

Local School Wellness Policy Implementation Final Rule: Questions and Answers

This final rule requires all local educational agencies (LEAs) that participate in the National School Lunch and School Breakfast Programs to meet expanded local school wellness policy requirements consistent with the requirements set forth in section 204 of the Healthy, Hunger-Free Kids Act of 2010. The final rule requires each LEA to establish minimum content requirements for the local school wellness policies, ensure stakeholder participation in the development and updates of such policies, and periodically assess and disclose to the public schools' compliance with the local school wellness policies.

General Requirements

1. What is the effective date of this final rule?

This rule is effective August 29, 2016. The final rule requires local educational agencies (LEAs) to begin developing a revised local school wellness policy during School Year 2016-2017.

2. When do sponsors have to fully comply with the final rule?

LEAs must fully comply with the requirements of the final rule by June 30, 2017.

3. What does the final rule require?

• **Content**

- Specific goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. LEAs are required to review and consider evidence-based strategies in determining these goals.
- Standards and nutrition guidelines for all foods and beverages sold to students on the school campus during the school day that are consistent with Federal regulations for:
 - School meal nutrition standards, and the
 - Smart Snacks in School nutrition standards.
- Standards for all foods and beverages provided, but not sold, to students during the school day (e.g., in classroom parties, classroom snacks brought by parents, or other foods given as incentives).
- Policies for food and beverage marketing that allow marketing and advertising of only those foods and beverages that meet the Smart Snacks in School nutrition standards.
- Description of public involvement, public updates, policy leadership, and evaluation plan.

• **Wellness Leadership**

- LEAs must establish wellness policy leadership of one or more LEA and/or school official(s) who have the authority and responsibility to ensure each school complies with the policy.

• **Public Involvement**

- Permit participation by the general public and the school community (including parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, and school administrators) in the wellness policy process.

• **Triennial Assessments**

- The final rule requires State agencies to assess compliance with the wellness policy requirements as a part of the general areas of the administrative review every 3 years.

- LEAs must conduct an assessment of the wellness policy every 3 years, at a minimum. This assessment will determine:
 - Compliance with the wellness policy,
 - How the wellness policy compares to model wellness policies, and
 - Progress made in attaining the goals of the wellness policy.
- **Documentation**
 - The State agency will examine records during the Administrative Review, including:
 - Copy of the current wellness policy,
 - Documentation on how the policy and assessments are made available to the public,
 - The most recent assessment of implementation of the policy, and
 - Documentation of efforts to review and update the policy, including who was involved in the process and how stakeholders were made aware of their ability to participate.
- **Updates to the Wellness Policy**
 - The final rule requires that LEAs update or modify the wellness policy as appropriate.
- **Public Updates**
 - The rule requires that LEAs must make available to the public:
 - The wellness policy, including any updates to and about the wellness policy, on an annual basis, at a minimum, and
 - The Triennial Assessment, including progress toward meeting the goals of the policy.

4. What is defined as the school campus?

All areas of the property under the jurisdiction of the school that are accessible to students during the school day.

5. What is defined as the school day?

The school day is defined as the midnight before to 30 minutes after the end of the school day.

6. How should LEAs engage stakeholders in the policy?

Each year, stakeholders must be provided with the opportunity to participate in the development, implementation, periodic review, and update of the local school wellness policy as stated in 7 CFR 210.31(d)(1). It is at the discretion of the LEA on how stakeholders are invited to participate. Suggestions for including a variety of stakeholders include:

- sending a letter to parents/families;
- providing status updates in teacher/staff trainings;
- posting a call for volunteers on the LEA website;
- including a blurb on the school, LEA, or local community newspaper, newsletter, and/or blog;
- partnering with community organizations to spread the information; and
- posting information about the process on social media.

Team Nutrition has developed an outreach toolkit to help LEAs engage parents and school staff in the development, implementation, and monitoring of their wellness policy. The customizable templates are available for download at <http://www.fns.usda.gov/tn/local-school-wellness-policy-outreach-toolkit>. Examples of other ways to engage parents are provided in the Center

for Disease Control and Prevention's (CDC) Parents for Healthy Schools found at <http://www.cdc.gov/healthyschools/parentengagement/parentsforhealthyschools.htm>.

7. How does FNS define "actively" seeking members for the wellness committee? Is sending an e-mail enough?

LEAs have discretion in how they implement the requirement to actively seek members for their wellness committee. Sending an email is one example of how an LEA could meet the requirement. Other examples include a posting in a newsletter or on the LEA's website or social media page, or creating an advertisement in a local community newsletter or newspaper.

8. What resources are available to help LEAs comply with the local school wellness policy requirements?

- Indiana Department of Education: <http://www.doe.in.gov/nutrition/school-wellness-policy>
- Team Nutrition: <https://healthymeals.fns.usda.gov/local-wellness-policy-resources/school-nutrition-environment-and-wellness-resources-0>
- CDC's Local Wellness Policy Outreach Toolkit: <https://www.fns.usda.gov/tn/local-school-wellness-policy-outreach-toolkit>

Nutritional Guidelines for Non-Sold Foods and Beverages Requirements

1. Do non-sold foods and beverages have to meet the Smart Snacks requirements?

The wellness policy final rule states schools must have standards and nutrition guidelines for all foods and beverages SOLD to students on the school campus during the school day that are consistent with Smart Snacks and school meal standards.

However, for foods and beverages PROVIDED, but not sold, to students during the school day (example: classroom parties, classroom snacks brought in by parents), schools must create standards for these types of foods, but these standards do not have to comply with any other standards. Meaning, schools just need to create their own set of standards; schools need something in place for these type of foods. Of course, if you would like these types of foods that are provided to students (not sold) to meet the Smart Snack standards, you may do so – it is ultimately up to the school to make these desired changes within their wellness policy.

Food and Beverage Marketing Requirements

1. How does the term "marketing" apply in local school wellness policies?

Food marketing commonly includes oral, written, or graphic statements made for the purpose of promoting the sale of a food or beverage product. Therefore, the marketing standards apply to items such as posters, flyers, and other printed materials advertising products. It also applies to prizes or other premium items given to students to promote a product, cups used for beverage dispensing, and various equipment, such as the exterior of vending machines, menu boards, coolers, trash cans, and other food service equipment. All food or beverage products depicted on items/equipment on the school campus during the school day must meet the Smart Snacks nutrition standards.

2. Do the food and beverage marketing policies apply to equipment such as scoreboards?

Items, such as scoreboards, that are already in place do not need to be replaced; however, LEAs must consider the marketing guidelines in the wellness policy when these items are replaced or updated over time. In addition to scoreboards, marketing policies apply to other such durable

items or equipment that is on school campus property and accessible by students during the school day. These items may include sign inside/outside of the school, water coolers, beverage cases, food display racks, and school buses.

3. Coke/Pepsi provides some free signage for our athletic fields, since this is part of the school campus, do marketing rules apply here?

Yes. Coke/Pepsi can be viewed as a company and not a product. So, it is still possible to have the companies name feature on the field such as Coke and Pepsi because they sell Smart Snack compliant foods/beverages, but you would want to avoid showing specific products from the company that are not Smart Snack compliant products.

4. Can schools have flyers/newsletters to advertise events but not bring to attention the non-Smart Snack items?

On written marketing materials, schools may advertise food and beverages, but may not display pictures of non-Smart Snacks compliant foods or the name of non-Smart Snacks compliant foods. Schools may advertise general foods and beverages for example, 'cookie fundraiser' that do not specifically list foods/beverages that do not meet the Smart Snacks requirements.

5. For an exempt fundraiser, can the school send marketing materials home with students?

ALL foods, whether they are part of the fundraising exemption or not, must meet Smart Snacks standards in order to be marketed, advertised or promoted. Schools are allowed to advertise the company name/brand because these companies could potentially sell Smart Snacks compliant foods/beverages. You would want to avoid advertising specific products that are not smart snack compliant such as if there was a turtle candies that did not meet smart snacks, you wouldn't want to write or show pictures of World's Finest Chocolate Turtles. If the intention is to send home flyers and/or other marketing materials and not for the purpose of advertising on the school campus during the school day, schools can send home materials/information that specifies or shows pictures of non-Smart Snack compliant foods.

6. During the school day, schools are marketing restaurants on the school campus during the school day which all their food will not be Smart Snacks compliant, but some foods might be Smart Snacks compliant such as Subway, Dairy Queen, and Pizza Hut. If a school shows the restaurant name and does not associate any pictures of foods/beverages that are not Smart Snack compliant, is this acceptable? For example, schools would feature the name Dairy Queen or Subway. What if it is a local ice cream shop where there aren't any foods and/or beverages that are smart snack compliant is featured with just the name and no foods and/or beverages, would this be acceptable?

Yes, because those restaurants may have options that are Smart Snacks compliant. The regulation does not prohibit brand names, but it prohibits the specific foods and beverages that are not Smart Snacks compliant from being advertised.

7. Do the local school wellness policy standards permit the marketing of incentive programs like a restaurant or brand that gives free pizza or coupons when students read a certain number of books?

Yes. The local school wellness policy marketing standards are not intended to restrict incentive programs. While the LEA is required to address standards and nutrition guidelines for all foods and beverages available on the school campus during the school day, it may determine what is in the best interest of their respective school communities. LEAs are encouraged to use

nonfood-related incentive programs or programs that promote items consistent with the Smart Snacks standards.

- 8. If a school markets that students can get a free ice cream cone from a local ice cream shop (not Smart Snacks compliant) by word of mouth (no flyer and/or poster), can schools still market this promotion by word of mouth, flyer, and/or poster during the school day on the school campus?**

If a non-compliant item is not being sold, but given for free, it can be marketed. This would be discouraged, as it is inconsistent with the intent and practice of the new school meal patterns, Smart Snacks, and Local Wellness policy requirements.

- 9. If a vending machine is turned off during school hours, but has pictures of sodas on the front of it, does the machine need to be replaced? The items in the cooler meet Smart Snacks requirements, but the pictures shown are non-compliant.**

Schools should not advertise foods or beverages that do not meet Smart Snacks requirements. However, it is not USDA's intention to force schools to remove any signs or vending machines immediately that were already in place prior to the rule implementation. The wording Coke/Pepsi can be viewed as a company and not a product. So, it is still possible to have the companies name featured, such as Coke and Pepsi, because they sell Smart Snack compliant foods/beverages, but you would want to avoid specific products or showing pictures from the company that are not Smart Snack compliant products (regular Coke/Pepsi bottles). Once the school's contract is up with the vending machine, the school will need to ask the company for a replacement that displays Smart Snacks compliant pictures/drinks.

Other School-Based Activities

- 1. How can farm to school strategies be included in wellness policies?**

Wellness policies offer an opportunity to showcase farm to school efforts and gain buy in from the community. According to the Farm to School Census, over two thirds of school districts engaged in farm to school activities said they enjoy positive impacts, including increased support from parents and community members, improved acceptance of and participation in school meals, lower school meal program costs, and less plate waste.

Wellness policies offer an opportunity to engage community stakeholders that can help districts start and/or expand activities such as buying local foods, growing gardens, and offering nutrition, agriculture and culinary education. For specific ideas and sample language from other districts that have included farm to school efforts in their policies, please visit <https://healthymeals.fns.usda.gov/farm-school-wellness-policy-language>.

- 2. Where can sponsors incorporate staff wellness into their wellness policy?**

Although USDA does not require staff wellness to be addressed, nor does USDA have regulations on staff wellness, it is encouraged. Sponsors can add staff wellness under other school-based activities.

Rationale for staff wellness policy recommendations:

- Teachers have the opportunity to model healthy behaviors to their students.
- The implementation of wellness activities can motivate school staff to pursue a healthy lifestyle and establish a greater personal commitment to school health programs.
- The implementation of these policies increases access to opportunities for healthy eating and physical activity.

- Organizations and schools who use wellness programs can decrease health care costs by having healthier employees.

Evaluation

1. How often must LEAs conduct assessments of schools' compliance with the local school wellness policy?

At a minimum, assessments must be conducted once every three years as described in 7 CFR 210.31(e); this is referred to as the triennial assessment. This assessment is separate from the Administrative Review conducted by the State agency. The local school wellness policy must be updated and in compliance with the final rule by June 30, 2017. Therefore, the first triennial assessment must be completed by June 30, 2020.