



To: Angela Olige
Chief Administrator for Food and Nutrition
Texas Department of Agriculture
P.O. Box 12847
Austin, TX 78711

Comments on Amendment to 4 TAC §26.1, and Repeal of Chapter 26, Subchapter A, §§26.2, §26.10, and §26.11

Schools are one of the key environments where our state can work to defeat childhood obesity. Texas schools reach more children than any other program or event. Schools influence Texas children for 180 days every year, and they represent an incredible opportunity to inform children about the importance of health, nutrition, activity, and provide children with a wholesome environment. In addition, research tells us that nutrition and physical activity have a major impact on academic achievement.¹ Fit, nourished children perform better, miss less school, have fewer behavioral challenges, and are more likely to grow-up to be healthy, working adults.^{2,3,4} School meals also play a critical role in helping children learn how to lead healthy lifestyles.

Parents believe healthy school meals are important and want them for their kids. A survey by the Pew Charitable Trusts found that three-quarters of parents favor strong nutrition standards for school meals (72%). Most parents are concerned with the state of children's health (80%) and childhood obesity (74%).⁵

The proposed changes to the Texas Public School Nutrition Policy (TPSNP) do not improve the nutrition of foods served to students during the school day and are counter to research-based practices that promote healthy eating. In fact, these changes could lead campuses to regress to some of the same unhealthy practices that fueled the child obesity epidemic through the 1980s and 1990s.

New USDA Smart Snacks In Schools (Smart Snacks) rules outline ways schools participating in the National School Lunch Program (NSLP) must serve healthier fare outside the cafeteria during the school day, and we fully support Texas taking advantage of this opportunity to improve nutrition in Texas schools. There are however, some key components to a strong nutrition policy that will be lost if the TPSNP rules in Chapter 26, Subchapter A, are repealed. For this reason, the Partnership for a Healthy Texas, a statewide coalition of over 50 member organizations working to prevent obesity in Texas, respectfully request that existing policies - time and place restrictions on the sale of competitive foods, restrictions on diet and caffeinated soda in high-school, and the ban on deep fat fryers - remain intact.

The nutritional needs of children are the same throughout the state. State nutrition standards ensure that all students throughout the state have equal access to healthy foods, and help to prevent and address health disparities. Local schools decide which foods to include on their menus. Many food service directors have successfully incorporated regional and ethnic foods into their menus while ensuring that healthy guidelines are met.

We support the issuance of the Smart Snacks rules as an opportunity to build upon the groundbreaking and progressive work already existing in Texas to improve the school environment, rather than diminishing progress already made.

Importance of Time and Place Restrictions on Competitive Food (§26.11)

Currently, if there is no local policy in place, TPSNP limits all competitive foods, beverages and snacks (including fundraiser items) to specific times in the day depending on the grade level.⁶ There is no limit to sales after the school day. By repealing §26.11, and deferring to the new Smart Snacks rules, there will be no time and place restrictions on any foods and beverages that comply with the USDA standards, regardless of who sells them. Although the new USDA rules do improve the nutritional content of snack items, they are still just that - a snack and we do not want to encourage students to eat snacks in place of a well-balanced meal. The current policy allows districts to develop their own policy but also ensures that if they do not, there is a policy in place to protect and promote healthy meals.

Recommendation: USDA allows states to have stronger standards than their rules, so we respectfully request that TDA retain the rule (§26.11) that limits the sale of competitive foods, beverages and snacks to specific times in the day depending on the grade level, unless the district chooses to develop their own. Texas has a long tradition of implementing a stronger nutrition policy than what is required by USDA, and we think limits on the sale of competitive foods, beverages, and snacks to specific times in the day is a critical component to our state's efforts that should not be reversed.

Rationale: Texas has the 15th-highest adult obesity rate in the United States and the 10th-highest obesity rate for children.⁷ A study by The University of Texas School of Public Health found that 42% of Texas fourth-graders are overweight or obese, and so are nearly as many eighth and eleventh-graders (40% and 35%, respectively).⁸ The previous school nutrition efforts in Texas have helped to halt obesity increases among 4th graders, but repealing this rule could reverse this trend.

Schools are critical partners to help reverse the obesity epidemic. Ample evidence suggests schools efforts in this area could also play a role in improving educational outcomes. Multiple studies, including Texas's own FitnessGram reports, have shown a correlation between health and academics, with fit, nourished children performing better, missing less school, having fewer behavioral challenges, and experiencing better odds of growing up to be healthy adults.⁹ Having a strong school nutrition policy is an integral part of these efforts.

Importance of Healthy Beverages in School (§26.10)

Current directives in Texas ensure that diet & caffeinated sodas are not sold in elementary, middle, or high school. If the Texas rule (§26.10) is completely repealed, USDA rules will allow for the sale of diet & caffeinated drinks in Texas high schools. Many in the medical community have expressed concerns about there being no restrictions on the caffeine available in these sodas and the impact that change could have on adolescent health. In addition, diet sodas frequently displace the consumption of healthy beverages, like water and milk. For these reasons, Texas adopted stricter guidelines with the support of parents and the medical community. To repeal this provision would result in a significantly less healthy environment for Texas students and be in opposition to the policies that Texas stakeholders helped enact.

Additionally, this would not only be a reversal of current policy, but would send the wrong message to students about what constitutes a healthy beverage. Currently, elementary and middle school children are growing up with a better understanding of the importance of healthy beverages, and we need to continue to support that philosophy through their high school years to ensure they have the best information available on how to make healthy, nutritious choices.

Recommendation: We respectfully request maintaining the existing rule (§26.10) restricting diet & caffeinated sodas in Texas high schools. If the rules are reversed and diet & caffeinated sodas are sold in Texas high schools, we strongly recommend that caffeine limits be set on all allowable beverages.

Rationale: Texas schools should model a healthy environment, which does not include the unlimited sale of beverages that are unhealthy. In addition, excessive caffeine intake can have adverse effects on adolescent health including jitteriness and nervousness, upset stomach, headaches, difficulty concentrating, difficulty sleeping, increased heart rate, and increased blood pressure.¹⁰ For these reasons, Texas has already taken steps to limit consumption of these beverages in schools and this progress should not be lost.

Importance of a Deep Fat Fryer Ban in School (§26.2)

In order to receive federal reimbursement for the National School Lunch Program (NSLP), participating schools are required to offer lunches and breakfasts within age-appropriate caloric ranges and that supply, on average over the school week, less than 10 percent of total calories from saturated fat—this is consistent with the USDA Dietary Guidelines. While use of deep fat fryers would not be in violation of federal guidelines, it would be difficult for schools to create meals with a deep fat fryer that adhere to these NSLP requirements. Therefore, lifting Texas's decade-old ban on deep fat fryer use sends school nutrition professionals a mixed message: the deep fat fryer ban is lifted, but if you use the deep fat fryer to prepare meals, your campus may end up in violation of NSLP requirements. This exposes school districts to potential forfeiture of federal funds, if a violation of NSLP requirements were discovered in an audit; the state currently receives over \$1.3 billion in NSLP reimbursements.

Recommendations: We respectfully request maintaining the existing rule (§26.2) prohibiting the use of deep fat fryers in school food preparation.

Rationale: Repealing the ban on deep fat fryers sends a mixed message to school nutrition professionals. Texas has worked hard to reformulate menus and cooking practices to make meals healthier while still appealing to kids' palates. Lifting the ban on deep fat fryers could lead some districts to return to this unhealthy cooking practice, creating meals that may exceed the allowable fat content in the NSLP guidelines.

¹ Centers for Disease Control & Prevention. Health and Academics: http://www.cdc.gov/healthyyouth/health_and_academics/

² Centers for Disease Control and Prevention. The Association Between School-based Physical Activity, Including Physical Education, and Academic Performance. Atlanta, GA: U.S. Department of Health and Human Services; 2010.

³ Castelli, Darla M., et al. "Physical fitness and academic achievement in third- and fifth-grade students." *Journal of Sport and Exercise Psychology* 29.2 (2007): 239.

⁴ MacLellan D, Taylor J, Wood K. Food intake and academic performance among adolescents. *Canadian Journal of Dietetic Practice and Research* 2008;69(3):141-144.

⁵ Hart Research Associates. *Nationwide Polling Regarding Parents' Views of School Meal and Smart Snacks Standards*. Pew Charitable Trusts; Washington, DC: 2014: <http://bit.ly/1EuiVZA>.

⁶ TDA: Sales through vending machines and school stores, or non-exempt fundraisers held on the school campus are required to meet the nutrition standards set for all competitive foods

⁷ Trust for America's Health and Robert Wood Johnson Foundation. The State of Obesity 2014 [PDF]. Washington, D.C.: 2014. <http://stateofobesity.org/states/tx/>

⁸ Results from the 2009 - 2011 School Physical Activity and Nutrition (SPAN) Survey. UT School of Public Health, Houston. https://sph.uth.edu/research/centers/dell/resources/Child-Obesity-in-Texas_SPAN-2009-2011.pdf

⁹ Van Dusen DP, Kelder SH, Kohl HW III, Ranjit N, Perry CL. Associations of physical fitness and academic performance among schoolchildren. *J Sch Health*. 2011;8(12):733-740.

¹⁰ How Caffeine Affects Kids: http://kidshealth.org/parent/growth/feeding/child_caffeine.html