

Preliminary Analysis of DPH draft regulations on school nutrition  
February 2011

**1. BEVERAGE STANDARDS**

Issue	MPHA recommendation	DPH draft regs	MPHA rec'd met?
Water	Per statute, free potable water must be available to students at all times. Includes plain and carbonated water with no added flavors or added sweeteners. If water fountains are not available, water must be available in another form.	Schools must make readily available plain, potable water to all students during the day, at no cost to the students.  Water shall contain no added sugars, sweeteners or artificial sweeteners, but may contain natural flavorings and/or carbonation.	<b>Yes</b>
100% Juice	<ul style="list-style-type: none"> <li>• 100% fruit or vegetable juice or juice blends with no added natural or artificial sweeteners, or juices diluted with water.</li> <li>• Max. portion size: 4 oz. for elementary; 8 oz. for middle/high school.</li> </ul>	All juice shall be made of 100% fruit or vegetable juice, with no added sugar.  Servings of juice for students in elementary and middle schools shall be no more than four (4) ounces. Servings of juice for students in high schools shall be no more than eight (8) ounces.	<b>Yes</b>
Milk and Milk Alternatives	<ul style="list-style-type: none"> <li>• Unflavored lowfat and nonfat milk with no added sweeteners.</li> <li>• Milk alternatives must meet USDA requirements for milk replacement for school lunch program.</li> <li>• Max. 8 oz. serving size for all grades.</li> </ul>	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).  All milk and milk substitutes shall meet the USDA definitions and standards for fluid milk and milk substitutes.  Servings of milk and milk substitutes shall be no more than eight (8) ounces.  Flavored milk and flavored milk substitutes shall have no more than 22 grams of sugar per 8 ounces.  Any beverages with added sugar or sweeteners not already prohibited in 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	<b>Yes</b>  Allows added sweeteners in milk but this is phased out by 2013.

		plain fat-free or low-fat milk.	
Sweeteners and Caffeine	<ul style="list-style-type: none"> <li>No artificial sweeteners, non-nutritive sweeteners, or sugar alcohols permitted in any beverages.</li> <li>All beverages are to be caffeine-free, with the exception of trace amounts of naturally occurring caffeine substances.</li> </ul>	<p>Any beverages with added sugar or sweeteners not already prohibited in 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.</p> <p>No food or beverage shall contain more than trace amounts of caffeine.</p>	<b>Yes</b>
Other Beverages	<ul style="list-style-type: none"> <li>No other beverages permitted.</li> </ul>	No beverages other than juice, milk, milk substitutes and water shall be sold or provided.	<b>Yes</b>

## 2. SNACKS & DESSERTS

Issue	MPHA recommendation	DPH draft regs	MPHA rec'd met?
Fat	<ul style="list-style-type: none"> <li>Saturated fat may not exceed 20% of calories and 2g saturated fat per portion as packaged.</li> <li>Zero trans fats (<math>\leq</math> 5g/serving) per portion as packaged.</li> <li>Nutrient-rich nuts, seeds, and nut butters may exceed these limits if they meet portion sizes as listed below.</li> </ul>	<p>No food shall contain more than 35% of its total calories from fat, except as provided in 105 CMR 225.200 (B)(4) below.</p> <p>No food shall contain more than 10% of its total calories from saturated fat, except as provided in 105 CMR 225.200(B)(4) below.</p> <p>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 (1) ounce of nuts, nut butters, seeds or reduced-fat cheese.</p> <p>All foods shall be trans fat-free.</p>	<b>Partially</b>
Sugar and Sweeteners	<ul style="list-style-type: none"> <li>Total sugar may not exceed 20% of calories and 9g sugar per portion as served.</li> <li>Nutrient-dense yogurt may exceed these limits, but may not exceed 20g of sugar per serving.</li> <li>No artificial sweeteners, non-nutritive sweeteners, or sugar alcohols</li> </ul>	<p>No food shall contain more than 35% of its total calories from total sugars; provided, however, that a public school may provide or sell:</p> <ul style="list-style-type: none"> <li>(a) non-fat or low-fat yogurt, including drinkable yogurt, which contains a maximum of 30 grams of total sugars per 8 ounce packaged serving;</li> <li>(b) 100% fruit with no added sugar.</li> </ul> <p>No food or beverage shall contain an</p>	<b>No</b> Significantly higher sugar limits than recommended.

	permitted.	artificial sweetener.	
Sodium	Sodium may not exceed 200mg per portion as packaged.	No food shall contain more than 200 mg of sodium per item.	<b>Yes</b>
Portion Size	Total calories may not exceed 200 calories per portion as packed.	Foods shall not exceed 200 calories per item	<b>Yes</b>
Fruits & Non-Fried Vegetables	Per statute, fruits and non-fried vegetables must be available at all places competitive foods are sold. This does not include juice, but does include fresh and dried fruits and vegetables and sliced fruits and vegetables packed in juice or water with no added sweeteners.	Schools must 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; provided, however, that the Department may establish through guidelines products made from fresh fruits and vegetables which may be sold or provided as fresh fruits and vegetables for purposes of these regulations;	<b>Yes</b>
Whole Grains	Grain-based products must contain a minimum of 50% whole grains by weight.	All bread and other grain-based products shall be comprised of whole grains.	<b>Yes</b>  Does not specify amt of whole grains.
Fiber	Grain-based food items must contain a minimum of 2g per serving of dietary fiber. All foods must include at least one gram of fiber per 10 grams of carbohydrates, except for dairy products.	Not included	<b>No</b>
Package Size	Individual packages may not contain more than one portion of snack or dessert item.	Not included	<b>No</b>

### 3. Á LA CARTE ENTREES

Issue	MPHA recommendation	DPH draft regs	MPHA rec'd met?
Á La Carte Entrées	Must be the same entrée served as part of that day's reimbursable meal program,	A la carte entrées shall not exceed the calorie count of comparable National School Lunch Program entrée items.	<b>Yes</b>

	served in the same portion size, and meet NSBLP standards.	A la carte entrées shall not contain more than 480 mg of sodium per item.	
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#### 4. Exemptions

Issue	MPHA recommendation	DPH draft regs	MPHA rec'd met?
Exemptions	<p>MPHA recommends that the nutrition guidelines allow no exemptions for foods sold or provided during the school day at specific school events, including but not limited to booster sales, concession stands, school sponsored or school related fundraisers and events. Statute gives DPH discretion in this area. We recommend that DPH not allow exemptions in the following categories:</p> <ul style="list-style-type: none"> <li>• No exemptions for using fryolators, or serving fried foods and previously fried foods (foods fried off-site during initial food processing or preparation, then frozen or refrigerated for delivery) at school events during the school day.</li> <li>• No exemptions for foods sold on school grounds during the school day to raise funds for school events. Funds should be raised either by selling foods that adhere to the above guidelines, or by selling non-food items such as wrapping paper or environmentally-friendly light bulbs, or through events such as “fun runs.”</li> <li>• No exemptions for classroom celebrations. Birthdays and holidays should be celebrated in classrooms either with foods that meet the above guidelines or through alternative ways that do not include food.</li> </ul>	<p>Prohibits the use of fryolators in the preparation of competitive foods</p> <p>No other exemptions specifically allowed.</p> <p>Standards apply to “competitive foods and beverages sold or provided in public schools.”</p> <p><i>Competitive foods or beverages</i> defined as - means all foods or beverages sold or provided in public schools, other than non-sweetened carbonated water and those items sold or provided as part of federal nutrition programs such as the School Breakfast Program, School Lunch Program, and the Child and Adult Care School Breakfast Program, including those offered in:</p> <ol style="list-style-type: none"> <li>1. school cafeterias;</li> <li>2. school stores;</li> <li>3. school snack bars;</li> <li>4. vending machines;</li> <li>5. concession stands;</li> <li>6. booster sales;</li> <li>7. fundraising activities;</li> <li>8. school-sponsored or school-related events; and</li> <li>9. any other location in public schools.</li> </ol>	<b>Yes.</b>

## 5. Other MPHA Recommendations

Issue	MPHA recommendation	DPH draft regs	MPHA rec'd met?
Rewards	Forbid the use of foods and beverages as rewards or discipline for academic performance or behavior.	Not included.	<b>No</b>
Adequate Time for Meals	Recommend adequate time for students to purchase and eat reimbursable meals at school of at least 25 minutes.	Not included.	<b>No</b>
Recess Before Lunch	Recommend recess before lunch time, allowing students to maximize meal time without hurrying to get to recess.	Not included.	<b>No</b>
Marketing and Advertising	Recommend that marketing of competitive foods and beverages be minimized by locating the sale of competitive foods and beverages in low student traffic areas. Recommend that the exterior of vending machines do not depict commercial products or logos or suggest that consumption of vended items conveys a health or social benefit.	Not included.	<b>No</b>

Outside Vendors	<p>Forbid the sale of food or beverages of any type by third parties to students on school premises, including school grounds, at any time.</p> <p>Forbid street vendors from selling food within 200 yards of a school from one hour prior to when the school is in session through one hour after the school end.</p>	Not included.	<b>No</b>
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**6. Other elements of DPH draft regs**

Issue	DPH draft regs	MPHA comment
Effective date	These standards shall take effect on August 1, 2012.	Per statute
School day	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 unless otherwise determined by the public school district or board of trustees, these standards shall not apply to competitive foods and beverages sold on school grounds up to 30 minutes before the beginning of the school day or 30 minutes after the end of the school day. This exception shall not apply to competitive foods sold through vending machines, which shall comply with these standards at all times.	Per statute
Nutritional information	Schools must make nutrition information available for students for non-prepackaged competitive foods and beverages by August 1, 2013. This requirement shall not apply to the sale or provision of fresh fruits or fresh vegetables, and foods or	Per statute

	beverages sold during the school day at booster sales, concession stands and other school-sponsored or school-related fundraisers and events;	
Food safety	Schools must ensure that food preparation and all foods and beverages sold or provided to students meet all applicable state and federal food safety requirements.	Good
Caffeine in foods	No food shall contain more than trace amounts of caffeine.	Good
Definitions	<i>A la carte entrée</i> means a single food or combination of foods offered as a main course or central focus of a meal, generally a protein source.	Good
	<i>Artificial sweeteners</i> means substances added to food or beverages to provide a sweet taste while providing few no additional calories, including aspartame, sucralose, acesufame-K, neotame, sugar alcohols and saccharin.	Good
	<i>Competitive foods or beverages</i> means all foods or beverages sold or provided in public schools, other than non-sweetened carbonated water and those items sold or provided as part of federal nutrition programs such as the School Breakfast Program, School Lunch Program, and the Child and Adult Care School Breakfast Program, including those offered in: <ul style="list-style-type: none"> <li>10. school cafeterias;</li> <li>11. school stores;</li> <li>12. school snack bars;</li> <li>13. vending machines;</li> <li>14. concession stands;</li> <li>15. booster sales;</li> <li>16. fundraising activities;</li> <li>17. school-sponsored or school-related events; and</li> <li>18. any other location in public schools.</li> </ul>	Good
	<i>Fresh</i> means not being altered by processing or preserving, and retaining original properties, without spoilage.	Good

	<i>Grain-based products</i> means food products whose primary ingredient is grain, including pasta, crackers, granola bars, chips and bakery items.	Good
	<i>Low-fat</i> means 3 grams or less per Reference Amount Customarily Consumed (RACC) standards established by the federal Food and Drug Administration.	Good
	<i>Natural flavorings</i> 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.	Good
	<i>Nutrition standards</i> means the minimum standards for beverage and food nutrition established in these regulations.	Good
	<i>Public school</i> means an elementary, middle, high, charter, innovation or comparable school operated by a public school district or board of trustees pursuant to Chapter 71 of the General Laws.	Good
	<i>Reduced fat</i> means at least 25% less fat per Reference Amount Customarily Consumed (RACC) than an appropriate reference food.	Good.
	<i>School day</i> means the hours of the day that students must attend school.	
	<i>Sweetener</i> means a substance derived from natural products 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	Good

	products that may be regarded as natural, such as stevia.	
	<i>Trans fat-free</i> means less than 0.5 grams of trans fat per item, or as otherwise specified by the federal Food and Drug Administration.	Good
	<i>Whole grains</i> 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 these regulations, whole grains shall include grains which are at least 51% whole grain or which have whole grain as the first ingredient on the label.	Good.