

Category: **STUDENTS**

Issued: 2/25/10

Number: **A-812**

Subject: COMPETITIVE FOODS

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**SUMMARY OF CHANGES**

This regulation supersedes A-812 dated June 29, 2009. This regulation has been updated to provide additional flexibility for fundraising while conforming 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.

**Changes:**

- Students can sell any "approved" items (from DOE list) any time during the day in the school as long as the sale of the approved food items occurs outside of the school cafeteria (see Section I.G, Page 2). A list of approved items is available at the Office of SchoolFood website: <http://www.opt-osfns.org/osfns>.
- PTAs can hold a monthly fundraiser with non-approved food items during the day as long as the sale of the non-approved food items occurs outside the cafeteria and complies with Chancellor's Regulation A-610 and Chancellor's Regulation A-660 (see Section I.H, Page 2).
- The Chancellor reserves the right to waive any provision of this regulation if he determines it to be in the best interests of the school system (see Section II.E, Page 3).

### 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 SchoolFood and/or 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 explained in the next paragraph for PA/PTA fundraising sales. Students can sell any approved items any time during the day in the school as long as the sale occurs outside of the school cafeteria.

PA/PTA fundraising sales involving non-approved food items are limited to once per month. 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 SchoolFood 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.

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\* 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 from the beginning of the school day through 6:00 PM weekdays, with one exception for PA/PTA fundraising (Section I, Paragraph “H” below). Furthermore, schools may not sell any food items (including approved foods) during mealtimes (including breakfast) through vending machines or school stores. PA/PTA fundraising activities, student fundraising activities, or other school fundraising activities are allowed as set forth in Section I, Paragraphs “G” and “H” below. Schools 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>. Please note that when referring to food and beverages in this regulation, the use of the word “approved” shall refer to those items that have been approved by SchoolFood as meeting the nutritional standards referenced herein and in no way shall be deemed or interpreted as an endorsement of those items by the DOE
- 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 type 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 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. 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 be for approved foods only; however, such approved food items may be sold from the beginning of the school day until 6:00 PM as long as the sale of the approved food items occurs outside the cafeteria. The list of approved foods is available at the Office of SchoolFood website: <http://www.opt-osfns.org/osfns>. To add new items to this list, please contact the Office of SchoolFood at (718) 707-4249 or [schoolfoodpolicy@schools.nyc.gov](mailto:schoolfoodpolicy@schools.nyc.gov).
- H. PA/PTA food fundraising is limited to once per month. During this monthly sale, 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 not otherwise prohibited by law during the school day as long as the sale of the non-approved food items occurs outside the cafeteria. 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 "E," above). 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<sup>†</sup> 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 network leader. The network leader 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.
- E. The Chancellor reserves the right to waive any provision(s) of the regulation if he determines it to be in the best interests of the school system.

## III. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone:  
718-707-4300

*Office of SchoolFood*  
*Food Technology Department*  
*Division of Support Services*  
N.Y.C. Department of Education  
44-36 Vernon Blvd. – Room 413  
L.I.C., NY 11101

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718-472-5745