

Legal References

LOCAL WELLNESS/ NUTRITION

QSAC Monitored:

DPR: Governance – 1
 SRO: Governance – 1

Mandated:

P.L. 108-265, The Federal Child Nutrition and WIC Reauthorization Act of 2004, Section 204 requires that, each local education agency (LEA) receiving federal funding for child nutrition programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) must adopt a local school wellness policy. At a minimum the school wellness policy must have the following elements:

1. Goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness;
2. Nutrition guidelines selected by the LEA for all foods available on each school campus during the school day with the objectives of promoting student health and reducing childhood obesity;
3. Assurances that guidelines for reimbursable school meals are not less restrictive than regulations and guidance issued by the U.S Department of Agriculture (USDA) under subsections (a) and (b) of section 10 of the Child Nutrition Act (42 U.S.C. 1779) and sections 9(f)(1) and 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1), 1766(a));
4. Ways of measuring how effectively the school wellness policy is being implemented, including designation of one or more persons at each school with operational responsibility for ensuring that the school is meeting the policy; and
5. Involvement of parents, students, food service professionals and the public, in developing the wellness policy.

N.J.S.A. 18A:33-15 through 19 also known as P.L. 2007, c.45 (S1218), 2/21/07 regulates food and beverage items sold, served, and given away on school property. The standards in this statute are identical to the requirements of N.J.A.C. 2:36-1.7. The authority to promulgate rules and monitor compliance pursuant to the “Administrative Procedure Act” P.L. 1968, c.410 (C 52:14B-1 et seq.) is given to the Secretary of Agriculture.

N.J.A.C. 2:36-1.1 et seq. establishes two separate local school nutrition policy requirements and implementation dates. These requirements apply to public and non-public schools that participate in any of the federally funded child nutrition programs, and for any other non-participating public schools that have 5 percent or more students eligible for free or reduced price meals.

N.J.A.C. 2:36-1.7 directs local districts to adopt a policy that conforms to the Dietary Guidelines for Americans and the USDA nutrition standards for National School Lunch, School Breakfast and/or After School Snack programs as required by 7 C.F.R. Parts 210, 215, 220 and 245. This state code provision regulates the types of food items offered outside the Federal meal requirements, such as a la carte sales, vending machines, school stores and fundraisers. It is further required that, districts participating in federally funded child nutrition programs must have a policy consistent with the NJDOA Model School Nutrition Policy.

N.J.A.C. 2:36-1, Appendix, Model School Nutrition Policy, requires schools to provide adequate time for student meal service and consumption and a “pleasant dining environment”. It recommends a coordination of

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lunch and recess or physical education schedules.

N.J.A.C. 2:36-1.7(f) makes the standards set forth in the regulation a minimum standard and does not preclude the adoption of a more stringent policy by a school district.

Resources:

<http://www.state.nj.us/agriculture/> The New Jersey Department of Agriculture, Model Policy and Question and Answer resource.

Recommendation:

A policy addressing federal and state local wellness and nutrition requirements.

While the school district has the option to enforce stricter rules, the regulations do not apply to foods sold as fundraisers outside of the school day and the school property, nor does it apply to the types of foods that may be allowed to be brought in from the student's home or food that may be available in teachers' lounges.

The NJDOA has also exempted food and/or beverage items served during school celebrations (e.g. pep rallies) and curriculum related activities from the rules, except for foods of minimal nutritional value (FMNV's).

The NJDOA advised that their authority is limited to those food items either provided by the school district for student consumption on school property or made available to students through vending machines, school stores and fundraising activities during the school day.

<u>Legal References:</u>	<u>N.J.S.A. 18A:11-1</u>	General mandatory powers and duties
	<u>N.J.S.A. 18A:18A-4.1</u> (f) and (h)	Use of competitive contracting in lieu of public bidding; boards of education
	<u>N.J.S.A. 18A:18A-5</u>	Exceptions to requirement for advertising
	<u>See particularly:</u>	
	<u>N.J.S.A. 18A:18A-5a(6)</u>	
	<u>N.J.S.A. 18A:18A-6</u>	Standards for purchase of fresh milk; penalties; rules and regulations
	<u>N.J.S.A. 18A:33-3</u> through -5	Cafeterias for pupils
	<u>N.J.S.A. 18A:33-9</u> through -14	Findings, declarations relative to school breakfast programs..
	<u>See particularly:</u>	
	<u>N.J.S.A. 18A:33-10</u>	
	<u>N.J.S.A. 18A:33-15</u> through -19	Improved Nutrition and Activity Act (IMPACT Act)
	<u>N.J.S.A. 18A:54-20</u>	Powers of board (county vocational schools)
	<u>N.J.S.A. 18A:58-7.1</u> through -7.2	School lunch program
	<u>N.J.A.C. 2:36-1.1 et seq.</u>	Child Nutrition Programs
	<u>See particularly:</u>	
	<u>N.J.A.C. 2:36-1.7</u>	Local school nutrition policy
	<u>N.J.A.C. 6A:16-5.1(b)</u>	School safety plans
	<u>N.J.A.C. 6A:23A-16.5</u>	Supplies and equipment
	<u>N.J.A.C. 6A:30-1.1 et seq.</u>	Evaluation of the Performance of School Districts
	<u>N.J.A.C. 6A:32-12.1</u>	Reporting requirements
	<u>N.J.A.C. 6A:32--14.1</u>	Review of mandated programs and services

Sec. 204 at the Federal Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-

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42 <u>U.S.C.</u> 1751 et seq.	Richard B. Russell National School Lunch Act
42 <u>U.S.C.</u> 1771 et seq.	Child Nutrition Act of 1966
7 <u>C.F.R.</u> Part 210	Medically authorized special needs diets
7 <u>C.F.R.</u> Part 210.10	Foods of minimum nutritional value

Possible

<u>Cross References:</u>	*1200	Participation by the public
	*1220	Ad hoc advisory committees
	*3000/3010	Concepts and roles in business and noninstructional operations; goals and objectives
	*3220/3230	State funds; federal funds
	*3450	Money in school buildings
	*3510	Operation and maintenance of plant
	*3542	Food Service
	*3542.31	Free or reduced-price lunches/milk
	*3542.44	Purchasing
	*4222	Noninstructional aides
	*5131	Conduct/discipline
	9123	Appointment of board secretary
	9124	Appointment of business official

*Indicates policy is included in the Critical Policy Reference Manual.

Adopted: September 22, 2014