for each student; and

5.02.4 Permit any parent to refuse to have his or her child's body mass index percentile for age assessed and reported, by providing a written refusal to the school.

5.02.5 Students in grades eleven through twelve (11-12) are exempt from any policy or requirement of a public school or the state for measuring or reporting body mass index.

5.03 The Department of Education shall:

5.03.1 Begin the implementation of standards developed by the committee and approved by the Department of Education; and

5.03.2 Annually monitor and evaluate the implementation and effectiveness of the nutrition and physical activity standards.

46.0 SCHOOL NUTRITION AND PHYSICAL ACTIVITY ADVISORY COMMITTEE

6.01 Every school district shall convene a school nutrition and physical activity advisory committee that 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.

46.042 The school nutrition and physical activity advisory committee will help raise awareness of the importance of nutrition and physical activity and assist in the development of local policies that address issues and goals, including, but not limited to the following:

46.042.1 Assist with the implementation of nutrition and physical activity standards developed by the school nutrition and physical advisory committee with the approval of the Arkansas Department of Education and the State Board of Health;

46.042.2 Integrate nutrition and physical activity into the overall curriculum;

46.042.3 Ensure that professional development for staff includes nutrition and physical activity issues;

46.042.4 Ensure that students receive nutrition education and engage in healthy levels of vigorous physical activity;

46.042.5 Improve the quality of physical education curricula and increasing training of physical education teachers;

46.042.6 Enforce existing physical education requirements; and

46.042.7 Pursue ~~vending~~ contracts that both encourage ~~healthy~~ healthful eating by students and reduce school dependence on profits from the sale of foods of minimal nutritional value.

6.03 Every school district shall begin the implementation of standards developed by the Child Health Advisory Committee with the approval of the Department of Education and the State Board of Health.

6.04 Every school district shall require that goals and objectives for nutrition and physical activity be incorporated into the annual school planning and reporting process.

46.025 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:

46.025.1 Establish a School Nutrition and Physical Activity Advisory Committee at each school in addition to the district committee;

46.025.2 Establish subcommittees of the District Committee, representing the

appropriate age and grade configuration for that school district; ~~and~~ or

~~46.025.3~~ Include representatives from each appropriate grade level group (elementary, middle, junior and senior high) on the membership of the district committee;

~~46.036~~ ~~Beginning with the 2005 school year, at~~ At a minimum, the School Nutrition and Physical Activity Advisory Committee will:

~~46.036.1~~ 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;

~~46.036.2~~ 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;

~~46.036.3~~ Compile the results of the School Health Index and provide a copy to the principal of each school in the district to be included in the individual school improvement plan (ACSIP);

~~46.036.4~~ Provide the annual completed School Health Index assessment results and the physical activity standards comparison to the principal of each school in the district to be included in the district's Arkansas Consolidated School Improvement Plan (ACSIP) and to the local school board;

~~46.036.5~~ 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;

46.036.6 Maintain and update annually a written list of recommended locally available, healthier options for food and beverages available for sale to students;

46.036.7 Encourage the use of non-food alternatives for fund-raisers;

46.036.8 Review and make written recommendations to the local school board regarding the components to be included in food and beverage vending contracts; and

46.036.9 Include as part of the district's annual report to parents and the community the amount of funds received and expenditures made from competitive food and beverage contracts.

46.047 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.).

46.047.1 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:

46.047.1.1 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;

46.047.1.2 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;

46.047.1.3 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;

46.047.1.4 Establishes a plan for measuring implementation of the local wellness policy, including designation of ~~4~~ one (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

46.047.1.5 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.

6.08 The Department of Education and the Department of Health shall report annually on progress in implementing nutrition and physical education standards to the chairs of the House Interim Committee on Public Health, Welfare, and Labor and the Senate Interim Committee on Public Health, Welfare, and Labor, the House Interim Committee on Education and the Senate Interim Committee on Education.

6.09 The State Board of Education shall submit to the House Interim Committee on Education and the Senate Interim Committee on Education for the committees' review any proposed rules regarding physical education or physical activity standards for grades kindergarten through twelve (K-12).

7.0 PHYSICAL EDUCATION REQUIREMENTS AND STANDARDS

7.01 The physical education curriculum and physical activity requirements for every public school student who is physically fit and able to participate are:

7.01.1 Except as provided in Section 7.01.2 of these rules, for students in kindergarten through grade six (K-6):

7.01.1.1 Sixty (60) minutes of physical education training and instruction each calendar week of the school year; and

7.01.1.2 Ninety (90) minutes of physical activity each calendar week of the school year, which may include without limitation daily recess, physical education instruction in addition to the requirement of Section 7.01.1.1 of these rules, or intramural sports;

7.01.2 For students in grades five through eight (5-8) who attend a public

school organized to teach grades five through eight (5-8) or any combination thereof, sixty (60) minutes of physical education training and instruction each calendar week of the school year or an equivalent amount of time in each school year, with no additional requirement for physical activity; and

7.01.3 For students in grades nine through twelve (9-12) one-half (1/2) unit of physical education as required for high school graduation, with no additional requirement for physical activity.

7.02 Nothing in these rules prohibits:

7.02.1 A public school student's elective enrollment or voluntary participation in physical activity or physical education as a part of public school curriculum or extra-curricular activities; or

7.02.2 A school district's decision to require physical education instruction or physical activity in excess of the amounts identified in Section 7.01 of these rules.

7.03 The physical education training and instruction shall be designed to:

7.03.1 Improve the health of this state's school children;

7.03.2 Increase knowledge about the health benefits of physical activity and exercise;

7.03.3 Develop behavioral and motor skills that promote a lifelong commitment to healthy physical activity;

7.03.4 Promote health-focused activity among children and adolescents; and

7.03.5 Encourage physical activity outside of physical education.

7.04 Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for other pupils.

7.05 A student may be exempted from physical education and physical activity requirements by seeking a waiver from the local school board of directors. The local school board of directors may grant such a waiver based upon the following criteria:

7.05.1 The student must present a statement by the student's attending physician indicating that participation in physical education and

physical activity will jeopardize the student's health or well-being; or

7.05.2 The parent and student must show that attending physical education classes will violate the student's religious beliefs and would not be merely a matter of personal objection. The parent or student must be members of a recognized religious faith that objects to physical education as part of its official doctrine or creed.

7.05.3 The local school board of directors shall encourage a student granted a waiver under Section 7.05 of these rules to take, as an alternative to physical education, appropriate instruction in health education or other instruction in lifestyle modification if an exemption is granted.

7.06 Each school shall develop a physical education program that fits effectively and efficiently into the school's existing organization and into the standards and curriculum frameworks adopted by the State Board of Education, while incorporating the goals of these rules.

7.07 Nothing in Section 7.0 of these rules shall be construed to require any school or school district to hire personnel certified in physical education.

7.08 The State Board of Education shall submit to the House Interim Committee on Education and the Senate Interim Committee on Education for the committees' review any proposed rules regarding physical education or physical activity standards for grades kindergarten through twelve (K-12) developed pursuant to Section 7.0 of these rules that exceed the maximums identified in Section 7.01 of these rules.

7.09 At a minimum, school districts will work with their local School Nutrition and Physical Activity Advisory Committee to:

7.09.1 Encourage participation in extracurricular programs that support physical activity, such as walk-to-school programs, biking clubs, after-school walking etc.;

7.09.2 Encourage the implementation of developmentally appropriate physical activity in after-school childcare programs for participating children;

7.09.3 Promote the reduction of time youth spend engaged in sedentary activities such as watching television and playing video games;

7.09.4 Encourage the development of and participation in family-oriented community-based physical activity programs, and;

7.09.5 Incorporate into the school ACSIP the strategies to be employed to achieve the requirements set forth in section 7.0 of these rules.

7.10 Physical Education Instruction in Grades Kindergarten through Six (K-6):

7.10.1 For grades K-6, physical education classes will have a maximum student to adult ratio of 30:1.

7.10.1.1 At least one of the adults directly supervising the physical education classes must be a licensed physical education teacher or licensed elementary teacher. The licensed physical education teacher or licensed elementary teacher will be responsible for the delivery of physical education instruction.

7.10.1.2 Classified personnel may assist in filling the 30:1 student to adult ratio requirement if they are trained and assigned to supervise physical education classes.

7.11 Physical Education Instruction in Grades Seven through Twelve (7-12): For grades 7-12, physical education instruction must be provided by a licensed physical education teacher with a license that corresponds to the grade levels being taught.

85.0 GENERAL REQUIREMENTS FOR FOOD AND BEVERAGES IN PUBLIC SCHOOLS

85.01 Access to Foods and Beverages in Public Schools

85.01.1 Elementary students will not have access to vended food and beverages anytime, anywhere on school premises during the declared school day.

85.01.2 ~~Effective July 1, 2005, during~~ 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~~ Section 8.02 of these rules.

85.01.3 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.

85.01.4 ~~Effective July 1, 2005, during~~ 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~~ thirty (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.

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

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

85.02.1 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.

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

85.02.3 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).

85.02.4 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.

85.02.5 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.

85.02.6 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.

85.03 New or renewed vending contracts for carbonated and sweetened non-carbonated beverages will be restricted to no more than ~~42~~ twelve (12) ounces per vended container. This requirement does not apply to contracts with an effective date on or before August 8, 2005.

69.0 NUTRITION STANDARDS FOR FOODS AND BEVERAGES

69.01 ~~As of July 1, 2005, the~~ 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).

69.02 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.

69.02.1 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.

- 69.02.2 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.
- 69.02.3 All FMNV or competitive food beverages sold to students will be restricted to no more than ~~12~~ twelve (12) ounces per vended container. The only exception for a larger portion size will be unsweetened unflavored water.
- 69.02.4 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.
- 69.02.5 At the point of choice, at least 50% of beverage 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.
- 69.02.6 At middle school and high school levels, local leaders are encouraged to implement vending policies that encourage healthy eating by students.
- 69.02.7 ~~Beginning August 8, 2005 any~~ 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.
- 69.02.8 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.

710.0 NUTRITION EDUCATION

- 710.01 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~~ Career Education courses which are taught within Family and Consumer Sciences, such as Nutrition and Wellness and/or Foods and Nutrition.

710.02 The Arkansas Department of Education and the Department of ~~Workforce~~
Career Education will provide technical assistance in helping schools
integrate health education curricula that will include the nutrition components.

710.03 Implementation of grade-appropriate nutrition education through a
comprehensive education program will be included in the school improvement
process.

811.0 HEALTHY SCHOOL ENVIRONMENT

811.01 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~~ Section 8.02 of ~~this~~ these rules.

811.02 All school cafeterias and dining areas should reflect healthy nutrition
environments.

811.03 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.

811.04 Drinking water via water fountains or other service receptacle should be
available without charge to all students on campus according to Arkansas
Department of Health standards.

~~9.0 — PHYSICAL EDUCATION AND PHYSICAL ACTIVITY STANDARDS~~

~~9.01 — Beginning in the school year 2005–2006, at At a minimum, school districts
will work with their local School Nutrition and Physical Activity Advisory
Committee to:~~

~~9.01.1 Encourage participation in extracurricular programs that support
physical activity, e.g., such as walk to school programs, biking clubs,
after school walking etc.;~~

~~9.01.2 Encourage the implementation of developmentally appropriate
physical activity in after school childcare programs for participating
children;~~

~~9.01.3 Promote the reduction of time youth spend engaged in sedentary activities such as watching television and playing video games;~~

~~9.01.4 Encourage the development of and participation in family-oriented community-based physical activity programs, and;~~

~~9.01.5 Incorporate into the school ACSIP the strategies to be employed to achieve the requirements set forth in section 9.0 of these rules.~~

~~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 licensed or qualified physical education teacher with the responsibility for instruction. Classified personnel may assist in fulfilling this requirement.~~

~~9.03 Beginning in the 2007-2008 school year, the The Arkansas Department of Education will devise and implement standards regarding the amount of instructional time to be devoted to various curriculum components. These standards will ensure that the physical education curriculum and physical activity requirements for every public school student who is physically fit and able to participate shall be:~~

~~9.03.1 Public school students in grades K-6 will receive sixty (60) minutes of scheduled physical education training and instruction, and ninety (90) minutes of physical activity each calendar week of the school year. The physical activity may include additional 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.~~

~~9.03.2 Public school students who attend a school organized to teach grades five (5) through eight (8), or any combination thereof, shall receive Sixty (60) minutes of physical education each calendar week of the school year or an equivalent amount of time each school year with no additional physical activity requirement.~~

~~9.03.3 Public school students in grades 9-12 shall be required to take one-half (½) unit of physical education to comply with current Arkansas Standards for Accreditation, as required for graduation, with no additional requirement for physical activity.~~

~~9.03.4 Nothing in this act prohibits a public school student's elective enrollment, voluntary participation, or a voluntary requirement put in~~

~~place by the school district in physical education or physical activity as a part of the public school curriculum or extra-curricular activities.~~

~~9.03.5 A school district's decision to require physical education or physical activity in excess of the amounts required in Sections 9.03.1, 9.03.2, and 9.03.3, shall not be prohibited.~~

~~9.04 Beginning in the 2008-2009 school year, for grades K-6, the district will employ at least one licensed and/or qualified physical education full-time equivalent (FTE) teacher for every 500 students. This licensed and/or qualified physical education teacher will directly supervise physical education instruction.~~

~~9.06 Beginning with the 2012 school year, all personnel teaching physical education in grades K-12 will hold a physical education license appropriate for grade levels being taught.~~

1012.0 SCREENING PROCESS FOR BMI ASSESSMENT

~~1012.01 Beginning in the 2007-2008 school year, all All children in Kindergarten (K),~~

~~grade two (2), grade (4), grade six (6), grade eight (8), and grade ten (10) shall have their height and weight assessed to calculate body mass index for age percentile.~~

~~1012.01.1 This requirement applies to public schools.~~

~~1012.01.2 The responsibility for enforcement of this section rests equally with
each school district.~~

~~1012.01.3 Nothing in ~~this act~~ these rules shall preclude voluntary screening
of
any educational grade or preclude the referral of any child,
regardless of grade, whom the parent, teacher or school nurse feels
should be screened or examined unless the school has received
written refusal from the student's guardian.~~

~~1012.01.4 ~~Follow~~ Each school district shall follow the approved screening process as outlined in the Height and Weight Measurement Training Manual.~~

~~1012.02 Screening equipment shall include but is not limited to:~~

~~1012.02.1 Stadiometer~~

~~40~~12.02.2 Scales for measuring weight

~~40~~12.02.3 Carpenter's square

~~40~~12.03 TRAINING/ASSURANCE

~~40~~12.03.1 The Arkansas Department of Education in conjunction with the Arkansas Department of Health shall develop standards for training school nurses or other school designees to perform body mass index for age assessments.

~~40~~12.03.2 The Department of Health in consultation with the Department of Education shall assign all community health nurses under its supervision to work with schools to assure that body mass index for age assessment protocols are followed by school employees or their designees who conduct body mass index for age assessments and other student health screenings.

~~40~~12.04 REPORTING

~~40~~12.04.1 Beginning with kindergarten and then in even numbered grades, schools will be required to include, as a part of a student health report to parents, a body mass index percentile by age for each student in a private and confidential manner.

~~40~~.05 ~~EXEMPTIONS~~

~~40.05.1 Students in grades eleven (11) through twelve (12) shall be exempt from any policy or requirement of a public school or the state for measuring or reporting body mass index.~~

~~40.05.2 Parents who refuse to have their child participate in the body mass index percentile for age assessed and reported, must provide written documentation of the refusal to the school.~~