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§741. Competitive Foods

A. Act 331 of the 2005 regular Louisiana legislative session establishes healthy standards for foods and beverages sold on school grounds within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day. When food and beverage items are sold through vending, concessions or other such sales on school grounds, outside the National School Lunch Program (NSLP) and School Breakfast Program (SBP), during the times mentioned, elementary and middle school children can be offered only those products that meet or exceed the content and nutritional standards established in Act 331. When food and beverages are offered to high school students on school grounds during the times mentioned, at least 50 percent of the items offered must meet the content and nutritional standards established in Act 331. Schools must use the approved list of snacks that meet the nutritional standards established in Act 331. The snack list has been approved by Pennington Biomedical Research Center. Pennington Biomedical Research Center may recommend additional nutritional restrictions for certain nutrients based on nutritional research. Fresh pastries as defined by Pennington Biomedical Research Center will not be allowed for sale, without exception, within the times of 30 minutes prior to the normal school day through 30 minutes after the end of the normal school day.

B. A high school shall mean any school whose grade structure falls within the 6 through 12 range and includes grades in the 10 to 12 range or any school that contains only grade 9 as defined in Act 331.

C. Beverages that may be sold at any time beginning 1/2 hour before the start of the school day and ending 1/2 hour after the end of the school day for elementary and secondary schools include the following:

1. 100 percent fruit juices or vegetable juice that do not contain added natural or artificial sweeteners (no more than 16 ounces);
2. unsweetened flavored drinking water or unflavored drinking water (any size);
3. low-fat milk, skim milk, flavored milk and non-dairy milk (any size).

D. Food items which may not be sold to elementary and secondary students at any time beginning 1/2 hour before the start of the school day and ending 1/2 hour after the end of the school day are listed below:

1. foods of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations;
2. snacks or desserts that exceed 150 calories per serving, have more than 35 percent of their calories from fat, or have more than 30 grams of sugar per serving, except for unsweetened or uncoated seeds or nuts.

E. Elementary Schools

1. After the end of the last lunch period, the only items that may be sold include the following:

- a. Snacks or desserts that have:
 - i. 150 calories or less per serving;
 - ii. 35 percent or less of their calories from fat; and
 - iii. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

2. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis outside of the nutritional standards as established by Act 331 before the end of the last lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account and expended only for Child Nutrition Program purposes.

F. Secondary Schools (High Schools)

1.a. Beginning the last 10 minutes of each lunch period, high schools may choose to offer food and beverages of their choosing to students, so long as at least 50 percent of such items are healthy snacks. Healthy snacks are defined as having the following:

- i. 150 calories or less per serving;
- ii. 35 percent or less of their calories from fat; and
- iii. 30 grams or less of sugar per serving, (except unsweetened or uncoated seeds or nuts).

b. The approved list of snack items can be found on the Louisiana Department of Education (LDOE) website at <http://www.louisianaschools.net>. If an item is approved for inclusion on the list of allowable food items for sale on school grounds per Act 331 and SBESE Bulletin 1196, the list is only valid for the item as submitted with nutritional information to the Louisiana Department of Education. It is the responsibility of any school district/school, that chooses to sell such food/items, to ensure that products sold on school grounds meet the minimum standards required by Act 331 and SBESE Bulletin 1196.

2. Reimbursement for Child Nutrition Program meals may be withheld from schools if concessions, canteens, snack bars, vending machines or other food sales are operated on a profit basis before the last 10 minutes of each lunch period. The official school schedule shall indicate the time for each lunch period and should allow sufficient time for each student to receive and consume a meal. Such services are operated for profit if the income is not deposited to the nonprofit school food service program account, and expended only for the purpose of the Child Nutrition Program(s).

3. The SFA shall be required to reimburse the school food service account for any funds withheld for violation(s) of the Competitive Foods Policy. Under no circumstances can foods in competition be sold to children in food service areas during the lunch period(s).

4. School systems must establish local rules or regulations as are necessary to control the sale of foods in competition with meals served under the National School Lunch and Breakfast Programs. The state's competitive foods policy will be managed and monitored by both local and state personnel as follows.

a. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

5. The SBSE recommends that all schools provide a minimum of 30 minutes per lunch period.

6. All complaints received by state DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

7. Monitoring of competitive foods/concessions shall be conducted in the following manner.

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The state or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

8. State DNA personnel will monitor competitive foods operations at local school systems on all state reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 32:806 (May 2006).

§743. Takeout Meal Service

A. Takeout meal service may be offered when there is an established takeout meal service program. Accurate meal counts, nutrition requirements, and sanitation guidelines must be followed. Student meals may not be removed from the school premises with the exception of planned trips. Breakfasts, lunches and/or snacks purchased by school system employees must be consumed on school board property. Proper disposable flatware and containers must be provided. The removal of permanent service ware from the food service area shall not be allowed. (For additional information, refer to §2307:Food Taken From Schools, and §2125:Sanitation, General Rules.)

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HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education, LR 27:2152 (December 2001).

§745. Handling of Food Waste

A. The Louisiana Sanitary Code prohibits the use of food garbage, either cooked or raw, as feed for swine. If a SFA or school allows any individual/agency to dispose of food waste, a statement that attests to its use must be on file at the school site(s). This statement must be signed by the individual/agency and must indicate that the food waste will not be fed to swine.

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HISTORICAL NOTE: Promulgated by Board of Elementary and Secondary Education, LR 27:2152 (December 2001).

§747. Donations of Leftover Food/Food Recovery Activities

A. SFAs and school programs may receive inquiries from nonprofit agencies (and the general public) concerning the donation of extra foods prepared by the National School Lunch and Breakfast Programs. Schools may claim reimbursement for only one lunch and/or breakfast served per child per day, and schools are expected to plan and prepare sufficient amounts of food to achieve this goal. However, when the food actually prepared exceeds the amount needed for the reimbursable meal service, leftover foods may be donated to appropriate nonprofit institutions such as soup kitchens or homeless shelters, provided this practice is not prohibited by local laws or regulations and the following conditions are met:

1. participation and menu records demonstrate that overproduction is not intentional;
2. leftover foods cannot be used in the food service program and would otherwise be thrown away;
3. state and local health codes/standards are followed; and
4. on file is a written agreement between the SFA and the nonprofit organization which includes, at a minimum, the following provisions:
 - a. terms of the agreement;
 - b. duties of the school system;
 - c. duties of the contractor;
 - d. nondiscrimination statement;
 - e. statement that the contractor is not an officer, employee, or agent of the school system;
 - f. liability;
 - g. hold harmless and indemnification clause; and
 - h. certification of liability insurance.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2152 (December 2001), amended LR 29:2029 (October 2003).