

Category: **STUDENTS**

Issued: 6/29/09

Number: **A-812**

Subject: COMPETITIVE FOODS

Page: 1 of 1

SUMMARY OF CHANGES

This regulation supersedes A-812 dated February 10, 2004. This regulation has been updated and revised substantially to conform to the Department of Education's Wellness Policy and initiatives to improve the quality and nutritional value of foods and beverages that are available for children.

New Provisions:

- Parallels the DOE's Wellness Policy with respect to the sale of beverages and snacks to students.
- Limits the sale of approved snack items during the school day and, with only one exception related to PA/PTA fundraising, prohibits the sale of non-approved items at any time between the time school begins and 6:00 PM.
- Establishes a centralized procedure for schools to purchase foods and beverages for sale in school stores and school-based vending machines.
- Prohibits principals from allowing non-contractor third parties onto school premises, including schoolyards, to sell food and/or beverages to students and staff.
- Provides that all of the revenue available to schools from school-based snack food and beverage sales will be accounted for and expended under the terms of the SOP chapter on General School Funds and Cash Transactions.
- Makes each school's principal or each educational campus' supervising principal responsible for ensuring compliance with its provisions.
- Provides that failure to follow its provisions may result in a directive to bring the school into compliance and, further, may impact adversely the principal's compliance performance rating.

ABSTRACT

To improve the nutritional quality of food and beverages available for sale to students at school, this regulation provides that only foods and beverages approved by the Office of School Food and purchased through central contracts may be sold to pupils during prescribed times within the school day.

Foods and beverages available to students in school stores and/or in vending machines must be purchased through the Department of Education's ("DOE") centrally approved contracts and may be sold only at approved times. Schools must remove all vending machines not ordered from the DOE contract.*

Fundraising sales involving non-approved food items and/or non-approved beverages are prohibited between the time school begins and 6:00 PM, with an exception for PA/PTA fundraising sales. It also prohibits the sale of approved food items during breakfast and lunch periods.

PA/PTA fundraising sales involving non-approved items are limited to once per month and only after the last lunch period. All PA/PTA fundraising activity within this regulation must also comply with Chancellor's Regulation A-610 and Chancellor's Regulation A-660.

This regulation requires that vending machines in areas accessible only by school staff be acquired from the central contract if the contract provides for exclusivity, but does not limit the types of beverages and food that may be sold in areas accessible only by school staff. Compensation to the DOE from vending machines in school staff areas must be allocated to General School Funds.

All revenue generated from school-based snack food and beverage sales that is available to the schools must be treated in the same manner as General School Funds, meaning that the revenue must be accounted for and spent in conformity with the DOE Standard Operating Procedures ("SOP") Chapter entitled, "*General School Funds and Cash Transactions*."

It is the principal's responsibility to ensure that this regulation is followed.

BACKGROUND

Good nutrition plays an essential role in health and development and helps young people do well in school. Numerous studies have proven the link between nutrition and academic performance as measured by test scores, attendance rates, tardiness, and discipline. Because children are in school for a substantial portion of the school day, the Department of Education plays a critical role in helping students learn healthy eating habits. Effective school nutritional policies can help children learn to make healthy choices in their selection of foods.

The maintenance of a healthy weight, starting in childhood, is a strong factor in avoiding many of the additional health risks that have been associated with obesity. Being obese increases immediate health risks for young people such as Type 2 diabetes, mental health effects of low self esteem, depression, and poor school performance. Obesity also increases risk factors for long-term cardiovascular health such as high blood pressure and cholesterol, as well as for some forms of cancer.

The DOE's School Food and Nutrition Program follows healthy food guidelines in the development of meals for the school breakfast and lunch programs and is in the process of raising the nutritional quality of food served to New York City students. Other foods that are made available to children in school should meet the same high nutritional guidelines. To meet this objective, this regulation outlines the restriction on the sale of snack foods and beverages outside of the school food program from the beginning of the school day until 6:00 PM weekdays.

* With reference to food vending machines and purchases of food items from central DOE contracts, sentences in this regulation that are marked with an asterisk shall take effect upon notice to principals that the DOE has entered into a central contract(s) for food items.

I. GUIDELINES FOR SALE OF FOOD AND BEVERAGE ITEMS

- A. **Only approved foods and beverages** may be offered for sale to students through vending machines, school stores, student fundraising, and/or other school fundraising activities *during prescribed times* from the beginning of the school day through 6:00 PM weekdays (prescribed times apply only to food items), with one exception for PA/PTA fundraising (Section I, Paragraph "I" below). Schools may not sell any food items during mealtimes (including breakfast) through vending machines, school stores, PA/PTA fundraising activities, student fundraising activities, or other school fundraising activities. Schools, however, may sell approved beverages throughout the entire school day. Information about approved beverages, approved food/snack items, food and beverage ingredients, amounts, and portion sizes offered for sale to children, and other applicable dietary restrictions is available at the Office of SchoolFood ("SchoolFood") website: <http://www.opt-osfns.org/osfns>.
- B. Food and beverage items that will be available to students in vending machines and school stores during prescribed times within the school day must be purchased from the DOE's central contracts.
- C. Schools are responsible for maintaining accurate records of purchases made from the contracts and must account for the proceeds consistent with the terms of the SOP Chapter on General School Funds and Cash Transactions.
- D. Schools may not purchase, lease, or use equipment for making any types of food and/or beverage on-site to be sold to students. Schools currently using such equipment must discontinue use immediately.
- E. Schools seeking to use vending machines must use the DOE's central contracts, which provide for machines equipped with timers. The snack vending machine contractor will be required to set the timers to lock the machines during the breakfast meal and then again, during the lunch periods. Schools may not enter into vending machine or food and beverage purchase contracts with any other vendors. Snack vending machines may not be used in any schools serving grade levels pre-kindergarten ("PK") through five (5).
- Schools are responsible for removing all beverage vending machines and snack vending machines not ordered from the central DOE contract.
- F. Food and beverages sold in school stores must be purchased from the centrally approved contracts* and must come from the centrally approved list of food and beverage items that meet the food nutritional guidelines.
- School stores must not sell food items during breakfast and from the beginning of the first lunch period until the end of the last lunch period.
- G. Student and other school fundraising activity involving the sale of food items must conform to the rules stated above in that only approved foods may be sold from the beginning of the school day until 6:00 PM weekdays, except during mealtimes, when food items cannot be sold.
- H. PA/PTA fundraising must conform to the rules stated above in that only approved foods may be sold from the beginning of the school day until 6:00 PM weekdays, except during mealtimes when food items may not be sold at all. However, the rule respecting the sale of non-approved food items may be lifted to permit the PA/PTA to raise funds using non-approved food items once per month as long as the sale of the non-approved food items does not occur from the beginning of the school day until after the last lunch period. In addition, all PA/PTA fundraising activity within this regulation must comply with Chancellor's Regulation A-610 and Chancellor's Regulation A-660.
- I. Non-contractor third parties cannot be permitted to sell food or beverages of any type to students and school staff on school premises, including the schoolyard, at any time.
- J. This regulation is not intended to limit the types of food and beverages that may be sold in employee lounges or other space only accessible to teachers and school staff. School

administration must ensure, however, that students are not afforded access to vending machines or other items for sale at these locations. If the teachers'/staff vending machine is accessible to students in any way, all of the rules pertaining to vending machines must be followed (such as, but not limited to, Section I, Paragraph "F," above). On the other hand, all vending machines located in employee lounges or other space only accessible to teachers and school staff must be acquired through the central DOE vending machine contract,* if the said central DOE contract provides exclusive vending machine rights to a central vending machine operational contractor. Compensation to the DOE from vending machines in school staff areas must be allocated to General School Funds.

- K. Available revenue from school-based snack food and beverage sales must be accounted for and used in conformity with the SOP Chapter entitled, "*General School Funds and Cash Transactions*".

II. MONITORING

- A. Principals are expected to ensure compliance with all federal, state, and local regulations pertaining to the sale of food and beverages in school.
- B. SchoolFood Food Service Managers will be responsible for monitoring the content of food[†] and beverages in vending machines and school stores to ensure that only acceptable items are available for sale to students. If it is determined that non-compliant items are in the vending machines and/or school stores or that fundraising activities are not appropriately monitored, they will report the condition to the SchoolFood Regional Manager who will issue a written report to the School Support Organization ("SSO"). The SSO will advise the SchoolFood Regional Manager, in writing, of the action taken.
- C. Failure to follow this regulation may result in a directive to remove vending machines from the school or to stop selling food and/or beverage items in a school store or otherwise. In addition, non-compliance may result in adverse impact on the principal's compliance performance rating.
- D. The vending machine contract will stipulate penalties against the contractor for supplying schools with items that are not on the approved list.

III. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone:	<i>Office of School Food</i> <i>Food Technology Department</i> <i>Division of Support Services</i> N.Y.C. Department of Education 44-36 Vernon Blvd. – Room 413 L.I.C., NY 11101	Fax:
718-707-4300		718-472-5745