

CHAPTER 12. STUDENTS AND STUDENT SERVICES

STUDENT RIGHTS AND RESPONSIBILITIES

STUDENT RECORDS

SERVICES TO STUDENTS

§ 12.41. Student services.

- (a) **Each school entity shall establish and maintain a coordinated school health advisory committee also known as a wellness committee to assess, plan, implement, and monitor district and school health policies and programs, including the development of a district wellness policy required by the 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.). The committee shall be composed of members of the community, school representatives, students, parents, district food service employees, school administrators, and school board members.**
- [a] (b) **Each school entity, in collaboration with the coordinated school health advisory council, shall prepare a written plan for the implementation of a coordinated school health plan that addresses strategies for improving student nutrition, health, and physical activity and includes the wellness policy. The plan may be developed with the use of the Centers for Disease Control and Prevention School Health Index. The plan shall include** comprehensive and integrated K-12 program of the student services based on the needs of its students. The plan shall be prepared and revised in accordance with the time frames and procedures described in § § 4.13(a), (b), (d), (e) and (f) (relating to strategic plans). **The plan must include goals and progress measures toward those goals.** Services offered by community agencies in public schools shall be coordinated by and under the general direction of the school entity. The plan must include policies and procedures for emergency care and administration of medication and treatment under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § § 780-101—780-144) and guidelines issued by the Department of Health. The Department of Health guidelines are available from the Division of School Health, Department of Health, P. O. Box 90, Harrisburg, Pennsylvania 17108. A school district that operates a prekindergarten program shall address its prekindergarten program in its strategic plan.

[(b)] **(c)** Though the variety of student services offered will differ from school to school depending upon its size and the needs of its students, the following categories of services shall be provided by each school entity in planning its student services:

(1) Developmental services for students that address their developmental needs throughout their enrollment in school. Developmental services include guidance counseling, psychological services, health services, home and school visitor services and social work services that support students in addressing their academic, behavioral, health, personal and social development issues. When prekindergarten is offered, these services must include nutritional services or referrals. Nutritional services include:

- (i) Federal and State funded school meal programs.
- (ii) Special Supplemental Feeding Program for Women, Infants and Children (WIC).
- (iii) Food Stamp Program.
- (iv) Pennsylvania Fresh Foods Program.
- (v) Local food and nutrition services for children and families.

(2) Diagnostic, intervention and referral services for students who are experiencing problems attaining educational achievement appropriate to their learning potential.

(i) Student services staff use diagnostic services to identify barriers that limit a student's success in school. Intervention services actively engage student services staff in activities planned to reduce or eliminate specific barriers to student success.

(ii) Student services staff may arrange for referrals to other school-based or school-linked professionals or may refer parents and guardians to appropriate community-based services for assistance.

(3) Consultation and coordination services for students who are experiencing chronic problems that require multiple services by teams or specialists.

(i) Consultation services are used by student services staff, in partnership with parents or guardians, to obtain assistance to address barriers and issues that are outside the scope of the student services professional.

(ii) Consultation and coordination services may be used to assist in the diagnosis, intervention or referral of students who face barriers to success.

(iii) Coordination services connect school resources with other available resources to assist students in meeting their educational objectives.

[(c)] **(d)** Student services must:

- (1) Be an integral part of the instructional program at all levels of the school system.
- (2) Provide information to students and parents or guardians about educational opportunities of the school's instructional program and how to access these opportunities.
- (3) Provide career information and assessments so that students and parents or guardians might become aware of the world of work and of a variety of career options available to individual students.
- (4) Provide basic health services outlined in Article XIV of the Public School Code of 1949 (24 P. S. § § 14-1401—14-1423) for students and information to parents or guardians about the health needs of their children.

[(d)] **(e)** When student assessments using individual surveys are administered, parents or guardians shall be informed of the nature and scope of the surveys and of their relationship to the educational program of their child, consistent with section 445 of the General Education Provisions Act (20 U.S.C.A. § 1232h) regarding protection of pupil rights. Parents or guardians, or the student if the student is 18 years of age or older, shall have the right to refuse to participate in the survey by means of procedures established by the school entity.

[(e)] **(f)** Persons delivering student services shall be specifically licensed or certified as required by statute or regulation.

[(f)] **(g)** The Department will provide guidelines and technical assistance to local education agencies in planning student services.

STUDENT NUTRITION

12.61. Purpose. The purpose of this section is to establish nutrition standards for competitive foods and beverages to support student health. As students spend a significant part of their day in school, it is vital that this environment supports the development of a healthy and physically active lifestyle, offer opportunities for students to make healthy and informed selections, and prepare students for academic success. The intent of this regulation is to encourage and enable schools to provide students with nutritious food and beverage choices that will enhance learning and promote lifelong healthy behaviors.

12.62. Definitions.

À la carte item – An individually priced food item provided by the school food service department which may or may not be part of the reimbursable meal.

After-school activities – Activities that occur after the regular school day.

Competitive foods and beverages – All foods and beverages that are sold, served, or given to students in the school environment in competition with reimbursable meals served through the United States Department of Agriculture National School Lunch Program, School Breakfast Program, and After-School Snack Program.

(1) This includes all foods or beverages sold or provided in:

(i) School cafeterias as á la carte items;

(ii) A vending machine located on school property;

(iii) Fundraisers held during school hours;

(iv) School snack bars; and

(v) A store operated by the school, a student association, or other school-sponsored organization.

(2) The term does not apply to any food or beverage item available for sale in connection with a school-sponsored fundraiser or any other school sponsored events held outside the regular school day, including interscholastic athletic events.

(3) The term does not apply to food a student brings from home.

Coordinated School Health Advisory Committee (also known as a wellness committee) – A group formed according to the provisions of Section 204 of Public Law 108-265 (42 U.S.C. 1751 et seq.) to develop wellness policies as required by the Section 204 of Public Law 108-265 (42 U.S.C. 1751 et seq.).

Food of Minimal Nutritional Value (FMNV) – Foods and beverages that are restricted by the United States Department of Agriculture (USDA) (Code of Federal Regulations 7 CFR 210.11 and Appendix B to Part 210 Definition).

Kcal – An abbreviation for Kilocalorie, commonly know as calorie. A unit of measure in the United States for energy obtained from food and beverages. A kilocalorie is equal to 1000 calories.

Nutritionally-equivalent nondairy beverage – A liquid fortified with calcium, protein, vitamins A and D, riboflavin, vitamin B12, magnesium, phosphorous, and potassium to meet the same nutritional value as a cup of milk.

Regular school day – The instructional day, including time for breakfast, lunch and recess. The term does not include school-related activities or events that occur either before or after the instructional day, such as clubs, yearbook, band and choir practice, student government, drama, childcare programs, interscholastic sporting events, school plays, band concerts, or other school-related programs where parents and other adults constitute a significant portion of the audience or are selling beverages and snacks for school-related purposes.

School entity – A local public education provider such as a school district, area vocational-technical school or intermediate unit. The term includes charter schools and cyber charter schools under Article XVII-A of the School Code.

Strategic Plan – A plan that is completed by each school district every six years in accordance with the provisions of 22 PA Code § 4.13.

Trans fat – Food items containing vegetable shortening, margarine, or any kind of partially-hydrogenated vegetable oil unless the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams per serving.

Wellness Policy– A policy required for public schools participating in a nutrition program authorized by 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.)

12.63. General Policies.

(a) School entities shall develop or improve school wellness policies as required by the provisions of Section 204 of Public Law 108-265 and use the wellness committee as a resource for developing, revising, and implementing requirements of Chapter 12.

(b) School entities are encouraged to include the following components in the school wellness policy:

(1) Joint Use Agreements. School entities are encouraged to establish joint use agreements with local government and community agencies to allow use of school facilities to encourage healthy eating outside of school hours as provided in 24 PS 7-706 (parks; playground; etc) and 24 PS 7-775 (Use of school buildings for other purposes; arrangements with city, borough or township).

(2) Pennsylvania-Produced Agricultural Products. To the extent allowed under federal and state law, school entities are encouraged to procure and offer locally grown and raised food items.

(3) School gardens. School entities are encouraged to operate school gardens or farms as appropriate for the purpose of growing fruits and vegetables to be used for educational purposes and where appropriate to be offered to students through the nutrition services meal and snack programs. All such foods must meet appropriate safety standards.

(c) School entities shall include the following provisions in the school wellness policy:

(1) Classroom celebrations and parties.

(i) Food service departments shall offer sample party menus that list foods and beverages that meet the following requirements. The Department of Education will develop a model menu to support food service directors. To ensure the safety of offered foods and beverages, school entities shall encourage parents and teachers to purchase foods and beverages from this menu of items:

A. Nutrition standards as defined in Section 12.64. An exception may be made for one food item that does not meet the standards;

B. Items that contain no less than two grams of fiber per serving;

C. Fresh, frozen, canned or dried fruits and vegetables with no added sugar; and

D. Water, 100% fruit juice, 1% or fat-free milk, or a nutritionally equivalent nondairy beverage.

(ii) Schools are encouraged to combine celebrations that involve food during the school day on a monthly basis.

(iii) Parties and celebrations may not interfere with school lunch and may begin no earlier than 30 minutes after the last meal period of the regular school day with the exception of classroom parties serving a meal in lieu of lunch.

(iv) If the classroom party or celebration is a meal in lieu of lunch, the food will be ordered by the food service director and qualify as a reimbursable meal.

(v) Celebrations and parties involving food that are part of an educational unit or that promote a positive nutrition message are allowed and encouraged.

(2) Food and beverages used as reward, incentive or punishment. Foods and beverages may not be withheld or provided as a reward, incentive or punishment.

(3) Food marketing and advertisement. School entities shall use marketing, pricing, and nutrition education strategies that encourage the selection of foods meeting the standards as defined in Section 12.64 and combinations that result in a National School Lunch Program meal. All food and beverage advertisements and marketing must meet the nutrition standards as defined in Section 12.64. Any advertisements or marketing not meeting these standards are prohibited.

(4) Fundraising. All food fundraising items that are sold during the regular school day must meet the following criteria:

- (i) Comply with the standards under 12.64;
- (ii) Do not contain Foods of Minimal Nutritional Value (FMNV);
- (iii) Be packaged in single servings and labeled with ingredients and nutrition information;
- (iv) Be available no earlier than 30 minutes after the last meal period of the day;
- (v) Be approved by the building principal and the coordinated school health advisory committee and
- (vi) At the discretion of the coordinated school health advisory committee, home-made or home-baked goods may be exempted from the standards under Sections 12.63(c)(4)(i) through 12.63(c)(4)(iii). If home-made or home-baked foods are permitted, the coordinated school health advisory committee shall strongly recommend that they meet the standards as defined in Section 12.64.

(d) Activities involving food that are part of an educational unit or that promote a positive nutrition message, including but not limited to a guest chef or a field trip to a farmers market, are allowed and encouraged.

(e) The wellness committee shall work with parents to encourage meals brought from home to meet the meal standards.

12.64. Nutrition standards and practices for elementary, middle, and high schools during the regular school day.

(a) School entities shall provide adequate time for meal consumption.

(1) The minimum time for student consumption of meals shall be ten minutes for breakfast and 20 minutes for lunch once all students have been served. Activities may not be scheduled during meal service times to distract or limit student participation in the nutrition programs.

(2) If a school entity offers an education schedule that utilizes the meal service period for academic purposes, the child nutrition program must offer an adequate reimbursable meal to students.

(b) School entities shall develop, expand or improve nutrition standards for competitive beverages offered during the regular school day that shall meet the following:

(1) Water.

(i) School entities shall provide plain, potable water throughout the school day, including in the cafeteria, at no cost to students. This

requirement may be met by providing water fountains or portioned water in cups.

(ii) School entities providing water available for sale shall offer it without artificial flavoring, additives, or added sugar. Natural flavoring without any artificial or natural sweeteners is permitted. Carbonated water is permitted.

(2) Juice. School entities shall offer only 100% juice. The maximum size offered must be 10 ounces. Drinks containing 100% juice that are carbonated or diluted with water and no added artificial or natural flavorings or sweeteners may be offered. Fortified juices containing 100% juice may be offered.

(3) Milk. School entities shall offer only 1% or fat-free milk or nutritionally equivalent non-dairy beverages without artificial sweeteners. Chocolate, strawberry, vanilla and other flavorings may be offered. For elementary and middle schools, the maximum size offered must be no more than eight (8) ounces containing less than or equal to 170 calories. For high schools only, the maximum size offered must be no more than ten (10) ounces containing less than or equal to 170 calories.

(4) Other Beverages. At the high school level only, school entities may also offer beverages containing a maximum of 66 calories per eight (8) ounces with a maximum size of twelve (12) ounces. In all other settings, school entities may not offer beverages that do not meet the standards defined in this section.

(5) Caffeine. All beverages must be caffeine free, with the exception of trace amounts of naturally occurring caffeine substances.

(c) School entities shall develop, expand or improve nutrition standards for competitive food offered during the regular school day that meet the following criteria:

(1) Calories. Each item offered must contain less than or equal to 200 calories with the exception of á la carte entrees which may contain calories and portions comparable to the National School Lunch Program entree item.

(2) Fat. Each item offered must meet the following criteria:

- (i) Contain less than or equal to 35% total kcal from fat;
- (ii) Contain less than 10% kcal from saturated fat;
- (iii) Contain less than or equal to 0.5g trans fat; and

(iv) Due to nutrient density, nuts, seeds, and cheese are exempt from fat and saturated fat standards. These items must be served in one (1) ounce serving size only.

(3) Sugar. Each item offered must contain less than 35% of total calories from sugar, with the exception of yogurt and fruits and vegetables containing no added natural and artificial sweeteners. If yogurt is provided, it must contain less than or equal to 30 grams total sugars per eight (8) ounce portion as packaged. If added sugar is identified separately on the label, no more than 25% of calories from added sugar are allowed.

(4) Sodium. Each item served must contain less than 230 mg of sodium per portion as packaged except à la carte entrees which may contain less than or equal to 480 mg of sodium per portion.

(5) Whole grain. One or more whole grain items must be offered daily at all points of purchase, including à la carte entrees. Examples include whole grain pretzels or crackers in vending machines.

(6) Fruits and vegetables. Fruits and/or vegetables (dried, frozen, canned or fresh) must be offered daily at all points of purchase/ selection. Fruits and vegetables should be fresh whenever possible. Canned fruits or vegetables should be packed in natural juice, water or light syrup.

(7) À la carte entrees. Each à la carte entree must meet the following criteria:

- (i) Contain calories and portions comparable to the National School Lunch Program entree item;
- (ii) Contain less than or equal to 35% total kcal from fat;
- (iii) Contain less than 10% kcal from saturated fat;
- (iv) Contain less than or equal to 0.5 g trans fat;
- (v) Contain less than or equal to 35% kcal total sugars. If added sugar is identified separately on the label, then no more than 25% of the calories should be from added sugar; and
- (vi) Contain less than 480 mg of sodium per portion as packaged.

(8) Foods of minimal nutritional value (FMNV). Except for carbonated water and 100% juice diluted with water or carbonated water, school entities may not offer or serve FMNV as defined by USDA.

(d) School entities with vending machines are encouraged to include refrigerated vending to accommodate fruits, vegetables, yogurts and other perishable items.

12.65. Nutrition standards for elementary, middle and high schools after the regular school day.

(a) School entities and the coordinated school health advisory committee shall develop, expand or improve nutrition standards for foods and beverages served after the regular school day that must include healthy options.

12.66. Accountability and Compliance.

(a) School entities shall comply with the standards under Section 12.64 in order to provide students with nutritious food and beverage choices that will enhance learning and promote healthy behaviors that can be maintained throughout life.

(b) School entities shall report on the implementation of nutrition standards in their strategic report

(c) The Department of Education will monitor school compliance and report findings to the General Assembly, State Board of Education, and school entities.

(d) Noncompliance with the rules and standards stipulated in Section 12.64 may result in the following:

- (1) Sanctions that include suspension or recovery of state and federal reimbursements;**
- (2) The removal of vending privileges; and/or**
- (3) The institution of a probationary period requiring an approved corrective action plan.**

(e) When state and federal funds are suspended or recovered due to an event not within the control of food service staff, school entities shall reimburse school food service accounts the total amount suspended or recovered from their general fund.

STUDENT PHYSICAL ACTIVITY

12.81. Purpose.

(a) Students spend a major part of their day in the school environment and it is vital that the school environment supports the development of a healthy and physically active lifestyle, offer opportunities for students to make healthy and informed choices, and prepare students for academic success. This section is established to achieve the following purposes:

- (1) Establish physical activity practices to facilitate the improvement of student health;**

- (2) Increase the amount of moderate to vigorous physical activity of all students during the school day;
- (3) Provide students with the necessary skills and aptitude to develop and engage in an individualized physical activity plan that they can continue to use and adapt throughout life; and
- (4) Ensure provision of both physical education and physical activity. Physical education meets the requirements of 22 Pa Code Chapter 4. There is no requirement for physical activity to be aligned to state standards, be assessed, or be taught by certified teachers with a health and physical education certification.

12.82. Definitions.

Absolute intensity – A specific method to measuring the level of exertion used during physical activity. It is the amount of energy used by the body per minute of activity.

Active commuting – Modes of transportation to and from school that involve physical activity, including walking, biking, skating, and rollerblading.

Adapted physical education – Physical education programs that include guidance on how to appropriately modify physical activities, equipment, and assessments for students with a disability or chronic health condition in ways that provide them with the same instruction and opportunity to develop skills that other students receive.

Highly qualified elementary teacher – An elementary teacher as defined by section 9101(23) of the ESEA (20 U.S.C.A. § 7801(23)), as amended by the NCLB.

Highly qualified middle or secondary teacher – A middle or secondary teacher as defined by section 9101(23) of the ESEA as amended by the NCLB.

Moderate to Vigorous Physical Activity (MVPA) – Moderate activity is physical exertion equivalent in intensity to brisk walking. Vigorous activity is physical exertion that makes a person sweat and breathe hard.

Physical Activity – Physical activity is any bodily movement that works muscles and uses more energy than when an individual is resting. Physical activity generally refers to bodily movement that enhances health and includes activities like walking, running dancing, jumping rope, swimming and yoga. Exertion levels may be measured by in terms of relative intensity and absolute intensity.

Physical activity breaks – Brief opportunities for physical activity provided throughout the day such as during morning or afternoon announcements and integrating physical activity and movement during instruction.

Physical education – A planned, sequential, movement-based program of curricula and instruction that helps students develop the knowledge, attitudes, motor skills, self-management skills, and confidence needed to maintain a physically active life.

Recess – Regularly scheduled periods within the school day for supervised physical activity and play.

Relative Intensity – The level of effort required by a person to do an activity. When using relative intensity people pay attention to how physical activity affects their heart rate and breathing. The talk test is a simple way to measure relative intensity. If an individual is engaged in moderate-intensity activity he or she can talk but not sing during the activity. If an individual is engaged in vigorous-intensity activity, he or she will not be able to say more than a few words without pausing for breath.

12.83. General Policies.

(a) School entities shall develop, expand or improve policies that encourage the following:

(1) Active Commuting. Students and staff shall be encouraged and supported to safely walk or bike to and from school as often as possible. This can include safe pedestrian and bicycle routes, school siting, student transportation, helmet use, wellness policies, and policy evaluation.

(i) School Siting.

A. Policies should encourage the construction of new elementary schools within one mile of the homes of as many of their students as possible.

B. Policies should encourage the construction of new middle and high schools within two miles of the homes of as many of their students as possible.

C. Siting decisions may include a safety assessment of pedestrian and bicycle routes around the school and campus exits to safely separate automobile and bus traffic from students walking and biking.

(ii) Helmet Use. All persons on school grounds riding a bicycle or other pedal powered vehicle should be encouraged to wear a safety helmet that meets the standards of the federal Consumer Product Safety Commission.

(iii) Wellness Policy. Each school entity is encouraged to incorporate active commuting to school in the wellness policy as a means of increasing physical activity levels. Health education and physical education curricula shall include topics of pedestrian and cyclist safety and traffic rules at appropriate grade levels. School entities are encouraged to change any existing policies that ban or discourage walking or bicycling to and from school.

(2) Joint Use Agreements. School entities are encouraged to establish joint use agreements with local government and community agencies to

allow use of school facilities to encourage physical activity and other activities outside of school hours as provided in 24 PS 7-706 (parks; playground; etc) and 24 PS 7-775 (Use of school buildings for other purposes; arrangements with city, borough or township).

12.84. Physical Activity Program for Elementary, Middle, and High Schools.

(a) School districts, with the help of physical educators, shall develop, expand or improve a comprehensive school physical activity program that must include at least 30 minutes of moderate to vigorous physical activity for every child occurring throughout every regular school day. Time spent in interscholastic athletics or physical activity after school may not count toward the physical activity requirement.

(b) This requirement can be achieved through a combination of the following:

- (1) Quality physical education classes;**
- (2) Other physical activities offered throughout the regular school day such as dance, classroom energizers and other curriculum-based physical activity programs; and**
- (3) Recess and physical activity breaks.**
 - (i) Elementary and middle schools shall provide at least 20 minutes per day of scheduled recess that includes moderate to vigorous physical activity.**
 - (ii) For elementary and middle schools, recess may be offered before lunch.**
 - (iii) High schools are encouraged to offer at least a 20-minute physical activity break. Activities and support must encourage moderate to vigorous physical activity.**
 - (iv) More than one scheduled period of physical activity may be provided. The duration of each period must be sufficient to provide a significant health benefit to students.**

(c) The physical activity program must include the following components:

- (1) Every students every year shall be encouraged to achieve an additional 30 minutes of daily physical activity during time spent outside of school. Participation in interscholastic athletics may be used to encourage achievement of the additional 30 minutes of physical activity.**
- (2) Administrators, teachers, and staff may not deny physical activity for disciplinary reasons or to make up lessons;**
- (3) Physical activity must complement and may not be a substitution for the physical education program;**
- (4) Sedentary time must be limited to less than two hours at one time.**

12.85. Physical Education.

- (a) School entities shall provide physical education to every student every year including those involved in interscholastic athletics and students in alternative education programs. Every student every year shall be encouraged to develop an age appropriate individualized plan that increases skill and interest in physical activity and health.**
- (b) School entities shall provide adapted physical education to every student with documented medical conditions and disabilities every year.**
- (c) Elementary schools shall provide 150 minutes of physical education per week.**
- (d) Middle and secondary schools shall provide 225 minutes of physical education per week.**
- (e) Physical education must devote at least 50% of class time to moderate-to-vigorous physical activity either indoors or outdoors weather permitting.**
- (f) The physical education curriculum must meet the following criteria:**
- (1) Be consistent with the National Standards for Physical Education and the Academic Standards for Health, Safety and Physical Education contained in Chapter 4, Annex D;**
 - (2) Maintain student/teacher ratio for physical education class comparable with other classes at all grade levels;**
 - (3) Meet the needs of all students, including those who are not athletically gifted;**
 - (4) Actively teach cooperation and fair play;**
 - (5) Promote participation in physical activity outside of school;**
 - (6) Focus on helping students develop an active adult lifestyle in high school; and**
 - (7) Be taught by highly qualified physical education teachers who have completed accredited physical education teacher education programs and are certified to teach physical education according to 22 Pa Code § 403.49 related to highly qualified elementary, middle, and secondary teachers.**

12.86. Safe and Adequate Facilities.

- (a) School entities shall provide and properly maintain safe and adequate spaces, facilities, equipment, and supplies necessary to achieve the objectives of the physical education program.**
- (b) Safety and hazard assessments of gymnasiums, playgrounds, athletic fields, and sports-related equipment must be conducted as a part of the school strategic**

plan under 22 Pa Code Chapter 4.13. Identified hazards must be repaired before further use by students, staff or community members.

(c) School entities shall report to the Department of Education on safety and hazard assessments as a part of the school strategic plan under 22 Pa Code Chapter 4.13. School entities shall keep written inspection reports on file for ten years.

12.87. Program and Student Assessment.

(a) School entities shall regularly assess all students to measure individual attainment of physical education learning objectives and individual improvement in achieving fitness goals. An individual's specific level of fitness determined by fitness assessments may not be used as a grading tool.

(b) School entities shall establish and oversee the ongoing implementation of a plan to assess the quality of the physical education program.

(c) The Department of Education will monitor school implementation and effectiveness of the program and include recommendations for improvement to the State Board of Education school principal and school wellness committee.