EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Department of Education

(Amendment)

702 KAR 6:090. Minimum nutritional standards for foods and beverages available on public school campuses during the school day; required nutrition and physical activity reports.

RELATES TO: KRS 156.035, 156.160, 156.200, 158.854(1), 158.856, 160.345, 7 CFR 210.11

STATUTORY AUTHORITY: KRS 156.160, 158.854(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.854(1) requires the Kentucky Board of Education to promulgate an administrative regulation to specify the minimum nutritional standards for all foods and beverages that are sold outside the National School Breakfast and National School Lunch programs, whether in vending machines, school stores, canteens, or a la carte cafeteria sales. [~~KRS 158.854(1) requires that the administrative regulation address serving size, sugar, and fat content of the foods and beverages.~~] This administrative regulation establishes the minimum nutritional standards for food and beverages available on the school campus during the school day [~~and establishes reporting requirements for local school districts for nutrition and physical activity~~].

Section 1. Beverages. During the period of time beginning thirty (30) minutes after the last lunch period until the end of the last instructional period, a beverage offered for sale through a vending machine, school store, canteen, or fundraiser on school property shall meet the requirements established in 7 CFR 210.11[~~:~~

~~(1) Be a:~~

~~(a) Fluid unflavored or flavored milk that is no more than one (1) percent milk fat;~~

~~(b) Plain or flavored, noncaloric, noncarbonated water;~~

~~(c) 100 percent fruit or vegetable juice or any combination of both totaling 100 percent; or~~

~~(d) Any other beverage that contains no more than ten (10) grams of sugar per serving, except this limit shall not apply to 100 percent fruit or vegetable juice or any combination of both equaling 100 percent; and~~

~~(2)(a) Except as provided in paragraph (b) of this subsection, not exceed a volume size of seventeen (17) ounces, except for plain or flavored, noncaloric, noncarbonated water; or~~

~~(b) For sales to middle school or high school students (grade six (6) through twelve (12)), the volume size of a beverage shall not exceed twenty (20) ounces~~].

Section 2. Food. During the period beginning thirty (30) minutes after the last lunch period until the end of the last instructional period, a food item offered for sale through a vending machine, school store, canteen, or fundraiser on school property shall meet the requirements established in 7 CFR 210.11[~~this section.~~

~~(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~~].

Section 3. A la carte Items. A food or beverage item offered for sale as an a la carte item on the cafeteria line during the serving of breakfast or lunch shall meet the requirements established in 7 CFR 210.11[~~following standards:~~

~~(1) A beverage shall meet the standards established in Section 1 of this administrative regulation; and~~

~~(2) A food item shall meet the standards established in Section 2 of this administrative regulation, except schools may offer for a la carte sale any item that is creditable under the School Breakfast or National School Lunch Program meal patterns as set forth in 7 C.F.R. 220.8 and 210.10, respectively~~].

Section 4.[~~If a school did not have a school breakfast program on February 3, 2006, the school may conduct a breakfast food and beverage activity that:~~

~~(1) Involves students and is intended as a student learning opportunity;~~

~~(2) Offers only food and beverage items that meet the minimum nutritional standards of KRS 158.854 and Sections 1 and 2 of this administrative regulation; and~~

~~(3) Concludes at least three (3) hours prior to the first lunch period~~

~~Section 5.~~] Local District Nutrition Program Report. (1)[~~(a)~~] A school nutrition director of the local district shall complete the assessment of the nutrition program required under KRS 158.856 and issue a report at least sixty (60) days prior to the public forum required by KRS 158.856(5).

(2) [~~(b)~~] The director may issue the report via posting to the district Web site.

(3) [~~(c)~~ A local district superintendent shall submit a summary of the findings and recommendations of the nutrition report as required by KRS 158.856(6) to the Kentucky Department of Education [~~by May 1, 2006, and~~] by May 1 of each [~~succeeding~~] year.

[~~(2) If the Department of Education completes review of a district's nutrition program during the school year prior to the deadline established in subsection (1) of this section, the report and recommendations of that review may constitute the district's annual assessment and report issued in accordance with subsection (1) of this section.~~]

Section 5.[~~6.~~] Student Physical Activity. (1) A local district superintendent shall evaluate the student physical activity environment, including the amount of time and types of physical activity provided in the elementary schools, as required in KRS 160.345(11) and release the report at least sixty (60) days prior to the public forum required by KRS 158.856(5).

(2) A local district superintendent shall submit the report on physical activity, including a summary of findings and recommendations to the Department of Education [~~by May 1, 2006, and~~] by May 1 of each [~~succeeding~~] year.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

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(Date) Stephen L. Pruitt, Ph.D.
Commissioner of Education

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(Date) William Twyman, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on XX, at XX., in the State Board Room, Fifth Floor, Sower Building, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through XX. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Sower Building, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email kevin.brown@education.ky.gov.