



EXECUTIVE SUMMARY

FOOD AND BEVERAGE MARKETING ON CALIFORNIA HIGH SCHOOL CAMPUSES SURVEY: FINDINGS AND RECOMMENDATIONS March 2006

BACKGROUND

Marketing and advertising play a significant role in setting norms and encouraging behaviors, especially for children. Since the 1980s, the food and beverage industry has made children and adolescents the targets of intense and specialized food marketing and advertising efforts. As a result, children are exposed to multiple food advertisements every day, and foods marketed to children—from highly sweetened cereals to cookies, candy, fast foods, and soda—are predominantly high in calories, sugar and fat.

With youth, marketers have tapped into an audience that is particularly vulnerable to the messages and tactics of the food and beverage industry (Strassburger, 2001; Kunkel, 1995; John, 1999). Marketers have capitalized on this situation by using numerous marketing channels to reach children and adolescents. Commercial activities in U.S. public elementary and secondary schools have expanded during the last decade as a result of marketers' taking advantage of schools' financial vulnerability due to chronic funding shortages, coupled with marketers' wish to increase sales and generate product loyalty (Levine, 1999; Consumers Union, 1995). In-school marketing activities related to food and beverages include:

- Product sales
- Direct advertising
- Indirect marketing
- Market research

Because of the important role schools play in feeding children and teaching them lifelong healthy habits and the increasing emphasis the food and beverage industry puts on school-based marketing strategies, California Project LEAN (CPL) and the Public Health Institute (PHI) thought it was important to identify the types of food and beverage marketing and advertising that exist on school campuses. In the fall of 2005, using funds from The California Endowment, PHI commissioned Samuels & Associates to work with CPL to assess food and beverage marketing at 20 California public high schools.

KEY FINDINGS

Posters and signage:

- 245 instances of food and beverage related posters and signage found.
- 51% of posters and signage advertised food or beverage items or brand names.
- 60% of posters/signage for products were for foods or beverages that we discourage children from eating because they are high in fat, saturated fat, trans fat, sugar, and sodium and are low in nutrients.

Vending machines:

- 276 vending machines found in 19 of the schools assessed.
- Vending machines were found in high traffic areas: cafeterias and quads/courtyards.
- 65% of vending advertisements were for sweetened beverages; such as, soda and sports drinks.
- Water accounted for only 21% of all vending advertisements.

Equipment with logos or brand names:

- 60% of the schools used food or beverage coolers/display cases with corporate logos or brand names.
- 35% of the schools used cups, napkins and plates with food or beverage company logos or brand names.
- 71% of the logos displayed on equipment were for sweetened beverages such as soda and sports drinks.
- 8% of the logos displayed on equipment were for brand-name water.

School media:

- About half of the year books (53%) and school newspapers (53%) included food or beverage advertising. These advertisements were primarily for local restaurants.

School participation in food and beverage company marketing activities:

- Schools reported participating in food or beverage coupon distributions (25% of schools) or product giveaways (35% of schools) once or twice a year, or a few times a semester at most.
- 94% of these activities were conducted by companies selling unhealthy foods; such as, fast food, candy and soda.

School events funded by food or beverage companies:

- Nine schools (45%) had events (athletic events, social events, other extracurricular activities) supported at least in part by food or beverage companies.
- 93% of events were supported by companies selling unhealthy foods; such as, fast food and soda.

Food sales as fundraisers:

- All 20 schools assessed used food and beverage sales as fundraisers.
- Most common food and beverage fundraising items included: chips, cookies/cakes/pastries, sweetened beverages, water, juice and candy.

Corporate sponsored curricula and scholarships:

- 26% of schools reported using classroom materials or curricula created by food and beverage companies.
- 45% of schools reported participating in food and beverage company scholarship programs.

Policies regulating food and beverage marketing:

- Nine schools reported a district policy that addressed marketing, but none of these policies explicitly limited or banned marketing of unhealthy foods and beverages.

DISCUSSION

Given the growing body of evidence supporting the impact of food marketing on children's food preferences (Hastings, 2003; Committee on Food Marketing and the Diets of Children and Youth, 2006), schools must become aware of the types and intensity of food and beverage marketing on their campuses. This study found indications of food and beverage marketing in many locations throughout the high school campuses visited. Each of the campuses had multiple layers of marketing and advertising from visible signage and logos on vending machines and equipment to more subtle food and beverage industry presence in the form of donated products for fundraising or corporate sponsorships of activities or scholarships. This assessment found very little marketing for foods; such as, fruits and vegetables, whole grains, water and milk that are lacking in children's diets and that health professionals, parents and educators would like to encourage children to eat more of. Overwhelmingly, the food and beverage marketing found on the campuses came from companies and brands associated with foods that are discouraged in children's diets including soda, sports drinks and other sugary beverages, chips, candy and fast food. This finding is consistent with other reports that have found candy and snack food manufacturers, soft drink bottlers, and fast food restaurants, are among the companies that market most heavily in schools (Molnar, 2003).

Promotion of unhealthy foods conflicts with the California statewide legislation regulating nutrient content of school foods and contradicts the healthy eating messages central to nutrition education and to schools' mission to prepare children for productive lives as adults. Schools, with support from parents, health authorities, and other community stakeholders, should educate children about healthful diets through creation of environments that support healthy eating in all aspects including the products sold, the foods and beverages promoted through marketing and advertising, and the corporate sponsorship of activities and events.

Addressing food and beverage marketing on school campuses is a key component to creating healthy school environments. California schools are working hard to assure that foods sold on campus are healthy and meet nutrient standards for calories, fat and sugar; now we should assure that the food and beverage messages seen and heard by

California's students at school encourage health food choices rather than soda/sweetened beverages and junk food.

RECOMMENDATIONS

To minimize the potential negative impact of food and beverage marketing on students, schools should undertake the following actions:

- ❖ **Eliminate the marketing and advertising of unhealthy foods and beverages at school.**
 - Assure that all school-based marketing is consistent with or more stringent than state and district level policies eliminating the sale of sweetened beverages and unhealthy foods on school campuses.
 - New local Wellness Policies should include promotional activities that encourage students to consume fruits and vegetables, low-fat and non-fat milk and water.

- ❖ **Eliminate commercial influences that promote unhealthy foods and beverages in district curriculum, classroom materials and on campus.**
 - Review resources provided by outside sources, including curriculum and Channel One broadcasts used in the classroom, to ensure they do not promote unhealthy foods and beverages.
 - Prohibit any district curriculum from including identifiable brand names in the content of the curriculum. Require sponsored programs and materials to undergo the same review procedures and meet the same standards as other curriculum materials.
 - Restrict teachers from using identifiable brand names in their instruction unless they are found to be necessary to the lesson being taught.

- ❖ **Include consumer education as part of the curriculum.**
 - Adopt school-based curricula that teach youth media literacy skills, which teach them to be informed consumers of the media.

- ❖ **Set guidelines for business partnerships that restrict marketing and advertising of unhealthy foods and beverages.**
 - Encourage partnerships with business that does not include product advertising to students.
 - For school staff with the responsibility of entering into business partnerships, conduct trainings on the perils of marketing unhealthy foods on campus.

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I. INTRODUCTION

California youth, like their peers across the country, continue to face a serious nutrition and physical activity crisis. For the first time in two centuries, the current generation of children in America may have shorter life expectancies than their parents due to the rapid rise in childhood obesity.¹

An increase in type 2 diabetes among children has paralleled the rising rates of obesity.² One in three children born in 2000 and half of all children of color are expected to develop type 2 diabetes during their lifetime.³ Despite these statistics, food and beverage marketing geared to children and youth overwhelmingly promote unhealthy foods and beverages.

Due to increased public concern over the obesity epidemic and the role that marketing plays in establishing eating patterns, a growing number of health advocates are calling for restrictions on advertising of unhealthy foods and beverages to children and youth.

The recent Institute of Medicine report, *Food Marketing to Children and Youth: Threat or Opportunity*, billed as the most comprehensive review to date of the scientific studies, concludes that food and beverage marketing influences the diets and health prospects of children and youth. The report calls for sweeping changes in the way the food industry markets its products to children. Even Governor Arnold Schwarzenegger's *10-point Vision for a Healthy California* calls for marketing only healthy foods and beverages to children 12-years-old and under.

Health advocates like California Project LEAN (Leaders Encouraging Activity and Nutrition), a program of the California Department of Health Services and Public Health Institute, believe that schools should serve as a safe haven from unhealthy food and beverage messages. Since 1987, California Project LEAN has worked with California school districts to develop and implement policies that support healthy eating and physical activity. While considerable strides have been made to provide California students with healthy foods and beverages that are convenient, appealing and affordable, the marketing of unhealthy foods and beverages still exists on school campuses.

The *Captive Kids: Selling Obesity to Schools* tool kit addresses the issue of marketing unhealthy foods and beverages on California school campuses. While geared toward California health advocates, this tool kit may also be useful to health advocates outside of California.

Captive Kids includes information on:

- marketing to children and youth through schools;
- key steps to develop policy that addresses marketing at schools;
- answers to legal questions; and
- talking points, case studies, fact sheets, additional resources and more.

II. SCHOOL MARKETING TO CHILDREN AND YOUTH

The school environment has dramatically changed since the time when most parents attended school. Many parents and educators do not fully realize the subtle yet pervasive marketing and advertising practices that students are exposed to on a daily basis at school.

Schools have become a critical location for marketers to gain the undivided attention of children and youth. Marketing in schools can be increasingly harmful to students as they have repeated exposure to advertisements on school television and public announcement systems, in sponsored curriculum, and on school equipment and facilities, including on vending machines placed in high trafficked areas. All students are exposed to these types of advertisements in schools whether they are purchasing the advertised products or not.

IN-SCHOOL FOOD AND BEVERAGE MARKETING PRACTICES INCLUDE:



Product sales: This includes foods such as soft drinks, fast food and snack items sold out of vending machines, student stores, food carts, and snack bars,

as well as exclusive soft drink and branded food contracts. This also includes fundraising activities conducted by student groups, parent-teacher organizations, and booster clubs. Many of these fundraisers involve the sale of unhealthy foods and beverages. Marketers offer fundraising ideas to schools in exchange for advertising their product to students.

One example is Krispy Krème partnership cards. Schools buy the cards from Krispy Krème for \$5 and sell them to the end users for \$10. The buyer gets a dozen free donuts with every dozen they buy.



"Marketing to children in schools is especially problematic because in schools children are a captive audience and are asked to believe that what they are taught in school will be in their best interest."

**–Alex Molnar
Professor and Director
Education Policy Studies Laboratory
Arizona State University**

CAPTIVE KIDS: SELLING OBESITY AT SCHOOLS

An ACTION GUIDE to Stop the Marketing of Unhealthy Foods and Beverages at School

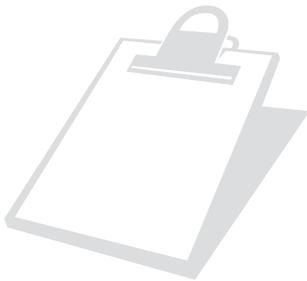


Direct advertising: This includes advertisements placed around campus, on buses, scoreboards, billboards, posters, banners, and on book covers. These advertisements can also be found in school hallways, the gymnasium, football field, cafeteria, food carts, quad, classroom, and locker rooms, and on school buses. Also common are electronic advertisements on the public announcement system or on classroom television broadcasts such as Channel One. Channel One

is a for-profit enterprise that provides electronic equipment to schools in exchange for schools showing students a daily 12-minute news program that includes two minutes of commercials. Corporations also give away free product samples to promote and encourage consumption of their products.

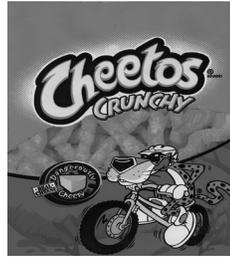


Indirect marketing: This includes corporate-sponsored curricula and contests in which students and schools receive products. Corporations market their product to students by sponsoring contests and by giving away coupons in schools. With Campbell's Labels for Education Program, for example, students' families have to buy about \$2,500 worth of soup to obtain enough labels to get a \$59 heavy-duty stapler.⁸ Round Table Pizza also has a program that rewards elementary students with a coupon for a free personal pizza for reading a certain number of required minutes per day.



Market Research: This includes student surveys or panels, product pilot or taste tests that expose students to a company's product.

A review of 77 corporate-sponsored classroom kits and materials found nearly 80% to be biased or incomplete, "promoting a viewpoint that favors consumption of the sponsor's product or service or a position that favors the company or its economic agenda."⁹



Presence of Advertising on School Campuses

Among schools in a national survey:¹⁰

- 23 percent allow promotion of candy, fast foods, and soft drinks through coupons.
- 14 percent allow promotion of candy, fast foods, and soft drinks through sponsorship of school events.

Among California high schools:¹¹

- Nearly 72 percent allow advertising for fast food and beverages on campus, while only 13 percent prohibit such advertising.
- The most common fast food or beverage advertisements are on vending machines (48 percent), scoreboards or signs (31 percent), and posters (23 percent).

A recent California study by the Public Health Institute found:¹²

- More than half (60%) of the posters and signage for food and beverage products were for products such as candy, soda, and chips.
- 94% of marketing activities such as coupon distributions or product giveaways were conducted by companies associated with high fat, high sugar foods.
- 93% of school events were supported by companies selling unhealthy foods such as candy, fast food, and soda.
- 71% of the logos displayed on equipment were for sweetened beverages, and sports drinks.
- 65% of vending machine advertisements were for sweetened beverages, soda, and sports drinks while water accounted for only 21% of all vending advertisements.

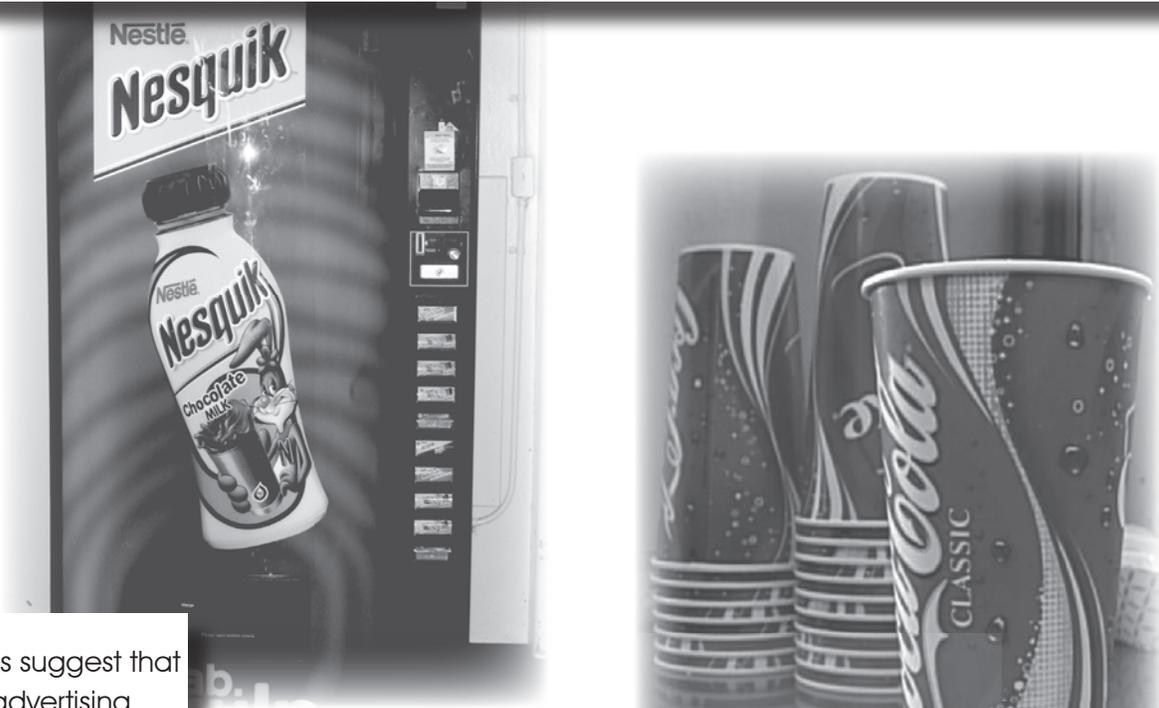


See Fact Sheets:

Food and Beverage Marketing on California High School Campuses Survey

Facts

Growth in new food products targeted to kids has been huge, from 52 in 1994 to nearly 500 introduced last year. Eighty to 97 percent of the food products aimed at children and teenagers are of "poor nutritional quality."⁴



Studies suggest that food advertising and marketing is associated with more favorable attitudes, preferences, and behaviors among children toward the advertised food product.⁵

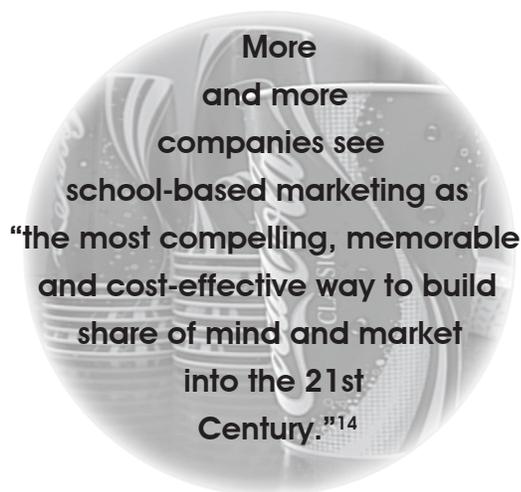
The food industry spends an estimated \$10 billion per year marketing foods and beverages to children and youth in America.⁶



Studies have shown that labeling and signage on school campuses have an effect on students' food selections at school.⁷

III. WHY DO CORPORATIONS WANT TO PROMOTE PRODUCTS IN SCHOOLS?

Food and beverage marketing aimed at children and youth has become more sophisticated, infiltrating the lives of children and youth at school, in stores, through kids clubs, magazines, the Internet, coupons, toy products and organized word-of-mouth campaigns. The most prevalent forms of marketing to children are through television and in-school marketing.¹³



More and more companies see school-based marketing as “the most compelling, memorable and cost-effective way to build share of mind and market into the 21st Century.”¹⁴

Commercial activities in schools have expanded during the last decade as schools struggle with budgets. While businesses seek to appear to work with schools to help solve budget shortfalls, what these businesses are really doing is creating an opportunity to make direct sales and cultivate brand loyalty. Research shows that brand preference begins before purchase behavior does.¹⁵ A 2000 report from the federal government’s General Accounting Office called marketing in schools a “growth industry.”¹⁶ America’s kids represent a large and growing market, with more than 48 million children attending schools nationwide and more than 6.4 million

in California schools. This number continues to increase across all age and ethnic groups, assuring corporate America an expanding market of youngsters well into the 21st Century.¹⁷

Marketers recognize that children and youth are a major market force because of their spending power. Depending on their ages, children and youth have the ability to both spend and influence parental spending of billions of dollars annually.

The purchase influence of children increases as they age:¹⁸

- \$15 billion for 3- to 5-year-olds
- \$45 billion for 6- to 8-year olds;
- \$65 billion for 9- to 11-year-olds;
- \$80 billion for 12- to 14-year-olds; and
- \$90 billion for 15- to 17-year-olds.

FACTS

- While all children and youth are subject to the persuasive influence of advertising, younger children, especially those under 8-years-old, do not understand advertising’s persuasive intent.¹⁹
- Marketers often use older children’s desire to fit in with their peers and a tendency to rebel against authority figures as selling points for their products.²⁰
- Candy and snack food manufacturers, soft drink bottlers, and fast food restaurants are among the companies that market most heavily in schools.²¹

IV. THE DEBATE ON MARKETING UNHEALTHY FOODS IN SCHOOLS

As an advocate for a healthy school environment, you may run into people who argue for the continuation of the status quo—allowing unhealthy food and beverage messages in schools. Below are some examples of arguments for and against marketing unhealthy foods and beverages in schools. These arguments are brief and to the point and can be used as succinct speaking points.

Start with the Organization's Mission

The mission of a corporation is to make money. The mission of a school is to educate students. The mission of commercial junk food advertising is to sell their products. Therefore, commercial messages in schools distract students from their primary focus of learning and have no business in schools.



Argument For:

Children are surrounded by advertisements outside of school. Why does it matter if they are exposed to advertising in school?



Argument Against:

Everywhere children go, they are bombarded with marketing messages designed to make them lifelong consumers. Schools should be a safe haven from marketing influences—especially from junk food and beverage advertising. Studies show that youth are more apt to desire and actually consume an advertised food or beverage.

Commercial Activities Often Promote Unhealthy Products

Effective advertising will cause students to desire things that are not necessarily good for them or may even be harmful to their well-being. Recent reports documenting the increase in child obesity has drawn attention to the types of foods and beverages marketed in schools, specifically "junk food" like soda and fast food.



Argument For:

What's wrong with marketing soda or snacks to students? They need to learn to make choices on their own.



Argument Against:

Students receive mixed messages when they are taught about healthy eating in the classroom and find vending machines, snack bars and student stores on their campus that market and sell junk food and sweetened beverages.

"The purpose of public education is not to provide basic training for a consumer society, but to cultivate citizens capable of thinking critically about the consumer society they inhabit. Infusing the classroom with consumerism is at odds with this civic purpose."

Michael J. Sandel
Professor of Government
Harvard University

Consider the Ethical Issues of Marketing in Schools

Education laws requiring children to attend school make them, in effect, a “captive audience” with little or no ability to shield themselves from school-based marketing. Many students, particularly those in elementary grades, have not yet developed the literacy skills necessary to understand the intent of commercial messages.



Argument For:

Children and young people of today are too sophisticated to believe what advertisements try to sell them.



Argument Against:

If advertising doesn't work, why do companies spend billions of dollars trying to entice children and youth to buy their products? Studies show that youth are more apt to desire and actually consume an advertised food product. And most of the food and beverage marketing that is geared toward kids can be characterized as junk food and sweetened beverages. Younger children, especially those under 8-years-old, do not understand advertising's persuasive intent.

Commercial Activities Supplant Traditional Revenue Sources

Revenues generated from commercial activities supplant rather than supplement traditional revenue streams such as local taxes and state and federal aid. This can absolve local districts and states of their funding obligations.



Argument For:

Addressing commercialism is not a priority. Our school has more pressing problems—like our current financial situation.



Argument Against:

The school-funding crisis is how commercialism has crept into schools. While businesses may appear to be working with schools to help solve their budget crisis, what these businesses are really doing is creating an opportunity to make direct sales and cultivate brand loyalty. If businesses are that bent on “helping,” then let them make a cash donation that has no strings attached requiring logos, product placement, or marketing materials promoting their products on school campuses.

Information adapted from:

Brian, B.O. and Lunden, S. (2005, July/August). *Rethinking School Commercialism: Who or What Comes First?* School Business Affairs 11-14. Available at www.asbointl.org.

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US Department of Agriculture. 2001. *Foods sold in competition with USDA meal programs: A Report to Congress.* Available at: www.fns.usda.gov/cnd/lunch/competitivefoods/report_congress.htm.

CAPTIVE KIDS: SELLING OBESITY AT SCHOOLS

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V. WHAT CAN SCHOOL DISTRICTS DO?

School districts, with support from parents, health authorities, and other stakeholders, can promote healthful diets for children and youth by limiting commercial influences throughout the entire school environment, including through curriculum, commercial sponsorships, activities and events, and school meals and snacks.²²

Given the intensity and pervasiveness of marketing to children and youth, parents alone cannot shield their children from the potentially harmful effects of a billion dollar food industry. Youth are a vulnerable group that should be protected from commercial influences that may adversely impact their health—especially while in the entrusted care of the school.

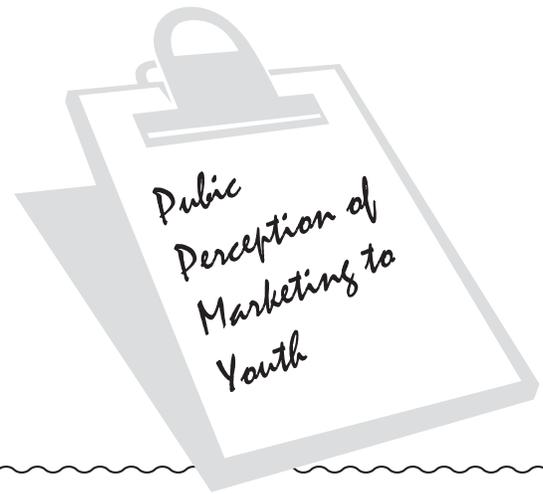
"We have a \$15 billion industry that is undermining parents and targeting children with junk—junk food, junk values...Somebody's got to stand up and say it's wrong!"

–Susan Linn, Ed. D.

Co-Founder

**Campaign for a Commercial-Free
Childhood**

A growing number of national and state organizations are calling for tighter restrictions on advertising unhealthy foods and beverages to children and youth. These organizations include the American Academy of Pediatrics; American Public Health Association; American Psychological Association; Center for Science in the Public Interest; Strategic Alliance for Healthy, Active Environments; and the Center for Public Health Advocacy. Others, such as the California State Parent-Teachers Association, are opposed to commercial advertising in the classroom.



A nationwide survey reported that a majority of the public (78 percent) believe youth are harmed by marketing directed toward them.²³

- Eighty-five percent believe the current practices of the youth marketing industry are unethical.
- Ninety percent oppose marketing of junk food and soda in schools.
- Eight-four percent oppose the placement of advertising on buses and school book covers.
- Eighty-one percent believe schools should be commercial free zones.
- Respondents were overwhelmingly in favor of prohibiting marketing that targets children 8 years and under.

VI. CASE STUDIES

The following are two case studies highlighting positive outcomes for school districts that created policy to restrict advertising in schools.

Creating Commercial-Free Schools

Location: San Francisco, California

Demographics:

- More than 57,100 students enrolled in grades K-12
- 41% of students qualify for free lunches and 13% for reduced-price meals
- Student ethnicity: 32 percent Chinese; 22 percent Latino; 14 percent African American; 11 percent Other Non White; 9 percent White; 6 percent Filipino; 1 percent Japanese; 1 percent Korean; 1 percent American Indian.

Background:

The San Francisco Unified School District Board of Education just said no to promoting commercial products when it passed a “Commercial-Free Schools Act” on June 22, 1999. (See Policies and Tools for a copy of this policy). Coauthored by two board members, the policy set strict limits on in-school advertising.

“Our responsibility is to uphold the educational mission for our students,” said Board of Education Commissioner Jill Wynns. “By promoting commercial products, we give up on that mission.”

Two incidents led to the creation of this policy. The first event involved a group of students who wanted to create a better school environment. A class assignment required students to find ways they could improve their school and community. A group of students developed a six-page resolution calling for a ban on foods produced by companies that are tobacco company subsidiaries like Nabisco, which is owned by R.J. Reynolds. The district had already banned tobacco paraphernalia on clothing that promoted tobacco products. Students presented their resolution to the school board and it was unanimously passed.

The second event, labeled by Wynns as an “outrageous situation,” involved a well-known clothing store. Old Navy approached the district with an offer of donated school buses branded with their logo. The buses and drivers would be provided to the schools on a first-come first-served basis. However, there was one condition: Old Navy requested that students wear Old Navy T-shirts on fieldtrips.

“Marketers don’t see anything wrong with children being used as rolling advertisements,” said Commissioner Wynns. “Where is their responsibility? To the public or their bottom line?”

Challenges and Solutions

The “Commercial-Free Schools Act” was a difficult policy to pass. The former superintendent and other administrators were concerned about the financial repercussions the policy could create. Teachers also were concerned because they were often solicited by companies that offered instructional materials and branded items such as mouse pads for their classrooms. Many of these concerns were addressed by the fact that the policy placed a greater emphasis on in-school marketing, particularly as pouring contracts across the country were being scrutinized. A paradigm shift began to take shape, making it more feasible to gain added support.

“We have an added responsibility to our children, not to Coca-Cola,” said Commissioner Wynns.

Results

The “Commercial-Free Schools Act” was supported by community members, parents, teachers and students. The policy requires that all corporate sponsorships are subject to approval by the Board of Education. It also prohibits the district from purchasing curriculum materials that contain identifiable brand names, or using identifiable brand names in their instruction unless they are found to be necessary to the lesson being taught. Additionally, the policy forbids the district from entering into a district-wide exclusive contract with a soda or snack food company, and it prohibits the district from selling products from a tobacco subsidiary.

“Our students are not forced to wear a logo in order to participate in any activity,” said Commissioner Wynns.

For more information, contact:

Jill Wynns, Board Member
San Francisco Unified School District
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Restricting Commercial Advertising in Schools

Location: Seattle, Washington

Demographics:

- More than 46,200 students enrolled in grades K-12
- 40% of students qualify for free- or reduced-price lunches
- Student ethnicity: 41 percent White; 22 percent African American; 12 percent Chicano/Latino; 6 percent Chinese; 6 percent Other Asian; 5 percent Vietnamese; 4 percent Filipino; 2 percent American Indian; 2 percent Japanese.

Background

After years of grassroots organizing by community advocates, the Seattle School Board approved a policy to significantly restrict commercial advertising on or within district-operated property on a 6-1 vote in November 2001. The policy was weakened at the last minute by an amendment from a school board member to change the policy language from prohibiting commercialism to significantly restricting commercialism.

Despite the last minute change, passage of this policy was a victory for advocates who sought the reversal of a previous policy the district had passed five years earlier that actually sought corporate advertising and sponsorships to underwrite educational costs.

"Gatekeepers need to be alert and pay attention to their institution's mission," said Brita Butler-Wall, Executive Director of the Citizens' Campaign for Commercial-Free Schools, who has been elected to the Seattle School Board. "Advertising to children while they are required by law to attend school is unethical, immoral and exploitative. It is one-sided and is contradictory to the goals of education."

Challenges and Solutions

In 1996, the Seattle School Board passed the "Advertising and Corporate Sponsorship Policy," which actively solicited corporate advertising and sponsorship. At that time, the school district faced a \$35 million budget shortfall. The school board hoped to generate 10 percent of the funds they needed through passage of that policy. The decision to allow more commercial presence in schools was made without any input from the public. As a result, outraged citizens held two public forums that led to the formation of the Citizens' Campaign for Commercial-Free Schools, a non-profit organization with over 1000 members focused on getting advertisements out of Seattle public schools.

After reading the Surgeon General's report on obesity three years later, the Citizens' Campaign for Commercial-Free Schools held a strategic planning session that focused on unhealthy foods in schools. "It was our 'wedge issue' and it worked," said Butler-Wall.

The Citizens' Campaign for Commercial-Free Schools used a variety of strategies to bring about awareness of commercialism in schools. Such strategies included sending emails to school board members and administrators; distributing fliers; and collecting endorsements from community leaders, parents, teachers, citizens, and students who opposed commercialism in schools. Members of the coalition encouraged the community to participate in public demonstrations against the policy that encouraged corporate sponsorships and publicly speak out against that policy at school board

meetings. Coalition members even picketed a Back to School rally because a company sponsored the professional stadium where the rally was held and handed out free logo items to students.

“Our district essentially was out of control,” said Butler-Wall. “Without a policy, marketers...had a way into the schools and had the opportunity to plaster their ads on the walls.”

Results

Coalition members did not stop their work after the district adopted the policy that significantly restricted commercialism in schools. The coalition actively monitored the district to ensure the policy and the district’s accompanying procedures were implemented. Board-adopted procedures for this policy prohibited all but generic facades on all vending machines; required the removal of Channel One from all Seattle schools; and prohibited logos for advertising purposes and advertising on any district property, including playfields.

Fifteen months after the policy was adopted, the Citizens’ Campaign for Commercial-Free Schools conducted a follow-up review and reported back to the school board that many of the schools were not in compliance with the policy.

The coalition also made a mock citizens’ arrest of the Coca-Cola corporation after finding them illegally advertising on school vending machines. Citizen ‘deputies’ with plastic ‘badges’ issued a ‘warrant’ for policy violations and presented posters that schools could use to cover advertising facades since such advertising on school vending machines was prohibited. The citizens’ arrest drew media coverage. Shortly after the media coverage, schools began to comply with the policy.

“It was a seven-year gig altogether,” said Butler-Wall, who, once elected to the School Board, pushed for passage of a strong policy banning junk food and soda contracts. “It takes years for culture to change, but there is a difference now. You can walk through the hallways and see student art instead of ads.”

Today, the Citizens’ Campaign for Commercial-Free Schools is a broad statewide coalition of education, labor, youth and community groups with over 2,400 supporters, including many local elected officials and community leaders. The coalition is currently working in 12 other communities to develop district policies that restrict commercialism in schools. The coalition has also been active in developing statewide legislation requiring all school districts to develop policies regarding food marketing and sales in schools.

For more information, contact:

Brita Butler-Wall, School Board Member
Seattle Public Schools
(206) 729-3202

Citizens’ Campaign for Commercial-Free Schools
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Web: www.scn.org/cccs/

For additional case studies of strategies that have made it easier for youth to eat healthy food and/or be physically active while at school, visit California Project LEAN’s **Bright Ideas** at www.CaliforniaProjectLEAN.org.



VII. ADVERTISING ON SCHOOL CAMPUSES— A LEGAL Q & A

Limiting or banning advertising in schools is a complicated legal issue. The following Q&A has been developed by the Public Health Law Program to assist community-based organizations, local public health departments, schools and other entities in creating groundbreaking policy solutions for critical public health challenges.

Question 1:

Is it possible for a school district in California to limit or totally ban advertising of nonnutritious foods and beverages on school property?

Answer:

Yes, there are two ways a school district can accomplish one or both of these goals. The first way is by contract, which results in a limitation of advertising of nonnutritious foods and beverages on a contract-by-contract basis.

When a school district permits a private vendor to sell food or beverages on school campuses, they usually do so by entering into a commercial contract with that outside vendor. A school district that enters into such a contract has the right to request that, in exchange for the right to sell its products on school property, the vendor agree to certain conditions, including an agreement not to advertise or market nonnutritious foods or beverages on school property.

Question 2:

Are there any special contract terms that should be included in such a contract?

Answer:

Yes, the contract should include language that:

- Prevents the vendor from challenging any portion of the contract, including the advertising restrictions, such as:
 - “In consideration for the benefits provided hereunder, [VENDOR] agrees not to challenge any provision of this contract.”

- Creates a disincentive for the vendor to fund or otherwise encourage a third party challenge to any portion of the contract, including the ban, such as:
 - “If any provision of this contract is held or declared invalid, the entire contract shall be void and the privileges granted hereunder to [VENDOR] shall lapse.
- Incentivizes the vendor to comply with the advertising restriction, such as:
 - “Failure to comply with [advertising restriction] as required under this section shall be deemed to be a material breach of this contract which will subject the contract to immediate termination at the [SCHOOL BOARD’s] sole option”.

Question 3:

What’s the second way a California school district can control advertising of nonnutritious foods and beverages on school property?

Answer:

The school district can approve a district-wide policy that bans advertising of nonnutritious foods and beverages on school property by outside advertisers, regardless of whether they have a contractual relationship with the school. For example, the school board could draft a policy that says: “If the food or beverage cannot be sold on campus because it does not meet SB 12/965 standards (or a more restrictive food and beverage standard adopted by the school board), then the food or beverage cannot be advertised either.”

School board policies are an essential first step because they are a fundamental means by which school boards establish a vision for their schools; maintain an effective organizational structure; ensure uniformity and consistency within the district; and ensure accountability to the public over the school board's actions.

To be legally sound, the policy should include some introductory language about the school board's educational purposes in enacting the advertising restrictions. These purposes, at a minimum, should include:

- Promoting an educational rather than a commercial environment;
- Dissociating itself from speech that could be inconsistent with its educational mission;
- Preventing school facilities from becoming a place where commercial vendors debate the topic of nonnutritious foods or beverages;
- Preventing the commercial exploitation of students; and avoiding the appearance of endorsing any particular food or beverage product.

Also, the resolution should include a requirement that all of the district's contracts be consistent with this policy.

Question 4:

But what about the First Amendment? Wouldn't it be a violation of the advertiser's freedom of speech if a school district banned advertising?

Answer:

No, it wouldn't be a violation of the advertiser's right to free speech. Because public schools have a basic and far-reaching educational mission, the United States Supreme Court has recognized that schools have a considerable amount of power to control speech that takes place on school property.

The First Amendment is most protective of speech that takes place in "public forums." A public forum is a place that, like a public park or city square, has for many years been made available to and used by a wide array of speakers. But in places that the government has not traditionally made available to private speakers, known as "non-public forums," the government has significantly more latitude to regulate speech.

The Court has ruled repeatedly that K-12 schools are non-public forums. As a result, a public school has substantial leeway to regulate—in furtherance of its educational mission—what gets said and by whom on school property.

Question 5:

Are there any limits on a school district's power to regulate advertising on campus?

Answer:

Yes. School districts must adopt policies about advertising on campus that are both reasonable and viewpoint neutral. Generally speaking, a reasonable and viewpoint neutral policy would likely be one that is appropriate to and reflective of the school's educational concerns and also treats all sides of a topic in a similar manner.

For example, assume that all schools in a district only sell foods and beverages allowed under SB 12/965. Within this context, a reasonable and viewpoint neutral advertising policy adopted by that district might say: "As part of our mission to promote the health and welfare of our student body, School District X will not permit third parties to advertise or promote the consumption of beverages containing more than 42 grams of sugar per 20 ounces. Likewise, the District will not permit third parties to advertise or promote against the consumption of beverages containing more than 42 grams of sugar per 20 ounces."

In practical terms, this example means that the Coca-Cola Bottling Company would not be allowed to take out an advertisement imploring students to drink certain Coca-Cola products on campus, while at the same time, the American Diabetes Association would also not be allowed to take out an advertisement imploring students not to drink certain Coca Cola products.

Question 6:

What if the school itself wants to present an educational curriculum or stage a debate at a school assembly about the health risks and benefits associated with eating or drinking certain foods or beverages?

Answer:

The school is free to do so. As mentioned previously, because public schools have a basic and far-reaching educational mission, they are free to frame issues and present educational materials as each school sees fit. Just because the school has limited a third party's access to "speaking" (that is advertising) on campus does not at the same time mean that the school's ability to express its own views on controversial or educational topics is limited.

For example, the same school district that prohibited the American Diabetes Association from taking out an advertisement imploring students not to drink sodas could itself invite a representative from that organization to make an instructive presentation to a health education class in order to discuss the health risks associated with drinking too much soda.

Question 7:

Are there any California state laws that regulate advertising in schools?

Answer:

Yes, California Education Code §35182.5 directly controls how school districts and schools within a district can enter into a

contract that grants advertising rights to a person, business or corporation. The law applies to all advertising in schools, not just to nonnutritious food and beverage advertising, and applies to a contract even if advertising is neither the sole nor main purpose of the contract.

The main points of the law include the requirement that prior to entering into a contract that involves advertising rights, the school board must hold public hearings, adopt a specific policy containing certain legally mandated elements (e.g., ensuring that public funds will be safeguarded, dedicating monies raised to an educational purpose, and engaging in competitive procurement practices), and only enter into contracts that meet certain requirements set forth in the legislation (e.g., no confidentiality clause and no anti-disparagement clause).

Because California Education Code §35182.5 mandates that the public be given advance notice of a school's plan to sell advertising rights on school property and also be given an opportunity to comment on that plan, this particular law gives parents and educators a powerful tool to prevent or influence what and how foods, beverages, and other commercial products are advertised in their schools.

For further technical assistance regarding school vending contracts, you may want to seek advice from the school district's legal counsel or contact Debora Pinkas, Staff Attorney, Public Health Law Program, Public Health Institute, at (510) 302-3353.

This fact sheet is provided for general information only and is not offered or intended as legal advice. Readers should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised.

VIII. ADDRESSING MARKETING OF UNHEALTHY FOODS THROUGH A SCHOOL POLICY

The new requirement under Section 204 of the Federal Child Nutrition and WIC Reauthorization Act of 2004 that school boards establish local wellness policies by the beginning of 2006-07 school year has heightened the urgency of adopting a policy to improve student health.

The legislation places the responsibility of developing a wellness policy at the local level, so that the individual needs of each district can be addressed. According to the requirements for the local wellness policy, school districts must set goals for nutrition education, physical activity, campus food, and other school-based activities designed to promote student wellness. Districts are to have a plan for monitoring policy implementation and to update the policy as needed.

California Project LEAN recommends that districts include guidelines for school-based food and beverage marketing and advertising within their local wellness policy. District-wide policies have the potential to influence the health of all the children in the school district by restricting the marketing of non-nutritious foods and beverages on school property by outside advertisers. It is well documented that advertising influences food choices. If your district has already drafted and/or adopted a local wellness policy, but it does not address marketing of unhealthy foods, then talk with the district local wellness policy committee to determine the

best way to add this component to your policy. One option would be to bring up the issue when the district is reviewing and evaluating policy implementation.

Key Steps to Policy Development

As the ultimate decision-making body within a school district, the school board has the opportunity to impact children's health. School boards adopt policies to ensure that actions taken by district staff support the district vision for student learning. The role and responsibilities of the school board are to ensure the school district is responsive to the values, beliefs, and priorities of the community. School boards fulfill this role by performing five major responsibilities: setting direction; establishing an effective and efficient structure; providing support; ensuring accountability; and providing community leadership as advocates for children. School boards examine problems or opportunities within a district, request information to understand possible solutions, debate potential solutions, adopt policies, and monitor the effectiveness of policy implementation.

With regards to marketing of unhealthy foods and beverages, school boards must determine whether the promotion of a product is inconsistent with the district's educational mission and nutrition education program.

.....
 : Strategies for addressing
 : food and beverage
 : marketing on school
 : campuses are increasingly
 : gaining support. A national
 : poll found that public
 : opinion has increased by
 : 16% from 2001 to 2004,
 : with 73 percent in favor of
 : restricting children's food
 : advertising, up from 57
 : percent in 2001.²⁴
 :
 : The majority (80 percent)
 : of California school board
 : members responding to
 : a survey support limiting
 : and monitoring food and
 : soda advertisements in
 : schools while 57 percent
 : of respondents support
 : an outright ban of such
 : advertisements.²⁵
 :
 :



See Sample Policies and Tools:
 Commercial Activities: School-Based Marketing of Unhealthy Food and Beverages and Policy Implications for Schools.

As a parent, community leader, school staff or administrator, you can help your school board fulfill its roles and responsibilities by working together on the district's local wellness policy. The process for developing and updating a school wellness policy varies from one district to another. The following are key steps to help school districts include guidelines within their wellness policy that address marketing to students on campus:

1 Coordinate with the District Local Wellness Policy Committee

Contact your school district superintendent's office to determine whether a local wellness policy committee has been established. At least one person will be designated to oversee the activities and ensure that schools meet the policy. Anyone can initiate a process to adopt a policy. Districts are required to involve parents, students, school food service staff, school administrators, board representative(s), and members of the public in the development of the policy so your interest should be well received. School board members particularly look to health experts, superintendents, administrators, food service staff, parents and students for advice and information.

2 Educate Committee Members and Partners

The concerns of marketing of unhealthy foods and beverages in schools and its impact on student health are not well understood by most parents, school staff and decision makers. As an advocate for student health, you can help key decision-makers learn about the issue. Offer to make a presentation to the Committee.

 **For help with this process, See Sample Presentation: "The Perils of Marketing Unhealthy Foods in Schools."** Check out the PowerPoint presentation on CPL's website at www.CaliforniaProjectLEAN.org. 

Paint a clear picture of the extent and types of advertising occurring on campus. Use the fact sheets in this tool kit to help educate the work group on the implications of in-school marketing and particularly its impact on student health and achievement. The California School Boards Association and California Project LEAN's guide, *Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide* contain fact sheets on Nutrition and Learning.

3 Conduct an Assessment to Determine Priorities

Work with the local wellness policy committee to complete an assessment of the current marketing on your school campuses.

 **See Policies and Tools:** Marketing Assessment Tool. After you paint a vivid picture of the marketing of unhealthy foods and beverages on campus, the committee can establish key policy priorities to include in the policy.

4 Draft a Policy

Based on your needs assessment, work with the local wellness policy committee to draft your initial policy statements addressing marketing to students. The Institute of Medicine recommends that schools adopt policies and practices that promote the availability and marketing of healthy foods and beverages that support healthful diets. Others recommend that all food and beverage advertising be eliminated because schools should not be in the business of helping commercial marketers reap profits from students. California Project LEAN recommends the following policies for consideration:

1. Eliminate the marketing and advertising of unhealthy foods and beverages at school.

- Assure that all school-based marketing is consistent with or more stringent than state and district level policies eliminating the sale of sweetened beverages and unhealthy foods on school campuses.

- New local wellness policies should include promotional activities that encourage students to consume fruits and vegetables, low-fat and non-fat milk, and water.

2. Eliminate commercial influences that promote unhealthy foods and beverages in district curriculum, classroom materials and on campus.

- Review resources provided by outside sources, including curriculum and Channel One broadcasts used in the classroom, to ensure they do not promote unhealthy foods and beverages.
- Prohibit any district curriculum from including identifiable brand names in the content of the curriculum. Require sponsored programs and materials to undergo the same review procedures and meet the same standards as other curriculum materials.
- Restrict teachers from using identifiable brand names in their instruction unless absolutely necessary to teaching the lesson.

3. Include consumer education as part of the curriculum.

- Adopt school-based curricula that teach youth media literacy skills which teach them to be an informed consumer of the media.

 Some resources and a sample presentation can be found in the **Resource Section** of this tool kit.

4. Set guidelines for business partnerships that restrict marketing and advertising of unhealthy foods and beverages.

- Encourage partnerships with business that do not include product advertising to students. For example, the Milwaukee Conference of Corporate Involvement in Schools developed ethical guidelines on school/business relationships.

 **See Policies and Tools:** Milwaukee Conference on Corporate Involvement Guidelines.

- For school staff with the responsibility of entering into business partnerships, conduct trainings on the perils of marketing unhealthy foods on campus.

 **See the Sample Presentation:** “*The Perils of Marketing Unhealthy Foods and Beverages in Schools*” in this tool kit. Also downloadable from CPL’s website at www.CaliforniaProjectLEAN.org

Writing a policy is not easy. To save time, you may consider adapting another district’s policy to meet the needs of your school district. To assist school districts in developing a policy, the California School Boards Association has developed a Sample Student Wellness Policy. See sample wellness policy at www.csba.org.

The goals you set must be developed with direction from the board. The local school board or superintendent will probably want to know ideas for promoting healthy foods and other ways to raise revenue than by the promotion and fundraising of unhealthy foods.

 **See Fact Sheet:** “*Creative Financing & Fund Fundraising*” in this tool kit.

For examples of success stories about schools that improved the nutritional quality of foods offered, marketed these foods, and maintained revenue, see CPL’s **Bright Ideas**



at www.CaliforniaProjectLEAN.org, and the United State Department of Agriculture and Centers for Disease Control and Prevention’s joint publication **Making it Happen**, at www.fns.usda.gov.

5 Build Awareness and Support

It is important to obtain support from schools and your community in order for a policy to be smoothly adopted and widely implemented. Student involvement is also an important component of building awareness and support. Use the Fact Sheets and Resources in this tool kit to help educate various audiences about your policy initiative addressing marketing to students.

Enlist local media to spread awareness of the district's needs and community leaders to speak out in favor of the proposed solutions. Be prepared for challenges that may arise and ensure all spokespeople for the policy are providing a consistent message. When dealing with the education community, it is helpful to identify the potential benefits the policy can have on student learning and academic achievement. Write a letter to the editor in your local newspaper about why marketing of unhealthy foods in schools needs to be stopped or why you are in support of your district's policy addressing this issue.

For examples of success stories of school districts garnering support of health policy goals, see the case studies in this tool kit, CPL's **Bright Ideas** at www.CaliforniaProjectLEAN.org, and **Making it Happen**, at www.fns.usda.gov

6 Adopt the Policy

The school board must approve the wellness policy before it can be implemented. A public hearing or presentation might be necessary. Try to become a part of the team that educates the board on the problems with marketing unhealthy foods and beverages. The district superintendent's office or local wellness policy committee lead can describe the usual process and advise you on how matters are brought before the board. School board members appreciate short research-based handouts. Use the Fact Sheets in this tool kit to help present a persuasive and concise case in

support of mitigating commercial influences on students in the district. Share your assessment and planning results. Team members will have a better understanding of board procedures if they have attended board meetings prior to presenting the policy proposal. It is wise to invite and involve others that support the issue to attend the board meeting to voice their support and/or make a presentation on behalf of the proposed policy.

 **See the Sample Presentation** "*The Perils of Marketing Unhealthy Foods and Beverages in Schools*" in this tool kit. Also downloadable from CPL's website at www.CaliforniaProjectLEAN.org



7 Implement the Policy

Developing and adopting a sound policy is only the beginning. The adoption of a policy does not automatically mean that it will be implemented. Implementation requires good planning and management skills, the necessary resources, consistent oversight, and widespread buy-in by school staff and the local community. Leadership, commitment, communication and support are the keys to your success.

Implementation can occur all at once or may be phased-in over time. Your team is in the best position to determine which approach is likely to be most effective in your district. The attitude of all school personnel, especially those staff working with food companies to promote food products, including student athletic groups, parent-teacher organizations or booster clubs, can have a significant effect on policy implementation. A positive attitude toward the changes, by everyone in the school community can make a huge difference.

8 Maintain, Measure and Evaluate the Effort

As required by law, each school district must establish a plan for measuring implementation of the local wellness policy. A sustained effort by each district is necessary to assure that new policies are faithfully implemented. Periodically assess how well the policy is being managed and enforced. Reinforce the policy goals with school staff, if necessary. Be prepared to update or amend the policy as the process moves on. Evaluation and feedback are very important in maintaining a wellness policy. It is also important to assess student, parent, teacher, and administration satisfaction with the new policies.

Partially adapted from the United States Department of Agriculture, *The Local Process: How to Create and Implement a Local Wellness Policy*. For further information on developing a local wellness policy, visit www.fns.usda.gov.



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