

1. A copy of the Dietary Guidelines for Americans may be obtained at <http://www.usda.gov/cnpp/DietGd.pdf>. A copy of the Guidelines are also on file in the Director's Office, Division of Food and Nutrition, NJ Department of Agriculture, PO Box 334, Trenton, NJ 08625.

2. A copy of 7 CFR Parts 210, 215, 220 and 245 is on file in the Director's Office, Division of Food and Nutrition, NJ Department of Agriculture, PO Box 334, Trenton, NJ 08625.

(b) Each school district/sponsor shall implement a policy consistent with New Jersey School Nutrition/Wellness Policy, which is set forth in the chapter Appendix. The New Jersey School Nutrition/Wellness Policy is a minimum standard and does not preclude the adoption of a more stringent policy by the school district/sponsor.

New Rule, R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Former N.J.A.C. 2:36-1.7, Nutrition standards, recodified to N.J.A.C. 2:36-1.8.

Amended by R.2009 d.387, effective December 21, 2009.

See: 41 N.J.R. 2749(a), 41 N.J.R. 4699(a).

Section was "Local school nutrition policy". In the introductory paragraph of (a), deleted the first and last sentences and substituted "local policies" for "this local policy"; and in (b), substituted "Each" for "By September 2007, each" and "New Jersey" for "Model" following "The", deleted "Department of Agriculture's Model" following the first occurrence of "New Jersey", and inserted "/Wellness" following "Nutrition" twice.

### 2:36-1.8 Nutrition standards

(a) Nutrition standards established by the Department for meals served under the National School Lunch, School Breakfast, and After School Snack Programs or as mandated by N.J.S.A. 18A:33-4 shall be identical to those established in the USDA regulations at 7 CFR § 210.10 and Part 220.8, respectively. These Federal regulations and all subsequent amendments are adopted herein by reference. These standards are published in the Department's Nutrition Standards for School Nutrition Programs available through the New Jersey Department of Agriculture, Division of Food and Nutrition, PO Box 334, Trenton, New Jersey 08625-0334.

(b) Nutrition standards for all other food and beverage items shall comply with the Competitive Food Policy as referenced in N.J.A.C. 2:36-1.11.

Amended by R.1992 d.202, effective May 4, 1992.

See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Adopted by reference USDA Nutritional Standards for School Nutrition Programs and recodified from N.J.A.C. 6:79-1.7.

Amended by R.2004 d.289, effective August 2, 2004.

See: 36 N.J.R. 1915(a), 36 N.J.R. 3523(b).

Rewrote the section.

Recodified from N.J.A.C. 2:36-1.7 and amended by R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Designated former paragraph as (a) and added (b). Former N.J.A.C. 2:36-1.8, Review and evaluation, recodified to N.J.A.C. 2:36-1.9.

### 2:36-1.9 Review and evaluation

(a) Each sponsor's implementation of the Free and Reduced Price Policy and the New Jersey School Nutrition/Wellness Policy shall be reviewed and evaluated by the Division on a continuing basis.

(b) Federal and State child nutrition program funds may be withheld and/or fiscal action taken against sponsors (see 7 CFR 210.19(c), 215.12(a), 220.14(a) and 245.10) found not to be in compliance with applicable Federal regulations (7 CFR Parts 210, 215, 220 and 245) and the New Jersey School Nutrition/Wellness Policy.

(c) Sponsors shall not alter or amend standards set forth in the Free and Reduced Price Policy or the New Jersey School Nutrition/Wellness Policy without prior written approval by the Division.

R.1974 d.198, effective July 19, 1974.

See: 6 N.J.R. 302(e).

Amended by R.1992 d.202, effective May 4, 1992.

See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Added references to Federal regulations and recodified from N.J.A.C. 6:79-1.8.

Amended by R.2004 d.289, effective August 2, 2004.

See: 36 N.J.R. 1915(a), 36 N.J.R. 3523(b).

Substituted references to Free and Reduced Price Policy for references to policy and references to Division for references to Bureau throughout; in (b), inserted "and 245.10" following "220.14(a)"; in (c), inserted "written" preceding "approval by".

Recodified from N.J.A.C. 2:36-1.8 and amended by R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Inserted references to the Department's Model School Nutrition Policy throughout. Former N.J.A.C. 2:36-1.9, Maximum charge, recodified to N.J.A.C. 2:36-1.10.

Amended by R.2009 d.387, effective December 21, 2009.

See: 41 N.J.R. 2749(a), 41 N.J.R. 4699(a).

Inserted "/Wellness" following "Nutrition" throughout; in (a), substituted "New Jersey" for "Model"; in (b) and (c), substituted "New Jersey" for "Department's Model"; and in (b), deleted "\$" preceding "210.19(c)".

### 2:36-1.10 Maximum charge

(a) The Division shall annually establish the maximum per meal and milk charge pursuant to 7 CFR §§ 210.2, 220.2 and 215.8(c); however, sponsors may appeal to the Division to increase such maximum per meal or milk charges.

1. The maximum milk charge shall be established based on the rate of reimbursement from the USDA per ½ pint of milk, consideration of the annual average Statewide student price/charge for milk and the average cost of a ½ pint of milk as purchased from the dairy.

2. The maximum meal charge shall be established based on the rate of reimbursement from the USDA for a free meal minus the rate of reimbursement from the USDA for a paid meal, and consideration of the annual average statewide student price/charge for a paid meal in the elementary, middle and secondary grades.

3. Adult meal prices shall be established to cover all costs associated with the production and service of the adult meal, including the market value of commodities allocated.

Amended by R.1983 d.71, effective March 21, 1983.  
See: 14 N.J.R. 1248(b), 15 N.J.R. 440(a).

Deleted old (a) concerning sponsors establishing milk prices.  
Amended by R.1992 d.202, effective May 4, 1992.  
See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Added new (a)1 and 2 and new (b) specifying how maximum charges are established and recodified from N.J.A.C. 6:79-1.9.  
Amended by R.2004 d.289, effective August 2, 2004.  
See: 36 N.J.R. 1915(a), 36 N.J.R. 3523(b).

Rewrote the section.  
Recodified from N.J.A.C. 2:36-1.9 by R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Former N.J.A.C. 2:36-1.10, Competitive food policy, recodified to N.J.A.C. 2:36-1.11.

### 2:36-1.11 Competitive food policy

(a) The competitive food policy prohibits certain snack and beverage items by regulations promulgated by the USDA for the administration of child nutrition programs and as contained in the New Jersey School Nutrition/Wellness Policy. The following items shall not be served, sold or given away as a free promotion anywhere on school property at any time before the end of the school day, including items served in the reimbursable After School Snack Program:

1. Foods of minimal nutritional value as defined by USDA regulations;
2. All food and beverage items listing sugar, in any form, as the first ingredient (beginning September 1, 2007); and
3. All forms of candy (beginning September 1, 2007).

(b) Schools shall reduce the purchase of any products containing trans fats (beginning September 1, 2007) (Federal labeling of trans fats on all food products is required by January 1, 2006.)

(c) All income derived from the sale of food and beverage items within a school during the hours when the school lunch and school breakfast programs are in operation must accrue to the accounts of said programs.

(d) As of September 2007, all snack and beverage items, sold or served anywhere on school property during the school day, including items sold in a la carte lines, vending machines, snack bars, school stores and fundraisers or served in the reimbursable After School Snack Program, shall meet the following standards:

1. Based on manufacturers' nutritional data or nutrient facts labels:
  - i. No more than eight grams of total fat per serving, with the exception of nuts and seeds;

ii. No more than two grams of saturated fat per serving.

2. All beverages, other than milk containing two percent or less fat, or water, shall not exceed a 12-ounce portion size; whole milk may not exceed an eight-ounce portion;

3. In elementary schools, beverages shall be limited to milk, water or 100 percent fruit or vegetable juices;

4. In middle and high schools, at least 60 percent of all beverages offered, other than milk or water, must be 100 percent fruit or vegetable juice; and

5. In middle and high schools, no more than 40 percent of all ice cream/frozen desserts shall be allowed to exceed the above standards for sugar, fat and saturated fat.

(e) Food and/or beverages served during special school celebrations or during curriculum related activities shall be exempt from this policy with the exception of foods of minimal nutritional value as defined by USDA regulations 7 CFR Part 210.10.

(f) Medical exemption: This policy does not apply to:

1. Medically authorized special needs diets pursuant to 7 CFR Part 210;
2. School nurses using foods of minimal nutritional value (FMNVs) during the course of providing health care to individual students; or
3. Special needs students whose Individualized Education Plan (IEP) indicates their use for behavior modification.

(g) The requirements of (a) through (f) above not only apply to all participating sponsors, both public and non-public, but also to all school districts required to make school lunch available pursuant to N.J.S.A. 18A:33-4 regardless of participation in the National School Lunch Program.

Amended by R.1987 d.524, effective December 21, 1987.

See: 19 N.J.R. 1599(a), 19 N.J.R. 2399(a).

Deleted old text in (a) and added new.

Amended by R.1992 d.202, effective May 4, 1992.

See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Free promotion of extra food items of minimal nutritional value prohibited and recodified from 6:79-1.10.

Recodified from N.J.A.C. 2:36-1.10 and amended by R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Rewrote the section. Former N.J.A.C. 2:36-1.11, Meal accountability, recodified to N.J.A.C. 2:36-1.12.

Amended by R.2009 d.387, effective December 21, 2009.

See: 41 N.J.R. 2749(a), 41 N.J.R. 4699(a).

In the introductory paragraph of (a), substituted "New Jersey" for "Department's Model", and inserted "/Wellness".

### 2:36-1.12 Meal accountability

Sponsors shall count and record daily, at the point of service, the number of meals/snacks or milks served by category (free, reduced price and paid).

As amended by R.1983 d.71, effective March 21, 1983.

See: 14 N.J.R.1248(b), 15 N.J.R. 440(a).

Repealed nonfood assistance.

New Rule, R.1987 d.524, effective December 21, 1987.

See: 19 N.J.R. 1599(a), 19 N.J.R. 2399(a).

Recodified from N.J.A.C. 6:79-1.11 by R.1992 d.202, effective May 4, 1992.

See: 24 N.J.R. 324(a), 24 N.J.R. 1791(c).

Amended by R.2004 d.289, effective August 2, 2004.

See: 36 N.J.R. 1915(a), 36 N.J.R. 3523(b).

Inserted "/snacks" following "number of meals".

Recodified from N.J.A.C. 2:36-1.11 by R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

### 2:36-1.13 Biosecurity for school food service

(a) The Department hereby adopts and incorporates by reference the USDA "A Biosecurity Checklist for School Food Service Programs," March 2004 version, as amended and supplemented, as the State's Biosecurity policy for child nutrition programs.

(b) By September 1, 2006, school districts/sponsors shall implement a local level biosecurity plan consistent with the parameters identified in (a) above.

(c) A copy of the publication in (a) above is available at: <http://schoolmeals.nal.usda.gov/Safety/biosecurity.pdf>. A copy is also available at the Division Director's Office, New Jersey Department of Agriculture, Division of Food and Nutrition, PO Box 334, Trenton, New Jersey 08625.

New Rule, R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

## APPENDIX

### New Jersey School Nutrition/Wellness Policy

The Board of Education, or recognized school authority, recognizes that child and adolescent obesity has reached epidemic levels in the United States and that poor diet combined with the lack of physical activity negatively impacts on students' health, and their ability and motivation to learn. The Board is committed to:

- Providing students with healthy and nutritious foods;
- Encouraging the consumption of fresh fruits and vegetables, low fat milk and whole grains;
- Supporting healthy eating through nutrition education;
- Encouraging students to select and consume all components of the school meal; and
- Providing students with the opportunity to engage in daily physical activity.

All reimbursable meals shall meet Federal nutrient standards as required by the U.S. Department of Agriculture Child Nutrition Program regulations. All items served as part

of the After School Snack Program shall meet the standards as outlined within this policy.

The following items may not be served, sold or given out as free promotion anywhere on school property at anytime before the end of the school day:

- Foods of minimal nutritional value (FMNV) as defined by U.S. Department of Agriculture regulations;
- All food and beverage items listing sugar, in any form, as the first ingredient; and
- All forms of candy.

Schools shall reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products is required by January 1, 2006.)

All snack and beverage items sold or served anywhere on school property during the school day, including items sold in a la carte lines, vending machines, snack bars, school stores and fundraisers or served in the reimbursable After School Snack Program, shall meet the following standards:

1) Based on manufacturers nutritional data or nutrient facts labels:

- No more than eight grams of total fat per serving, with the exception of nuts and seeds.
- No more than two grams of saturated fat per serving.

2) All beverages shall not exceed 12 ounces, with the following exceptions:

- Water.
  - Milk containing two percent or less fat.
- 3) Whole milk shall not exceed eight ounces.

In elementary schools:

- 100 percent of all beverages offered shall be milk, water or 100 percent fruit or vegetable juices.

In middle and high schools:

- At least 60 percent of all beverages offered, other than milk and water, shall be 100 percent fruit or vegetable juices.
- No more than 40 percent of all ice cream/frozen desserts shall be allowed to exceed the above standards for sugar, fat, and saturated fat.

Food and beverages served during special school celebrations or during curriculum related activities shall be exempt from this policy, with the exception of foods of minimal nutritional value as defined by USDA regulations.

This policy does not apply to: medically authorized special needs diets pursuant to 7 CFR Part 210; school nurses using

FMNVs during the course of providing health care to individual students; or special needs students whose Individualized Education Plan (IEP) indicates their use for behavior modification.

Adequate time shall be allowed for student meal service and consumption. Schools shall provide a pleasant dining environment. The Board recommends that physical education or recess be scheduled before lunch whenever possible.

This school district's curriculum shall incorporate nutrition education and physical activity consistent with the New Jersey Department of Education Core Curriculum Standards.

The Board of Education is committed to promoting the Nutrition Policy with all food service personnel, teachers, nurses, coaches and other school administrative staff so they have the skills they need to implement this policy and promote healthy eating practices. The Board will work toward expanding awareness about this policy among students, parents, teachers and the community at large.

New Rule, R.2005 d.185, effective June 20, 2005.

See: 36 N.J.R. 5028(a), 37 N.J.R. 2234(b).

Amended by R.2009 d.387, effective December 21, 2009.

See: 41 N.J.R. 2749(a), 41 N.J.R. 4699(a).

Appendix was "Model School Nutrition Policy".