

# **KENTUCKY DEPARTMENT OF EDUCATION**

## **STAFF NOTE**

### **Action/Discussion Item:**

Waiver Request of Section 2 (1-9) of 702 KAR 6:090 for All School Districts

### **Applicable Statute or Regulation:**

KRS 158.854, 702 KAR 6:090

### **Action Question:**

Should the Kentucky Board of Education (KBE) grant a waiver from Section 2 (1-9) of 702 KAR 6:090 for all school districts?

### **History/Background:**

*Existing Policy.* The United States Department of Agriculture administers school nutrition programs and sets nutrition standards for nutrition programs in schools. KBE regulation 702 KAR 6:090 also sets state minimum nutritional standards for foods and beverages available on public school campuses during the school day. The current KBE regulation is more restrictive with fat, sugar and sodium than federal requirements. Sponsors have experienced difficulty finding products to meet Kentucky regulatory requirements. Allowing sponsors to follow the federal requirements will enable the use of the Alliance for Healthier Generation Smart Snacks Product Calculator, which will benefit the sponsor by allowing for more products and more availability.

The Kentucky Department of Education, Division of School and Community Nutrition is requesting a waiver on behalf of all school districts to waive certain requirements contained in Section 2, (1-9) of 702 KAR 6:090. This request does not include a waiver from the time period during which competitive foods may be offered for sale through a vending machine, school store, canteen, or fundraiser on school property.

### **Staff Recommendation(s) and Rationale(s):**

Staff recommends that the KBE approve the request for waiver from Section 2 (1-9) of 702 KAR 6:090 for all school districts. The specific items for which a waiver is being requested are as follows:

- (1) Calories from fat shall not exceed thirty (30) percent, excluding reduced fat (two (2) percent milk-fat or less), cheese, nuts, seeds, and nut butters.
  - (a) This shall be determined by dividing the calories from total fat by the total calories and multiplying by 100.
  - (b) If the calories from fat are not available, the grams of fat shall be multiplied by nine (9) to equal calories from fat.
- (2) Calories from saturated fat shall not exceed ten (10) percent.

- (a) This shall be determined by dividing the calories from saturated fat by the total calories and multiplying by 100.
- (b) If calories from saturated fat are not available, the grams of saturated fat shall be multiplied by nine (9) to equal calories from saturated fat.
- (3) Calories from sugar shall not exceed thirty-two (32) percent by weight.
- (a) This shall be determined by dividing the grams of sugar by the gram weight of the product and multiplying by 100. This shall include both naturally-occurring and added sugars.
- (b) The grams of sugar shall not exceed fourteen (14) grams.
- (c) The limit established in this subsection shall not apply to fresh, frozen, canned or dried fruits and vegetables.
- (4)(a) Chips, cereals, crackers, baked goods, and other snack items shall not contain more than 300 milligrams of sodium per serving.
- (b) Pastas, meats, and soups shall not contain more than 450 milligrams of sodium per serving.
- (c) Pizza, sandwiches, and main dishes shall not contain more than 600 milligrams of sodium per serving.
- (5) The portion or pack size for chips, crackers, popcorn, cereal, trail mix, nuts, seeds, or jerky shall not exceed two (2) ounces.
- (6) The portion or pack size for cookies shall not exceed one (1) ounce.
- (7) The portion or pack size for cereal bars, granola bars, pastries, muffins, doughnuts, bagels, or other bakery-type items shall not exceed two (2) ounces.
- (8) The portion or pack size for nonfrozen yogurt shall not exceed eight (8) ounces.
- (9) The portion or pack size for frozen dessert items, including low-fat or fat free ice cream, frozen fruit juice bars, or frozen real fruit items, shall not exceed four (4) ounces.

Approval of this request would waive these specific requirements; however, competitive foods would still only be able to be sold during the period beginning thirty (30) minutes after the last lunch period until the end of the last instructional period. This waiver would be in effect for the current school year. If the waiver is approved, districts would still be subject to the federal regulations governing nutritional standards for foods, but would not be required to meet Kentucky's nutrition standards for foods to the extent they exceed the requirements of the federal regulation. At the October meeting, staff will be prepared to outline the applicable federal requirements in this area.

**Impact on Getting to Proficiency:**

Adequate nutrition is essential for all students to achieve academic proficiency.

**Contact Persons:**

Hiren Desai, Associate Commissioner  
Office of Administration and Support  
(502) 564-1976  
[Hiren.Desai@education.ky.gov](mailto:Hiren.Desai@education.ky.gov)



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**Commissioner of Education**

**Date:**

October 2014

Deanna Tackett, Director  
Division of School and Community Nutrition  
(502) 564-5625  
[Deanna.Tackett@education.ky.gov](mailto:Deanna.Tackett@education.ky.gov)