

COMPETITIVE FOOD SALES—SALES OF FOODS IN COMPETITION WITH THE SCHOOL FOOD SERVICE PROGRAM

MSAD # 30 supports good nutrition as part of a school environment that contributes to student health and encourages positive food choices and eating habits. The Board believes that nutrition influences a student’s ability to take full advantage of the school system’s educational program and is, therefore, related to student achievement.

The Board also recognizes that proceeds from the sale of foods and beverages outside of the School Lunch Program (“competitive foods”) are a significant source of funds for student activities that MSAD # 30 might not otherwise be able to provide.

The Board has adopted this policy to govern the sale of foods and beverages on school property.

RESTRICTION ON SALE OF COMPETITIVE FOODS

Maine Department of Education Rule Chapter 51 mandates that any food or beverage sold at any time on school property of a school participating in the National School Lunch or School Breakfast Programs shall be a planned part of the total food service program¹ of the school and shall include only those items which contribute both to the nutritional needs of children and the development of desirable food habits, and shall not include foods of minimal nutritional value as defined in applicable federal regulations², except as provided for by school board policy in certain circumstances.

¹ According to DOE Rule Chapter 51 (1)(b), the “Total Food Service Program” includes the federal Milk Program as defined in 7 C.F.R. § 215; the federal Breakfast Program, which means the federal program under which a breakfast that meets the nutritional requirements set forth in 7 C.F.R. § 220 is offered; the National School Lunch Program (including the After School Snack), which means the federal program under which the school operates a nonprofit lunch program that meets the requirements of 7 C.F.R. § 210; or any combination of these programs.

² “Foods of minimal nutritional value” as defined in 7 C.F.R. § 210.11(a)(2) means: (a) In the case of artificially sweetened foods, a food which provides less than five percent of the Reference Daily Intake (RDI) for each of the eight specified nutrients per serving; (b) in the case of all other foods, a food which provides less than five percent of the RDI for each of eight specified nutrients per 100 calories and less than five percent of the RDI for each of eight specified nutrients per serving. The eight nutrients to be assessed for this purpose are: protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium, and iron. This definition is applicable to foods that are part of the total food service program of the school and to foods and beverages sold at food sales, school stores, and in vending machines. A listing of “Categories of Foods of Minimal Nutritional Value” is in Appendix B to 7 C.F.R. Part 210 (National School Lunch Program).

As allowed by Rule Chapter 51, the Board permits the sale of food and beverages outside the total food program:

[BOARDS MAY CHOOSE TO PERMIT ONE, MORE THAN ONE, OR ALL OF THE FOLLOWING EXCEPTIONS TO RULE CHAPTER 51]

1. To school staff
2. To attendees at school-sponsored community events held on school property
(i.e., school-sponsored events that are open to the public)
3. To the public at community events held on school property in accordance with
the Board's facilities use policy
4. In State-approved instructional Career and Technical Education (CTE) Programs
5. By a school, approved student organization or program if consistent with the requirement that such sales not include foods of minimal nutritional value as defined in 7 C.F.R. § 210.11(a)(2).

This policy applies to sales of foods and beverages at any time on school property by any person, group or organization.

When foods and beverages are sold to attendees at community events sponsored by the school or held on school property, students, staff, parents, or school-sponsored organizations involved in such sales are encouraged to include at least some healthy food choices.

FUNDS FROM SALES OF COMPETITIVE FOODS

Funds from all food and beverage sales made at any time on school property shall accrue to the benefit of the school's non-profit school food service program, except that funds raised through authorized sales outside the total food service program shall accrue to the sponsoring school or approved student organization in accordance with applicable policies, cash-management procedures and administrative directives, or to the sponsor of a community event that is held on school property in accordance with the Board's facilities use policy.

[NOTE: The Board has broad discretion in determining when a sponsor of an event is an "approved student organization" and when an activity is a school-sponsored event.

In their ATM presentation on February 10, 2006, DOE staff confirmed that it is the Department's intent that funds raised by approved student organizations and by school affiliated booster groups through the sales of foods and beverages at events open to the public will accrue to the sponsoring organization, not to the school's food service program, provided that the Board has adopted policy language that allows for this.

DOE staff also confirmed that foods of minimal nutritional value may be sold by approved student organizations when an event held on school property is open to the public. However, students may not sell foods of minimal nutritional value if an event is not open to the public. Boosters may also sell foods of minimal nutritional value if the event is open to the public, e.g., basketball games.

Community events that are sponsored by non-school groups ("outside organizations" such as Kiwanis, Boy Scouts, Girl Scouts, Little League, other community organizations) are events over which the school unit has no authority or responsibility other than through the Board's facilities use policy and procedures that implement the facilities use policy. Funds raised by these groups will accrue to the organization, provided that the Board has adopted appropriate policy language. This will also apply to certain booster groups and booster activities that do fundraising activities in accordance with the facilities use policy.

We refer readers to the DOE website address provided in the note on page one of this policy for further information concerning interpretation of the rule.]

DELEGATION OF RESPONSIBILITY

The Superintendent/designee shall be responsible for enforcement of this policy. A school unit employee who observes conduct he/she believes to be a violation of this policy or is informed of such conduct by a parent, student or community member should contact the building administrator or Superintendent/designee.

Legal Reference: Ch. 51 (Dept. of Educ. Rule) (Child Nutrition Programs in Public Schools and Institutions)

Cross References: DFF— Income From School Sales and Services

JJE— Student Fundraising Activities

JJF— Student Activities Funds

KF— Community Use of School Facilities

KJA— Relations With Booster Organizations

Adopted: March 28, 2006