



THE HEALTHY, HUNGER-FREE KIDS ACT OF 2010: SCHOOL WELLNESS POLICIES

April 2011

ON DECEMBER 13, 2010, President Barack Obama signed into law the Healthy, Hunger-Free Kids Act of 2010.¹ The Act strengthens school food nutrition standards, increases access to and funding for school meals, and increases technical assistance to schools. It also strengthens school wellness policies, improves farm to school programs, expands afterschool meals programs for at-risk children, and establishes certification standards for food service personnel. The Public Health Law Center has created a set of fact sheets outlining several key areas of the Act.²

The Child Nutrition and WIC Reauthorization Act of 2004 sought to improve school wellness by requiring school districts participating in federally funded school meal programs to develop and implement a local school wellness policy addressing nutrition and physical activity. Six years later,

Congress has renewed focus on the importance of school wellness policies in combating the growing childhood obesity epidemic affecting our nation's youth and has enacted the Healthy, Hunger-Free Kids Act of 2010, which strengthens existing requirements for school wellness policies.

“Congress has renewed focus on the importance of school wellness policies in combating the growing childhood obesity epidemic”

Q What were the main school wellness policy implementation requirements under the Child Nutrition Reauthorization Act of 2004?

A The Child Nutrition Reauthorization Act of 2004 required local school districts to implement wellness policies with the following provisions³:

- » Goals for nutrition education, physical activity, and other school-based activities.
- » Nutrition guidelines for all foods available on each school campus under the local educational agency.
- » An assurance that guidelines for reimbursable school meals not be less restrictive than regulations and guidance issued by the Secretary of Agriculture.
- » A plan for measuring implementation of the local wellness policy.

- » Designation of at least one person in the school district or at each school to be responsible for the operation of the policy and to ensure that schools meet the policy goals.
- » Involvement in the development of the school wellness policy by parents, students, representatives of organizations that provide food to the schools, the school board, school administrators, and the public.

Q How does the Healthy, Hunger-Free Kids Act of 2010 (“the Act”) change these requirements?

A In addition to the previous requirements, school districts must:

- » Permit parents, students, school food personnel, school board members, administrators, and community members to participate in the development and periodic review and update of the wellness policy.
- » Update nutrition guidelines to meet new U.S. Department of Agriculture (USDA) nutrition standards and apply the standards to all foods⁴ available anywhere at school during the school day, including food sold outside school meal programs⁵
- » Measure and report periodically on the implementation and progress of the policy including school compliance, comparisons to model policies and progress toward achieving policy goals.



- » Inform and update parents, students and other community members about the content and implementation of the wellness policy.

Q What other components of the Act may affect a school wellness policy?

A The Act has several additional provisions, including:

- » Increasing the federal reimbursement rate for school lunches by six cents.
- » Providing technical support by the USDA for updating local school wellness policies and overcoming barriers in implementing those policies.
- » Requiring a report by the Secretary of Agriculture on the strengths and weaknesses of local school wellness policies and a comparison of local policies with model policies.
- » Requiring federal funding for school meals be applied only for reimbursable school meals programs and not for “nonprogram food” or food outside of the reimbursable meal program.
- » Requiring school districts to periodically report information about their school food environment to the state and the public.

Q Are there other school wellness policy requirements under the Act?

A Yes. The Act also requires the USDA to adopt regulations that provide a framework and possibly additional requirements for school wellness policies.

Q When will the USDA release the regulations?

A As of the date of this fact sheet, the USDA has not released the proposed rule for the school wellness guidelines.⁶



Q How can I monitor what is happening with the USDA's implementation of the law?

A The USDA will release proposed rules, notes and “guidance documents” that describe the agency’s thinking on regulatory issues. Following these documents is easy due to an electronic submission system on a federal website called www.Regulations.gov, which allows people to search, view and comment on rules quickly and efficiently. If the public is allowed to comment on a proposed rule or other guidance document, the agency will give a deadline for submitting a comment. For more information on how to comment, please refer to the Public Health Law Center’s fact sheet, *Submitting Comments to the USDA*.⁷



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1 Healthy, Hunger-Free Kids Act of 2010, S. 3307, 111th Cong. (2010), available at <http://www.gpo.gov/fdsys/pkg/BILLS-111s3307enr/pdf/BILLS-111s3307enr.pdf>.

2 The fact sheets can be found at <http://www.publichealthlawcenter.org/documents/publications/fact-sheets>.

3 42 U.S.C. § 1751(a) (2004).

4 The Act requires the USDA to consider special exemptions for infrequent, school-sponsored fundraisers that are approved by the school.

5 For more information on how the Act changes the nutritional guidelines, please refer to the Public Health Law Center’s *Healthy, Hunger-Free Kids Act of 2010 Nutrition Standards*.

6 The USDA has released a proposed rule relating to Nutrition Standards in the National School Lunch and School Breakfast Programs. 76 FR 2494-2570 (proposed Jan. 13, 2011) (to be codified at 40 C.F.R. pts. 210-220) available at <http://www.gpo.gov/fdsys/pkg/FR-2011-01-13/pdf/2011-485.pdf>.

7 See also Tobacco Control Legal Consortium, *Submitting Comments on Tobacco Products to the FDA* (2010), available at <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-fs-submittingcomments-fda-2010.pdf>; Public Health Law Network, *Rulemaking Process and Steps to Comment* (Feb. 2, 2011) <http://www.publichealthlawnetwork.org/rulemaking-process-and-steps-to-comment/>.