

Competitive Food and Beverages Sales in Schools

An overview of the different laws and regulations that govern competitive foods and beverage sales on school campuses.

California Summary of Competitive Foods and Beverages

In California, any food or beverage sold to students outside of a federally reimbursable meal program is considered to compete with those meals, and is referred to as a competitive food or beverage.

There are specific state and federal rules that govern competitive foods and beverages. Please note that not all competitive food scenarios are covered by law or regulations. The following is a summary of the federal and state laws and regulations governing competitive food and beverage sales in California.

Local School Wellness Policy

Reference: Child Nutrition and WIC Reauthorization Act of 2004, Section 204

All districts participating in the National School Lunch, School Breakfast, or Special Milk program must establish a [Local School Wellness Policy](#) (LSWP) that, among other things, includes nutrition guidelines for all foods and beverages available on school campus.

The LSWP should, at a minimum, incorporate the current state and federal rules that govern competitive foods and beverages, but can impose more stringent requirements.

Monitoring and Enforcement

References: Education Code sections 49431(c), 49431.2(d), and 49434

The California Legislature encourages the governing board of a school district to annually review its compliance with the food and beverage rules.

The California Department of Education monitors School Food Authorities for compliance with the food and beverage rules through its Coordinated Review Effort (CRE). The district shall adopt a corrective action plan agreed upon and signed by the district administration, including the district superintendent.

Local School Wellness Policy Posting

Reference: Education Code Section 49432

As of January 1, 2004, school districts shall post the school district's nutrition and physical activity policies, in public view within all school cafeterias or other central eating areas.

Elementary School - Food Restrictions

References: Education Code sections 49430, 49431, 49431.7, California Code of Regulations sections 15575, 15577, 15578

California has adopted nutrition requirements for the competitive foods and beverages provided on school campus.

When referring to the food restrictions below, the definition of elementary school is a public school with no grade higher than grade six.

The following food restrictions are effective during school hours up through one-half hour after school.

Food restrictions apply to ALL foods sold to students by any entity.

Compliant foods are those that are:

1. Part of a full meal that meets the U.S. Department of Agriculture's meal pattern requirements
2. Specifically exempted from the restrictions in law or regulations, which includes individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, non-fried vegetables, legumes
3. A dairy or whole grain food that contains:
 - 35 percent calories or less from fat, and
 - 10 percent calories or less from saturated fat, and
 - 35 percent sugar or less by weight

Dried blueberries, cranberries, cherries, and tropical fruit that contain added sugar are exempt from the fat, saturated fat and sugar restrictions. The remaining exempt foods in item 2 above are not exempt if they contain added fat or sugar.

A whole grain item is a grain or bread product that:

1. Contains the statement "Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol, may help reduce the risk of heart disease and certain cancers," or
2. Includes a whole grain as the FIRST listed grain ingredient, or
3. Includes an amount of whole grains that, when combined, represents at least 51 percent of total grain weight

Whole grain examples: [California Code of Regulations, section 15575\(g\)](#)

Effective July 1, 2009: Foods containing artificial trans fat cannot be served or sold on school campus.

Non-compliant foods can be sold ONLY by students and AT LEAST one-half hour after school.

Elementary School - Beverage Restrictions

References: Education Code sections 49430, 49431.5, California Code of Regulations Section 15577

When referring to the beverage restrictions below, the definition of elementary school is a public school with no grade higher than grade six.

The following beverage restrictions are effective during school hours up through one-half hour after school.

These beverage restrictions apply to ALL beverages sold to students by any entity.

Compliant beverages are:

Fruit/vegetable juices that consist of at least 50 percent juice AND have no added sweeteners, or
Milk: cow's or goat's milk; 2 percent, 1 percent, or nonfat; contains Vitamins A & D; contains at least 25 percent of the Daily Value (% DV) for calcium; contains no more than 28 grams of total sugar per 8 fluid ounces; or

Non-dairy milk: contains Vitamins A & D; at least 25 percent of the Daily Value (% DV) for calcium; no more than 28 grams of total sugar per 8 fluid ounces; 5 grams fat or less per 8 fluid ounces; or

Water: with no added sweeteners

Non-compliant beverages can be sold ONLY by students and AT LEAST one-half hour after school.

Elementary School - Student Organizations

Reference: California Code of Regulations Section 15500

Restrictions on food or beverage sales by student organizations are effective only during school hours.

The following rules apply ONLY to food and beverage sales by student organizations:

- Only one food or beverage item may be sold, and
- Sales must be approved by governing board of school district, and
- Sale must be after the lunch period, and
- Food or beverage item cannot be prepared on campus, and
- Only four sales per school per year, and
- Food or beverage item is not one that is sold in the food service program at that school during that school day.

Elementary School - Foods and Beverages Sold During a Meal Time

Reference: Code of Federal Regulations, Title 7, Part 210.11, Appendix B

These federal food and beverages restrictions, known as the Foods of Minimal Nutritional Value (FMNV), are effective ONLY during a meal period and ONLY in a food service area.

The following foods and beverages cannot be sold by any entity to a student during a meal period in a food service area:

- Carbonated or aerated water
- Water ices - except if made only with 100 percent juice
- Chewing gum
- Hard candies
- Jelly and gum candies
- Marshmallow candies
- Fondant
- Licorice
- Spun candy
- Candy coated popcorn

A food service area is any location on a school campus where a federally reimbursable meal is *served* and/or *eaten*.

A food categorized as a FMNV may be exempted from the federal restrictions. A current list of FMNV exempt products can be found at [Exemptions Under the Competitive Foods Regulation](#). A FMNV-exempted food or beverage must still meet all other state and federal rules that apply.

Middle/High School - Food Restrictions

References: Education Code sections 49430, 49431.2, 49431.7, California Code of Regulations sections 15575, 15577, 15578

When referring to the food restrictions below, a middle/junior high contains grades seven or eight or seven to nine or seven to ten. A high school contains any of the grades ten to twelve.

The following food restrictions are effective during school hours up through one-half hour after school.*

These food restrictions apply to ALL foods sold to students by any entity.

Foods that can be sold on the school campus outside the school meal program to students include:

1. "Snack" food items that contain no more than:
 - 35 percent of calories from fat, and
 - 10 percent of calories from saturated fat, and
 - 35 percent of sugar by weight, and
 - 250 calories per item/container
2. "Entrée" food items that contain no more than:
 - 400 calories, and
 - 4 grams of fat per 100 calories, and

Must either consist of:

- Two or more food groups (meat/meat alternate, fruit/vegetable, grain/bread), or
 - A meat/meat alternate alone
3. Exemptions:
 - Nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, non-fried vegetables, legumes are exempt from the fat restriction.
 - Eggs and cheese packaged for individual sale are exempt from the saturated fat restriction.
 - Fruit and non-fried vegetables are exempt from the sugar restriction.
 - Dried blueberries, cranberries, cherries, and tropical fruit that contain added sugar are exempt from the sugar restriction.
 - Mixed foods containing ONLY exempt items are exempt from all restrictions.
 - Mixed foods containing at least one non-exempt food or ingredient must meet the nutrition restrictions set for either snacks or entrees.

Effective July 1, 2009: From one-half hour before to one-half hour after the school day, foods containing artificial trans fat cannot be served or sold on school campus. A food contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food lists the total trans fat content as less than 0.5 grams of trans fat per serving.

* Exception: non-compliant foods can be sold at a school sponsored event that occurs directly after school.

Middle/High School - Beverage Restrictions

References: Education Code sections 49430, 49431.5, California Code of Regulations Section 15577

When referring to the beverage restrictions below, a middle/junior high contains grades seven or eight or seven to nine or seven to ten. A high school contains any of the grades ten to twelve.

The following beverage restrictions are effective from one-half hour before to one-half hour after school.

These beverage restrictions apply to ALL beverages sold to students by any entity.

Beverages that can be sold outside the school meal program to students include:

Fruit/vegetable juices that consist of at least 50 percent juice AND have no added sweeteners, or
Milk: cow's or goat's milk; 2 percent, 1 percent, or nonfat; contains Vitamins A & D; contains at least 25 percent of the Daily Value (% DV) for calcium; contains no more than 28 grams of total sugar per 8 fluid ounces; or

Non-dairy milk: contains Vitamins A & D; at least 25 percent of the Daily Value (% DV) for calcium; no more than 28 grams of total sugar per 8 fluid ounces; 5 grams fat or less per 8 fluid ounces; or

Water: with no added sweeteners, or

Electrolyte replacement beverage: water is the first ingredient; no more than 2.1 grams added sweetener per 1 fluid ounce; between 10 and 150 milligrams of sodium per 8 fluid ounces; between 10 and 90 milligrams of potassium per 8 fluid ounces; and no added caffeine

Non-compliant beverages can be sold by any entity starting one-half hour after school.

Middle/High School - Student Organizations

Reference: California Code of Regulations Section 15501

Food and beverage sales by student organizations are effective during or after school hours.

The following rules apply ONLY to food and beverage sales by student organizations:

Only three categories of food or beverage item may be sold (e.g., chips, sandwiches, juices, etc.), and

Sales must be approved by governing board of school district, and

Only one student organization is allowed to sell per day, and

On any four days any and all student organizations can sell, and

Food or beverage item cannot be prepared on campus, and

Food or beverage categories are not ones that are sold in the food service program at that school during that school day.

Middle/High School - Foods and Beverages Sold During a Meal Time

Reference: Code of Federal Regulations, Title 7, Part 210.11, Appendix B

These federal food and beverages restrictions, known as the Foods of Minimal Nutritional Value (FMNV), are effective ONLY during a meal period and ONLY in a food service area.

The following foods and beverages cannot be sold by any entity to a student during a meal period in a food service area:

Carbonated or aerated water

Water ices – except if made only with 100 percent juice

Chewing gum

Hard candies

Jelly and gum candies

Marshmallow candies

Fondant

Licorice

Spun candy

Candy coated popcorn

A food service area is any location on a school campus where a federally reimbursable meal is *served* and/or *eaten*.

A food categorized as a FMNV may be exempted from the federal restrictions. A current list of FMNV exempt products can be found at [Exemptions Under the Competitive Foods Regulation](#). A FMNV-exempted food or beverage must still meet all other state and federal rules that apply