

Appendix A

105 CMR: DEPARTMENT OF PUBLIC HEALTH

105 CMR 225.000: NUTRITION STANDARDS FOR COMPETITIVE FOODS AND BEVERAGES IN PUBLIC SCHOOLS

Section

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225.001: Purpose

The purpose of 105 CMR 225.000 is to establish nutrition standards for competitive foods and beverages sold or provided in public schools. The goal of 105 CMR 225.000 is to ensure that students are offered nutritious food and beverage choices that will enhance learning, contribute to healthy growth and development, and cultivate lifelong healthy eating behaviors.

225.002: Scope and Application

In accordance with M.G.L. c. 111, § 223, 105 CMR 225.000 establishes nutrition standards for competitive foods and beverages sold or provided in public schools. Public schools must implement the requirements of 105 CMR 225.000 by August 1, 2012.

225.003: Definitions

A la Carte Entrée means a single food or combination of foods offered as a main course or central focus of a meal, generally a protein source.

Artificial Sweeteners means substances added to food or beverages to provide a sweet taste while providing few or no additional calories, including aspartame, sucralose, acesulfame-K, neotame, sugar alcohols and saccharin.

Competitive Foods ~~are defined as foods and beverages provided in:~~ or Beverages means all foods or beverages sold or provided in: (i) a la carte lines in school cafeterias; (ii) school stores; (iii) school snack bars; (iv) vending machines; and (v) any other locations in public schools; provided, however, that competitive foods or beverages shall not include foods sold or provided as part of the School Breakfast Program, the School Lunch Program and the Child and Adult Care Food Program of the United States Department of Agriculture; provided further, that competitive foods or beverages shall not include non-sweetened carbonated water.

(1) school cafeterias offered as a la carte items;

(2) school buildings, including classrooms and hallways;

(2) school stores;

(3) school snack bars; and

- (4) vending machines;
- (6) concession stands;
- (7) booster sales;
- (8) fundraising activities;
- (9) school sponsored or school related events; and
- (10) any other location on school property.

Fresh means fresh, frozen, dried or canned without added sugar, fat, or sodium, for the purpose of 105 CMR 225.000.

Grain-based Products means food products in which the primary ingredient is grain, including pasta, crackers, granola bars, chips and bakery items.

Item means one serving of a product.

Low-fat means three grams or less per Reference Amount Customarily Consumed (RACC) standards established by the federal Food and Drug Administration.

Natural Flavorings means the essential oil, oleoresin, essence or extractive, protein hydrolysate, distillate, or any product of roasting, heating or enzymolysis, which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products, or fermentation products thereof, whose significant function in food is flavoring rather than nutritional. 225.003: continued

Nutrition Standards means the minimum standards for beverage and food nutrition established in 105 CMR 225.000.

Public School means an elementary, middle, high, charter, innovation or comparable school operated by a public school district or board of trustees pursuant to M.G.L. c. 71.

Reduced Fat means at least 25% less fat per Reference Amount Customarily Consumed (RACC) than an appropriate reference food.

School Day means the hours of the day that students must attend school.

Sweetener means a substance derived from a natural product that is added to food or beverages to provide a sweet taste. Such a substance may be nutritive or nonnutritive. A nutritive sweetener may be either naturally occurring, such as honey, or refined from plants, such as sugar from sugar cane. Nonnutritive sweeteners include products that may be regarded as natural.

Trans Fat-free means zero grams of trans fat per portion as packaged (≤ 0.5 g per portion) ~~less than 0.5 grams of trans fat per item~~, or as otherwise specified by the federal Food and Drug Administration.

Whole Grains means grains or the foods made from them that contain all the essential parts and naturally occurring nutrients of the entire grain seed. If the grain has been processed, the food product should deliver approximately the same balance of nutrients found in the original

grain seed. For purposes of 105 CMR 225.000, whole grain should be the primary ingredient by weight (*i.e.*, whole grain listed first in the ingredient statement).

225.100: General Nutrition Standards for Public Schools

(A) All competitive foods and beverages sold or provided in public schools shall comply with the nutrition standards of 105 CMR 225.000; provided, however, that:

(1) unless otherwise determined by the public school district or board of trustees, 105 CMR 225.000 shall not apply to competitive foods and beverages sold on school grounds ~~up to 30 minutes before the beginning of the school day or~~ **beyond 30 minutes after the end of the school day.**

(2) ~~105 CMR 225.100(A)~~ **105 CMR 225.000 shall not apply at all times to competitive foods sold through vending machines, which shall comply with 105 CMR 225.000 at all times.**

(3) **105 CMR 225.000 shall not apply at any time to competitive foods or beverages sold or provided at booster sales, concession stands and other school-sponsored or school-related fundraisers and events.**

(4) **105 CMR 225.000 shall not apply at any time to fresh, frozen, and canned fruits and vegetables with no added ingredients except water, or 100% juice in the case of canned and frozen fruits.**

(B) When applying the nutrition standards of 105 CMR 225.000, the food product should be analyzed as a whole, not by the individual ingredients that make up the product.

(C) A packaged item may contain no more than one serving per package.

(D) Public schools shall, in accordance with applicable guidelines of the Department:

(1) make readily available plain, potable water to all students during the day, at no cost to the students;

(2) offer for sale fresh fruit and non-fried vegetables at any location where food is sold, but not including non-refrigerated vending machines and vending machines dispensing only beverages;

(3) make nutrition information available for students for non-prepackaged competitive foods and beverages by August 1, 2013. ~~105 CMR 225.100(D)(3) shall not apply to the sale or provision of fresh fruits or fresh vegetables; and foods or beverages sold during the school day at booster sales, concession stands and other school-sponsored or school-related fundraisers and events;~~

(4) prohibit the use of fryolators in the preparation of competitive foods; and

(5) ensure that food preparation and all foods and beverages sold or provided to students meet all applicable state and federal food safety requirements.

(E) To be allowable, a competitive food item must meet all competitive food nutrient standards *and*

(1) be a grain product that contains 50% or more whole grains by weight or have whole grains as the first ingredient; *or*

(2) have as the first ingredient one of the non-grain major food groups: fruits, vegetables, dairy or protein foods (meat, beans, poultry, seafood, eggs, nuts, seeds, etc.); *or*

(3) be a combination food that contains ¼ cup of fruit and/or vegetable; *and*

(4) if water is the first ingredient, the second ingredient must be one of the above.

225.200: Specific Nutrition Standards for Competitive Foods in Public Schools

(A) Beverages.

(1) Juice.

(a) All juice shall be made of 100% fruit or vegetable juice, with no added sugar, and may or may not be diluted with water or carbonated water.

(b) Servings of juice shall be no more than ~~four~~ eight ounces.

(2) Milk and Milk Substitutes.

(a) All milk and milk substitutes, which include alternative milk beverages such as lactose-free and soy milk, shall be fat free or low-fat (1% or less).

(b) All milk and milk substitutes shall meet the USDA definitions and standards for fluid milk and milk substitutes.

(c) Servings of milk and milk substitutes shall be no more than eight ounces.

(d) Flavored milk and flavored milk substitutes shall be fat free and have no more than 22 grams of sugar per eight ounces.

(3) Water. Water shall contain no added sugars, sweeteners or artificial sweeteners, but may contain natural flavorings and/or carbonation.

~~(4) Beverages with Added Sugar or Sweeteners. Any beverages with added sugar or sweeteners not already prohibited in 105 CMR 225.200 will be phased out by August 1, 2013; provided, however, that a public school may provide or sell flavored milk or milk substitutes that contain the same amount or less sugar than plain fat free or low-fat milk.~~

(5) Other Beverages. No beverages other than juice, milk, milk substitutes, and water, all as defined above, shall be sold or provided.

(B) Food.

(1) Calories. Foods shall not exceed 350 calories for entrée items (including accompaniments) or 200 calories per for side or snack dish items (including accompaniments), with the exception of a la carte entrées, which shall not exceed the calorie count of comparable National School Lunch Program entrée items.

(2) Fat. No food shall contain more than 35% of its total calories from fat, except as provided in 105 CMR 225.200(B)(4).

(3) Saturated Fat. No food shall contain more than 10% of its total calories from saturated fat, except as provided in 105 CMR 225.200(B)(45).

(4) Exceptions to Standards on Fat and Saturated Fat Content. Regardless of the limits established above in 105 CMR 225.200(B) for fat and saturated fat content, schools may provide or sell up to one ounce of nuts, seeds, nut/seed butters, seeds or reduced fat cheese, part-skim mozzarella, or products that consist of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fat. Additionally, schools may provide or sell seafood with no added fat. No other combination products are exempt from the fat standard.

(5) Exceptions to Standards on Saturated Fat Content. Regardless of the limits established above in 105 CMR 225.200(B) for saturated fat content, schools may provide or sell up to one ounce of nuts, seeds, nut/seed butters, reduced fat cheese, part-skim mozzarella, or products that consist of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fat. No other combination products are exempt from the saturated fat standard.

~~(6)~~ Trans Fat All foods shall be trans fat-free.

~~(67)~~ Sugar. No food shall contain more than 35% of its total calories weight from total sugars; provided, however, that a public school may provide or sell:

~~(a) non-fat or low-fat yogurt, including drinkable yogurt, which contains a maximum of 30 grams of total sugars per eight ounce packaged serving;~~

(ba) 100% fruit with no added sugar. Fresh, frozen and canned fruits/vegetables with no added sweeteners except for fruits packed in 100% juice;

(b) Products consisting of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fat; and

(c) Dried whole fruits/vegetables, dried whole fruit/vegetable pieces, dried dehydrated fruits/vegetables with no added nutritive sweeteners, and dried fruits with nutritive sweeteners that are required for processing and/or palatability purposes, i.e., cranberries, tart cherries, and blueberries.

(78) Sodium. No food shall contain more than 200 mg of sodium per item, with the exception of *a la carte entrées*, which shall not contain more than 480 mg of sodium per item.

(89) Grains. All bread and other grain-based products shall be comprised of whole grains.

(C) Food and Beverages.

(1) Artificial Sweeteners. No food or beverage shall contain an artificial sweetener.

(2) Caffeine. No food or beverage shall contain more than trace amounts of caffeine.

(3) Accompaniments. All accompaniments must be included in the nutrient profile as a part of the item served.

REGULATORY AUTHORITY

105 CMR 225.000: M.G.L. c. 111, § 223.