

WEST VIRGINIA
SECRETARY OF STATE

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #5

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2004 OCT 18 A 9 30

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: W.Va. Constitution, Article XII, §2 and W.Va. Code §18-2-5

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §§ 29A-3B-1, et seq.; W.Va. Board of Education
v. Hechler, 180 W.Va. 451; 376 S.E.2d 839 (1988).

AMENDMENT TO AN EXISTING RULE: YES X NO _____

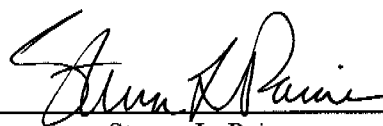
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 86

TITLE OF RULE BEING AMENDED: Standards for School Nutrition (4321.1)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS November 17, 2004.



Steven L. Paine

Deputy State Superintendent of Schools

EXECUTIVE SUMMARY
WEST VIRGINIA DEPARTMENT OF EDUCATION

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2004 OCT 18 A 9 31

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Policy Number and Title: Policy 4321.1
Standards for School Nutrition

Background:

A December 2003 report to the West Virginia Board of Education titled *Food and Beverages Sold in Schools* recommended steps to encourage healthful food choices in schools. This report was developed by the broadly representative State Nutrition Advisory Council in carrying out its responsibility to apprise the State Board of current research findings and potential implications for program development, as prescribed in this policy (§126-86-11). Citing the increasing prevalence of childhood obesity and related negative trends in children's eating and physical activity, this report recommended strengthening standards for foods sold to students and called for actions to promote healthful food choices. Proposed revisions incorporate the report's recommendations to increase the availability and promotion of nutritious food and beverage choices. These recommendations were initiated by the Council and are endorsed by twenty statewide professional organizations.

Proposals:

Revisions to Policy 4321.1 are being recommended to strengthen current standards as follows: (a) require that high schools selling soft drinks during the school day make equally accessible specified nutritious beverages (§4.6.2); (b) limit times elementary schools may sell snacks to students (§4.6.4); and (c) recommend that, wherever and whenever foods are sold on school premises, nutritious choices be available (§4.7). In addition, revisions cite required compliance with State Board Policy 8200 (§126-202-1), *Purchasing Procedures for Local Education Agencies*, as it pertains to contracting. Definitions for "elementary schools" (§3.10) and "school premises" (§3.11) are added.

Impact:

Proposed revisions will positively impact students' health and learning by improving nutrient intake, and lowering the risks of obesity and nutrition related diseases, and by modeling practices consistent with health education standards. Limiting times that snacks may be sold by elementary schools may increase student participation in school lunch and breakfast. However, such time restrictions may decrease general fund revenues of elementary schools currently selling snacks during morning hours. Since other proposed revisions only increase options and do not limit currently allowable foods, no decrease in food sales and revenues is anticipated. Implementation of proposed actions will require training and/or guidance delivered by the West Virginia Department of Education to county and school personnel.

Response to Comments:

Ten comments were received during the comment period. Two provided general support for the policy. Seven comments opposed time restrictions on snacks sold to elementary students. Since all elementary schools make available breakfast and lunch, and current policy permits nutritious snacks to be provided, these comments were not accepted. Three comments resulted in revisions to improve clarity and accuracy.

126CSR86

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**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

2004 OCT 18 A 9:31

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 86
STANDARDS FOR SCHOOL NUTRITION (4321.1)**

§126-86-1. General.

1.1. Scope - This legislative rule establishes nutrition standards for foods served and/or sold to students in schools during the school day. The procedures relate both to nutritional standards of school meals and additional foods and beverages sold or served to students. Further, this rule includes recommendations pertaining to all foods offered or sold on school premises.

1.2. Authority - W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-5.

1.3. Filing Date. - . October 18, 2004.

1.4. Effective Date. - . November 17, 2004.

1.5. Repeal of Former Rules - None - This is a revision of the rules filed in 1982 and revised in 1992, 1994, 1997 and 2004.

§126-86-2. Purpose.

2.1. Good nutrition enhances learning and the quality of life. This plan reflects an integrated approach to ensuring a school environment that promotes optimal nutrition for students. Successful dietary changes must occur gradually. The intent of the policy is to enable schools to provide students with nutritious food and beverage choices while implementing changes progressively.

§126-86-3. Operational Definitions, Food Sales and Service.

3.1. School day is defined as the time between the arrival of the first child at school and the end of the last scheduled instructional period.

3.2. Candy is defined as any food that, as served in its finished form, contains, by weight, 40 percent or more sugar (in crystalline form or in solution as syrup, both monosaccharides and disaccharides) and/or other sweetening agents, or any food product commonly referred to as "candy".

3.3. For the purposes of this policy "soft drinks" shall mean the same as "bottled soft drinks" as defined in Section 1, Article 19, Chapter 11 of the Code of West Virginia.

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3.4. Chewing gum is defined as a preparation of chicle or other plastic substance sweetened and/or flavored for chewing.

3.5. Flavored ice bar is defined as a frozen confection consisting of water mixed with flavored syrups and/or powders, sugars and/or other sweetening agents, binders, stabilizers and/or emulsifiers.

3.6. Other foods are defined as any food or beverage, other than those served as part of the school meal, including snacks from vending machines, and foods sold during school hours for fund-raising purposes and foods for parties. Other foods do not include those brought to school by individual students for their own consumption.

3.7. Enrollment is defined as "head count".

3.8. Bottled water is defined as "water, bottled drinking water 100% pure natural water containing no additives."

3.9. High school - for the purposes of this rule, "high school" shall be defined as a school with a grade configuration of 9-12, 10-12 or 11-12.

3.10. Elementary school - for purposes of this rule, "elementary school" shall be defined as a school serving any students in grades pre-kindergarten up to and including grade 4.

3.11. School premises is defined as school or county board of education property.

§126-86-4. Nutrition Standards for School Nutrition Programs.

4.1. All foods or beverages made available on school premises during the school day must meet the requirements of this policy.

4.2. County boards of education shall select for each school a USDA approved meal option that meets the Dietary Guidelines or one of two implementation options for lunch: Option A (4.3), based on 1994-95 meal patterns plus nutrient analysis standards; or Option B (4.4), on a West Virginia Department of Education (WVDE) Lunch Meal Pattern standard. The Breakfast Meal Pattern proposes a single implementation option (4.5). After-school programs which provide supplemental meals to children shall comply with standards of the policy. The sale or service of foods containing 40% or more added sugar by weight is prohibited. Any juice or juice product sold or served must contain a minimum of 20% real juice.

4.3. Lunch Implementation Option A*.

4.3.1. School lunches shall meet 1994-95 United States Department of Agriculture (USDA) meal pattern requirements and averaged over a period of one week or one month, provide:

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- a. at least one-third of students' Recommended Daily Allowances (RDAs) for calories, protein, calcium, iron, vitamins A and C;
- b. limit calories from fat to no more than 30% and saturated fat to less than 10%;
- c. limit sodium to no more than 1100 mgs;
- d. at least 6g of naturally occurring dietary fiber; and
- e. offer water.

4.3.2. Require additional foods be provided to pregnant or lactating students so that breakfast and lunch together, or in combination with a snack, provide:

- a. a total of 5 oz. of protein foods, 1 oz. of which shall be 1 oz. cheese, 1 cup yogurt or 8 oz. fluid milk;
- b. 3 servings from the grain group, preferably from whole grains;
- c. 1 1/4 cups from the fruit and vegetable group, and
- d. 16 fl. oz. from milk group.

4.3.3. In these additional foods, the following option shall be allowed:

- a. 1 cup of fruit in place of one serving of the grain group once a week.

4.3.4. *The option to combine nutrient analysis of breakfast and lunch programs is allowable provided that such analysis is proportionate to the levels of participation in the two programs and in accordance with USDA guidance.

4. 4. Lunch Implementation Option B ***.

COMPONENT	Grades K-3	Grades 4-12
FRUIT OR VEGETABLE** <ul style="list-style-type: none"> offer fresh produce whenever possible 	1 cup (at least 1/4 cup fresh 5 times/week)	1 1/4 cup (at least 1/4 cup fresh 5 times/week)
MEAT/MEAT ALTERNATE <ul style="list-style-type: none"> emphasize lean and lower sodium choices serve dried beans, dried peas or lentils at least once/week 	1 1/2 oz. (at least 1/2 cup dried beans, dried peas or lentils/week)	2 oz. (at least 1/2 cup dried beans, dried peas or lentils/week)
BREAD/BREAD ALTERNATE** <ul style="list-style-type: none"> emphasize whole grain products 	1.5 day and 10/week (at least 5 servings/week contain at least 33% whole grain or 5g whole grain per 1 oz.)	1.5 day and 12/week**** (at least 5 servings/week contain at least 33% whole grain or 5g whole grain per 1 oz.)
MILK <ul style="list-style-type: none"> offer lower fat choices 	8 fl. oz. offer only milk with 2% or less butterfat*	8 fl. oz. offer only milk with 2% or less butterfat*
WATER <ul style="list-style-type: none"> encourage adequate water consumption 	offer water	offer water

* Requires prior approval from USDA.

** Snack Option may be chosen (see 7.1).

*** Require additional foods for pregnant and lactating students as specified in "Lunch Implementation Option A".

**** When 12 servings of bread are served per week, a total of two of the bread servings, but not more than one per day, may be grain-based desserts.

4.5. Breakfast Implementation Option **.

COMPONENT	Grades K-12
MILK <ul style="list-style-type: none"> • offer lower fat choices 	8 fl. oz. <ul style="list-style-type: none"> • offer only milk with 2% or less butterfat*
FRUIT/VEGETABLE <ul style="list-style-type: none"> • offer daily a fruit, juice or vegetable that is a good source of vitamin C 	1/2 cup
MAY CHOOSE ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS OR TWO SERVINGS FROM ONE	
BREAD/BREAD ALTERNATE <ul style="list-style-type: none"> • offer whole grain varieties often 	1 or 2 servings
MEAT/MEAT ALTERNATE <ul style="list-style-type: none"> • encourage low-fat and low-sodium choices 	1 serving recommended

* Requires prior approval from USDA.

** Require additional foods for pregnant and lactating students as specific in "Lunch Implementation Option A".

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4.6. Nutrition Standards for Other Foods Sold or Served During the School Day.

4.6.1. Develop or expand food choices and meal service options to improve acceptability and accessibility of school meals and nutritious snacks.

4.6.2. High schools selling soft drinks during the school day must sell and make equally accessible water and 100% fruit or vegetable juice. Wherever and whenever soft drinks are sold, schools should also make available for sale reduced or lower fat milk.

4.6.3. Require that all "other foods" available during the school day reflect the Dietary Guidelines for fat by limiting the number of fat grams to not more than eight per ounce serving, or meet the 1994-95 USDA standard for a lunch component.

4.6.4. Except for foods served in the school nutrition programs, no food shall be sold in elementary schools from the time the first child arrives until 20 minutes after all students are served lunch.

4.6.5. No candy, soft drinks, chewing gum or flavored ice bars will be sold or served during the school day, except that, county boards may permit the sale of soft drinks in county high schools except during breakfast and lunch periods. The sale of such soft drinks shall be in compliance with the rules of the National School Lunch Program and the School Breakfast Program of the West Virginia Board of Education (WVBE) and the nutrition service of the USDA. Soft drink contracts must comply with 126CSR202, WVBE Policy 8200 - Purchasing Procedures for Local Education Agencies. Seventy-five percent of the profits from the sale of soft drinks shall be allocated by majority vote of the faculty senate of each school and twenty-five percent of the profits from the sale of soft drinks shall be allocated to the purchases of necessary supplies by the principal of the school. No foods containing 40% or more sugar by weight will be sold or served. Any juice or juice product sold or served must contain a minimum of 20% real juice.

4.7. Nutrition Recommendations for Other Foods Sold on School Premises.

4.7.1. Wherever and whenever foods are sold or otherwise offered on school premises both during and outside the school day, such foods should include nutritious choices.

4.7.2. Nutritious choices are fruits, vegetables, 100% fruit or vegetable juices, reduced or lower fat milk, cheese, yogurt, grain foods containing part whole grain, nuts and/or seeds.

§126-86-5. A La Carte Sales.

5.1. Only meal components may be sold as a la carte items for breakfast, and only fluid milk, milkshakes and bottled water may be sold as a la carte items for lunch.

§126-86-6. Availability of Drinking Water.

6.1. All student dining facilities shall contain a drinking water dispenser, or water shall be offered with meals for student consumption.

§126-86-7. Adequate Time for Meal Consumption.

7.1. Adequate time shall be allowed for student meal consumption. Minimum time allowance (eating time for each student after being served the meal) for student consumption of meals shall be ten minutes for breakfast and 20 minutes for lunch.

7.1.1. **Snack Options For Meals.** Schools may choose to allow adequate time for consumption of increased volume of food by extending the meal period or by providing a snack under the following stipulations: (Note: Prior USDA approval is required to provide the fruit/vegetable snack option for lunch.)

- a. The snack is offered as a separate item at breakfast or lunch for consumption later.
- b. The snack item may be a single serving of bread/bread alternate, fruit or vegetable.
- c. If the snack option is chosen, school administrators and teachers should support this effort by providing students with the time and opportunity to eat these snacks during the day.
- d. Timing of the snack should be determined by individual school choosing this option.
- e. The price of the meals may not be increased solely as a result of choosing this option. (Note: No federal reimbursements exist for snacks outside the lunch or breakfast meals).
- f. Schools choosing this snack option may elect to sell the same snack foods to students who do not purchase a school meal.

§126-86-8. Compliance/Accountability.

8.1. County boards of education and local school administrators shall provide a nutritionally healthful school environment for students and accountability for all funds from food and beverage sales. Compliance evaluation shall include, but is not limited to:

8.1.1. The Performance Based Accreditation System that includes specified compliance standard(s) and verification procedures.

8.1.2. Monitoring sales and service of "other foods". Sanctions for non-compliance shall include transfer of purchasing authority for food and beverage items from the school to the county level.

§126-86-9. Staffing.

9.1. Each county superintendent shall designate a school nutrition program director. Beginning with assignments made for the 2002-2003 school year, the school nutrition director must hold an Authorization endorsed for School Nutrition Program Director. An individual who is assigned as a school nutrition program director for the 2002-2003 school year shall be issued, upon recommendation from the county superintendent, an Authorization to continue working in this capacity AND shall renew such Authorization annually.

9.1.1. The applicant for initial authorization must provide evidence of satisfying the following:

a. A minimum of a bachelor's degree with a 2.5 overall grade point average (GPA) and at least six semester hours of course work in nutrition, foods, and/or food service management; AND

b. Receive the recommendation of the county superintendent verifying that the applicant is the most qualified candidate for the position.

9.1.2. The authorization shall be valid for one school year and shall expire on June 30.

9.1.3. The applicant for renewal of the Authorization for School Nutrition Program Director must provide evidence of satisfying the following:

a. Completion of 15 clock hours of in-service credit related to Child Nutrition Programs and offered or approved by the WVDE; AND

b. Recommendation of the superintendent in the county in which the applicant is or was employed.

9.2. Since the availability of a full-time school nutrition program director at the county level is desirable for centralizing operations, developing and monitoring compliance with specification for foods, especially entrees, implementing the Dietary Guidelines, local district accountability, and for nutrition education and training, it is recommended that each county assign a full-time school nutrition director.

9.2.1. Suggested staffing:

a. One full-time authorized school nutrition program director;

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b. One assistant school nutrition program director for each county where enrollment exceeds 10,000 students; and

c. Two secretaries or one secretary and one clerk for food service operations at the county level where enrollment exceeds 10,000 students.

9.2.2. Operational Definitions Relative to Staffing.

a. Full-time is defined to mean a minimum of 220 days employment with exclusive nutrition program responsibilities.

§126-86-10. Comprehensive County Plan to Address Health and Nutrition Re-education.

10.1. A comprehensive county plan shall be developed with the purpose of linking nutrition service and curriculum by establishing a wellness environment in schools, providing professional development and establishing an on-going evaluation process.

10.2. Development of the plan shall involve a broad spectrum of the school and community including health care providers, food service personnel, teachers, students and educational administrators.

§126-86-11. Nutrition Advisory Council.

11.1. A broad-based Nutrition Advisory Council shall be established by the WVDE for the purposes of keeping the WVBE apprised of current research findings in nutrition and assessing potential implications of findings for program development and implementation.

§126-86-12. Evaluation Component.

12.1. An evaluation/assessment component shall be established by the WVDE for the purpose of determining the effectiveness of this policy.

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Standards for School Nutrition, Policy 4321.1 FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

COST OF ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

INCOME ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 & GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$0	\$0	\$0	\$0	\$0
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$0	\$0	\$0	\$0	\$0
2. ESTIMATED TOTAL REVENUES	\$0	\$0	\$0	\$0	\$0

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

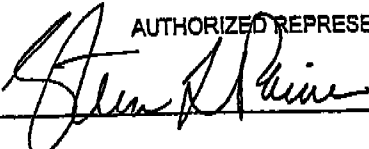
DATE

AGENCY

AUTHORIZED REPRESENTATIVE

6/25/04

West Virginia Department of Education



POLICY 4321.1
Standards for School Nutrition
COMMENT LOG
July 16, 2004 to August 18, 2004

ACTION TYPE
 N = No Response - = Negative
 NA = Not Accepted + = Positive
 A = Accepted 0 = Neutral

\$126-86-1. General

Date Received	Individual/Organization	Comments	Action/Type	Rationale
08/11/04	Susan Bossie President Elect WV Assoc. of Secondary School Principals	Maybe regulate snacks and beverage sales at the elementary level. Middle Schools and high schools already regulate sales but need revenue for unfunded mandates. Soft drinks don't make our students overweight! Physical Exercise should be added to the nutrition guidelines. Our students are latchkey kids, couch potatoes and spend too much time on the computers and watching T.V.	NA/0	Comments do not relate to proposed revisions and/or exceed scope of policy.
08/16/04	Joyce Abercrombie Vice President of School Programs, Dairy Council Mid East	I applaud WVDE for having such comprehensive standards, particularly: 1) for the requirement for the county nutrition program director, and 2) for establishing a NAC. WV is far ahead of the game.	N/+	
08/16/04	Vanessa Miles Team Liaison WV Action For Healthy Kids (Dairy Council Mid East) and Kathy Loretta Team Chair WV Action For Healthy Kids (Harrison County Schools)	We are very supportive of the expansion of the policy to govern <u>all</u> foods offered or sold on school premises. Schools need to model healthful behaviors and support a total school environment that encourages every aspect of a student's well being. The citizens of WV are becoming increasingly aware of the important role good nutrition plays in the health of their children and in the connection between good nutrition and its link to learning.	N/+	
08/17/04	Larry Swann President West Virginia Soft Drink Association	This letter comes to you in response to Policy 4321.1 Standards for School Nutrition. The soft drink industry applauds your efforts to ensure a wide variety of beverages is available to students in the schools throughout your state. Each of our member companies has a large portfolio of beverages that includes water, juices, juice drinks, sports drinks, teas, as well as traditional soft drinks. We believe that all of these beverage choices play a part in a healthy diet. We are pleased to be able to offer these choices to students in West Virginia. While I understand that your emphasis is on child nutrition, it is unfortunate that your policy regarding beverage and food choices in the school could not also address the even more important issue of including exercise and physical activity in the school day. Perhaps we will have the opportunity to work on this challenge together at some future date.	NA/0	Comments do not relate to proposed revisions and/or exceed scope of policy.

Date Received	Individual/Organization	Comments	Action/Type	Rationale
\$126-86-1. General (Continued)				
08/18/04	Ron D. Stollings, MD President WV State Medical Association	<p>On behalf of the 2,800 physicians who are members of the West Virginia State Medical Association, I am writing in support of the revisions to the policy related to Standards for School Nutrition (4321.1).</p> <p>Data derived from the Coronary Artery Risk Detection in Appalachian Communities (CARDIAC) Project (1998-2004) documents an alarmingly high prevalence of overweight children and adolescents in West Virginia. Nearly half (46.4%) of 5th grade students and one-third of kindergarten children are greater than the 85th percentile for body mass index (BMI), approximately double the national average. The 2002 West Virginia Behavioral Risk Factor Survey Report stated that West Virginia ranked 1st in the nation in the prevalence of obesity of 27.6% while 36.1% of the population was overweight. Obesity and overweight individuals are also at higher risk for chronic diseases such as heart disease, diabetes and certain types of cancer.</p> <p>In addition, the economic costs of obesity are tremendous. For example, during the fiscal year 2001, the West Virginia Public Employees Insurance Agency's estimated medical and pharmacy cost associated with obesity-related diseases was more than \$78 million while Medicaid expenditures during the same time was \$134 million.</p> <p>The West Virginia State Medical Association also supports the American Academy of Pediatrics policy statement of soft drinks in school recommending that if there are soft drink machines in school they should mandate the following:</p> <ul style="list-style-type: none"> • Soft drinks should not be sold as part of or in competition with the school lunch program, as stated in regulations from the US Department of Agriculture. • Vending machines should not be placed within the cafeteria space when lunch is sold. Their location in the school should be chosen by the school district, not the vending machine company. • Vending machines with foods of minimal nutritional value, including soft drinks, should be turned off during lunch hours and ideally during school hours. • Vended soft drinks and fruit-flavored drinks should be eliminated in all elementary schools. 	N/+	

Date Received	Individual/Organization	Comments	Action/Type	Rationale
§126-86-1. General (Continued)				
08/18/04	Ron D. Stollings, MD (Continued)	<ul style="list-style-type: none"> • Incentives based on the amount of soft drinks sold per student should not be included as part of exclusive contracts. • Within the contract, the number of machines vending sweetened drinks should be limited. Schools should insist that the alternative beverages such as real fruit and vegetable juices, water, and low-fat white or flavored milk be provided in reference over sweetened drinks in school vending machines. • Schools should preferentially vend drinks that are sugar-free or low in sugar to lessen the risk of obesity and overweight students. 	N/+	
		<p>The issue of obesity and overweight children must not only focus on nutrition. We simply must increase the level of physical activity of each and every West Virginia child. Education regarding energy balance and the amount of activity it takes to burn off the calories consumed must be taught to our children at an early age.</p> <p>We applaud you for your efforts to make healthy food choices available for students in our schools. Please let us know if there is anything else we can do to be of assistance in this worthwhile endeavor.</p>		
08/25/04	Elizabeth A. Runion Third Grade Teacher Rock Branch Elementary School	This policy should be left open for review until such time that schools are back in session and the general public (parents and students) can be made aware of its implications. Revising the policy and providing for review of the policy over the summer months is a disservice to the people it most affects.	N/-	
08/25/04	K. Paxton First Grade Teacher	The students in our school come from low income homes and the only food or meal they are given comes from school. Our school schedule doesn't provide time for snack in the afternoon.	NA/-	Proposed revisions will not impact availability of meals to any students.
08/25/04	Lesley Payne First Grade Teacher	Our school is a school that has a lot of low income students many of our students do not get meals after school and our schedule does not allow for snack in the afternoon. I feel that snacks should be allowed in the morning – but serve them nutritious ones.	NA/-	Schools may offer nutritious morning and/or afternoon snacks as stipulated in §126-86-7.1.1.
§126-86-2. Purpose				

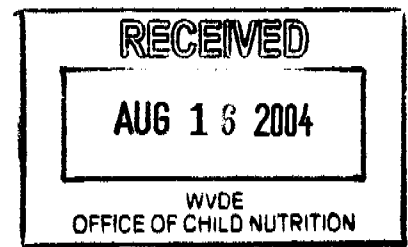
Date Received	Individual/Organization	Comments	Action/Type	Rationale
§126-86-3. Operational Definitions				
08/02/04	Beverly E. Blough, RS, RD, LD Director of Food Service Wood County Schools	3.10 defines elementary school up to grade 4. There is a definition for elementary school, high school but nothing in between. Elementary schools in our county include grades 5 and 6.	NA/o	No policy provisions relate specifically to grade levels other than high schools and elementary schools.
08/11/04	Susan Bossie President Elect WV Assoc. of Secondary School Principals	Middle schools were left out of the operational definition.	NA/o	No policy provisions relate specifically to grade levels other than high schools and elementary schools.
08/16/04	Vanessa Miles Team Liaison WV Action For Healthy Kids (Dairy Council Mid East) and Kathy Loretta Team Chair WV Action For Healthy Kids (Harrison County Schools)	126-86-3. Expanding the definitions to include elementary schools and the school premises eliminates any opportunity for the policy to be misinterpreted.	N/+	
08/25/04	K. Paxton First Grade Teacher	126-86-3. Be very specific.	N/o	
§126-86-4. Nutrition Standards For School Nutrition Programs				
	Beverly E. Blough RS, RD, LD Director of Food Service Wood County Schools	4.3.1. United States Department of Education (USDA) is what is written should that not be United States Department of Agriculture (USDA)? 4.5. Breakfast Implementation Option** Under Meat/Meat Alternate the term low-salt choices is used. Low salt is not the correct terminology. The term should be lower-sodium as was used in Lunch Implementation descriptions. 4.6. Lunch Implementation Option B Term lower sodium choices is vague and no parameters are provided yet the SMI review includes an assessment of school menus for sodium content. The majority of WV school food service directors are lay people with very little formal nutrition education and may not be able to determine what foods constitute "lower sodium".	A/o A/o NA/o	Correction is made. Correction is made. Option B is a food based standard. The specific standard for sodium is stated in Option A §4.5.1c.

Date Received	Individual/Organization	Comments	Action/Type	Rationale
§126-86-4. Nutrition Standards For School Nutrition Programs (Continued)				
08/02/04	Beverly E. Blough, RS, RD, LD (Continued)	4.6.2. This sentence does not indicate or assign responsibility for who must make equally accessible... Who will have the oversight for this regulation? The FSD? If the school cafeteria sells milk during breakfast and lunch will that satisfy this regulation or is the intent to have vending machines with these products? Define "make available".	NA/o	Assignment of such responsibilities is made by county superintendent or designee.
		4.6.4. The phrase from the time the first child arrives – when at school in the morning or in the cafeteria? We have schools selling foods from vending machines right inside their front door which is very near the school cafeteria and children are buying junk food before school starts and taking it into the cafeteria for their breakfast.	N/-	Added the words "for sale" to clarify, as suggested.
		4.6.5. I strongly suggest this section include carbonated beverages containing milk containing less than 100% are not allowed. The distribution of money by faculty senate is not followed anywhere in our county and is not addressed by administration.	NA/o	Such beverages are soft drinks as defined in §126-86-3.
08/11/04	Susan Bossie President Elect WV Assoc. of Secondary School Principals	4.3. will be excluded 4.4. will be excluded 4.6.2. most high schools do this 4.6.7. OK	N/o	Provisions that were contained in 4.3 and 4.4 are found in §126-86-4.6.5. (Revision simply eliminated redundancy.)
08/15/04	Beth Pitzer Principal Scott Teays Elementary Putnam County	In many of our elementary schools, snacks are sold during the morning time so that students will have a snack during morning break. Our students begin entering our building at 7:00 a.m. and are hungry by 9:30 and ready for a snack. Today's busy parents often don't have time to send a snack but it is easier for them to send a few coins to school with their child. It is also easier for our teachers to get a "free" snack from the school supply for a child rather than keep a stock pile of snacks in the classroom (which would invite bugs and rodents).	NA/-	Schools may offer nutritious morning and/or afternoon snacks as stipulated in §126-86-7.1.1.
		Secondly, I have a comment about the change in time for us to be allowed to sell snacks after lunch. The policy states that no snack can be sold until 20 minutes [after] all students have been served lunch. Since we have 3 lunch periods, snacks will not be sold to our students until around 12:35 at the earliest. This means we will be interrupting instructional time for the first and	NA/-	The practice of providing snacks to young children (grades pre-K to 4) immediately following

Date Received	Individual/Organization	Comments	Action/Type	Rationale
§126-86-4. Nutrition Standards For School Nutrition Programs (Continued)				
08/15/04	Beth Pitzer (Continued)	second groups of students (approximately 250 students) in order to sell snacks to them for the afternoon break. It is physically impossible to actually sell them during break due to our size, therefore, we currently sell them at the end of each lunch period	N/-	meals has negative consequences, e.g., students consuming snacks rather than nutritionally balanced meals.
		Please do not place time restrictions of snack sales upon our elementary schools. The decisions you make at your level have often unpredictable ramifications at the school level, particularly since each elementary school varies in size and schedule. For some of our smallest elementary schools, snack sales are the life blood of extra supplies since county and state funding rarely purchase all that we need. While my larger school would survive the loss of snack revenue, we do use the snack stockpile to make sure that no child goes without. I ask that you continue your push towards requiring healthier snacks and leave the judgement of when to serve them to the school level.	N/-	Schools may offer nutritious morning and/or afternoon snacks as stipulated in §126-86-7.1.1.
08/16/04	Joyce Abercrombie Vice President of School Programs, Dairy Council Mid East	How about recommending that the wording from the new Child Nutrition Authorization be used for the standards on milk? And I think they could get rid of the asterisks in the lunch and breakfast matrixes (4.4 and 4.5) since the CNA no longer requires whole milk.	N/A/-	Implementing federal regulations for the 2004 Reauthorization Act have not yet been promulgated.
08/16/04	Vanessa Miles Team Liaison WV Action For Healthy Kids (Dairy Council Mid East) and Kathy Loretta Team Chair WV Action For Healthy Kids (Harrison County Schools)	The standards suggested in this policy are excellent and are in keeping with the philosophy set forth in sections §126-86-1 and §128-86-2. We must lead by example. Research shows that students are receptive to good choices when they are available. For example, bottled water is very popular and easily substituted for sugary soft drinks. Students have numerous opportunities outside the school setting in indulge in foods and beverages that do not provide optimum nutrition. Students need to receive continuous reinforcement and education on nutritious choices. Sound nutrition education practices will ultimately lead to students who are healthier and better able to learn. It is easier to build a child than repair an adult.	N/+	

Date Received	Individual/Organization	Comments	Action/Type	Rationale
\$126-86-4. Nutrition Standards For School Nutrition Programs (Continued)				
08/17/04	Larry Swann President WV Soft Drink Association	<p>Another policy change included in the proposal is the requirement that soft drink contracts comply with 126CSR202. As you know, 126CSR202 is a seventy-five page volume of procedures and policies. These policies seem more applicable to larger purchases than to the purchase of beverages for sale in schools. Our member companies strive to strictly comply with the letter of every law and regulation regarding our business. This policy change is very complex and seems unnecessary. If the intent of this policy change is to require school principals to have the approval of the county superintendent or school board prior to entering into a contract for the sale of soft drinks, it would seem to be a much clearer policy to just state that point clearly in these rules rather than including by reference a complicated seventy-five page policy by reference. This is bureaucracy at its worst.</p> <p>West Virginia Code 18-2-6a provides that county boards of education may permit the sale of soft drinks in high schools in the state. I believe that this code provision is meant to ensure that parents, principals and teachers maintain control over their local schools regarding the matter in which soft drinks are made available for sale in their schools. According to this code section, policies concerning the sale of soft drinks in high schools are not an issue under the authority of the State Board of Education. The County Boards of Education may not agree that the policy changes including the Policy 4321.1 that relate to soft drink sales in high schools are a valid exercise of the State Board's authority.</p> <p>Thank you for the opportunity to comment on these important policy changes. Please do not hesitate to contact me if you would like to discuss these issues in more detail.</p>	NA/-	As with any goods or services procured by school systems, soft drink contracts must comply with all applicable purchasing policies and procedures established by the State Board of Education.
08/25/04	Elizabeth A. Runion Third Grade Teacher Rock Branch Elementary School	<p>I think this portion of the policy will become detrimental to many of our students. Our school begins early (7:40 am). Some of our students come to school without breakfast and do not eat at school. Yet they will buy a snack at school to eat during our morning snack time. This policy (Section 4.6.4) would eliminate this. So we will have students, trying to do their best in school, without breakfast, without snack, and then eating lunch at 11:00 or 11:30 am. How can we provide for these children under this policy?</p>	NA/-	Nutritious affordable school breakfasts are available to all students. Further, schools may offer nutritious morning and/or afternoon snacks as stipulated in \$126-86-7.1.1.
08/25/04	K. Paxton First Grade Teacher	<p>All grades and schools should follow the same guidelines.</p> <p>1. Why do grades K-4 have these guidelines and other grades do not? Those are the children who need the nutrition.</p>	N/-	

Date Received	Individual/Organization	Comments	Action/Type	Rationale
§126-86-4. Nutrition Standards For School Nutrition Programs (Continued)				
08/25/04	Lesley Payne First Grade Teacher	1. So are we encouraged to give snacks – but nutritious snacks? 2. Food cannot be sold but can it be brought from home and eaten anytime during the day? c. Does this recommendation mean Any time of the day?	NA/-	Food brought from home is not addressed in this policy.
§126-86-5. A La Carte Sales				
§126-86-6. Availability Of Drinking Water				
§126-86-7. Adequate Time For Meal Consumption				
§126-86-8. Compliance/Accountability				
§126-86-4.9. Staffing				
08/02/04	Beverly E. Blough RS, RD, LD Director of Food Service Wood County Schools	126-86-9.1.1 a. I recommend adding after the word management; or is a registered dietitian holding a valid license in the state of West Virginia.	NA/o	No change is needed since licensed dietitians exceed specified minimum requirements.
§126-86-4.10. Comprehensive County Plan To Address Health And Nutrition Re-education				
§126-86-4.11. Nutrition Advisory Council				
§126-86-4.12. Evaluation Component				



**Policy 4321.1: Standards for School Nutrition
Comment Response Form**

Please use this form when commenting on proposed revisions to Policy 4321.1. You may attach additional sheets if necessary.

Individual/Organization: West Virginia Action for Healthy Kids Team

Title: Vanessa Miles (Dairy Council Mid East), WV AFHK Team Liaison and
Kathy Loretta (Harrison County Schools), WV AFHK Team Chair

Street Address: P. O. Box 1370 **City/State/Zip:** Clarksburg, WV 26301

Comments/Suggestions

126-86-1. General. We are very supportive of the expansion of the policy to govern all foods offered or sold on school premises. Schools need to model healthful behaviors and support a total school environment that encourages every aspect of a student's well being. The citizens of WV are becoming increasingly aware of the important role good nutrition plays in the health of their children and in the connection between good nutrition and its link to learning.

126-86-3. Operational Definitions, Food Sales and Service. Expanding the definitions to include elementary schools and the school premises eliminates any opportunity for the policy to be misinterpreted.

126-86-4.6. Nutrition Standards for Other Foods Sold or Served during the School Day. The standards suggested in this policy are excellent and are in keeping with the philosophy set forth in sections §126-86-1 and §128-86-2. We must lead by example. Research shows that students are receptive to good choices when they are available. For example, bottled water is very popular and easily substituted for sugary soft drinks. Students have numerous opportunities outside the school setting to indulge in foods and beverages that do not provide optimum nutrition.

126-86-4.7. Nutrition Recommendations for Other Foods Sold on School Premises. Students need to receive continuous reinforcement and education on nutritious choices. Sound nutrition education practices will ultimately lead to students who are healthier and better able to learn. It is easier to build a child than repair an adult.

**Please submit comments by August 18, 2004 to:
Mary Kay Harrison
Executive Director
Office of Child Nutrition**

Tyia Reveal

From: Mary Kay Harrison [mrharris@access.k12.wv.us]
Sent: Tuesday, August 24, 2004 2:10 PM
To: Tyia Reveal A
Subject: FW: Comment on policy 4321.1

Mary Kay Harrison

Executive Director, Office of Child Nutrition
 West Virginia Department of Education
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305
 Telephone 304-558-2709

-----Original Message-----

From: Beth Pitzer [mailto:bpitzer@access.k12.wv.us]
Sent: Sunday, August 15, 2004 3:57 PM
To: mrharris@access.k12.wv.us
Subject: Comment on policy 4321.1

In many of our elementary schools, snacks are sold during the morning time so that students will have a snack during morning break. Our students begin entering our building at 7:00 a.m. and are hungry by 9:30 and ready for a snack. Today's busy parents often don't have time to send a snack but it is easier for them to send a few coins to school with their child. It is also easier for our teachers to get a "free" snack from the school supply for a child rather than keep a stock pile of snacks in the classroom (which would invite bugs and rodents).

If we are no longer allowed to sell snacks in the morning, some students will have to wait until 11:00, 11:30 or 12:00 before they receive anything to eat. I feel it is detrimental to our students to expect them to go without a snack in the mornings and overall, today's parents will not feel it is their obligation to send a snack to school. I feel this policy change will create problems for our children.

Secondly, I have a comment about the change in time for us to be allowed to sell snacks after lunch. The policy states that no snack can be sold until 20 minutes all students have been served lunch. Since we have 3 lunch periods, snacks will not be sold to our students until around 12:35 at the earliest. This means we will be interrupting instructional time for the first and second groups of students (approximately 250 students) in order to sell snacks to them for the afternoon break. It is physically impossible to actually sell them during break due to our size, therefore, we currently sell them at the end of each lunch period.

Please do not place time restrictions of snack sales upon our elementary schools. The decisions you make at your level have often unpredictable ramifications at the school level, particularly since each elementary school varies in size and schedule. For some of our smallest elementary schools, snack sales are the life blood of extra supplies since county and state funding rarely purchase all that we need. While my larger school would survive the loss of snack revenue, we do use the snack stockpile to make sure that no child goes without.

I ask that you continue your push towards requiring healthier snacks and leave the judgment of when to serve them up to the school level.

Sincerely,
 Beth Pitzer, Principal
 Scott Teays Elementary, A West Virginia School of Excellence and West Virginia Exemplary School
 Putnam County
 757-7279

8/24/2004

**Policy 4321.1: Standards for School Nutrition
Comment Response Form**

Please use this form when commenting on proposed revisions to Policy 4321.1. You may attach additional sheets if necessary.

Individual/Organization: Lesley Payne

Title: 1st grade teacher

Street Address: 4616 1st Ave City/State/Zip: Nitro, WV 25143

Comments/Suggestions

126-86-1. **General.** *Our school is a school that has a lot of low income students many of our students do not get meals after school and our schedule does not allow for snack in the afternoon, I feel that snacks should be allowed in the morning - but serve them nutritious ones.*

126-86-3. **Operational Definitions, Food Sales and Service.**

126-86-4.6. **Nutrition Standards for Other Foods Sold or Served during the School Day.**

① *So are we encouraged to give snacks - but nutritious snacks?*

② *Food cannot be sold. but can it be brought from home and eaten any time during the day?*

126-86-4.7. **Nutrition Recommendations for Other Foods Sold on School Premises.**

③ *Does this recommendation mean Any time of the day?*

Please submit comments by August 18, 2004 to:

Mary Kay Harrison
Executive Director
Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

E-mail: mrharris@access.k12.wv.us
FAX: (304) 558-1149

**Policy 4321.1: Standards for School Nutrition
Comment Response Form**

Please use this form when commenting on proposed revisions to Policy 4321.1. You may attach additional sheets if necessary.

Individual/Organization: K. Paxton

Title: 1st grade teacher

Street Address: 907 Marlens Ave. City/State/Zip: Poca WV 25159

Comments/Suggestions

126-86-1. **General.** - The students in our school come from low income homes and the only food or meal they are given comes from school. Our school schedule doesn't provide time for snack in the afternoon.

126-86-3. **Operational Definitions, Food Sales and Service.**
Be very specific

126-86-4.6. **Nutrition Standards for Other Foods Sold or Served during the School Day.**

① Why do grades K-4 have these guidelines & other grades do not? Those are the children who need the nutrition.

126-86-4.7. **Nutrition Recommendations for Other Foods Sold on School Premises.**

All grades & schools should follow the same guidelines

Please submit comments by August 18, 2004 to:

Mary Kay Harrison
Executive Director
Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

E-mail: mrharris@access.k12.wv.us
FAX: (304) 558-1149

Approved to be submitted

**Policy 4321.1: Standards for School Nutrition
Comment Response Form**

Please use this form when commenting on proposed revisions to Policy 4321.1. You may attach additional sheets if necessary.

Individual/Organization: Elizabeth A. Runion

Title: Third Grade teacher, Rock Branch Elementary School

Street Address: 4616 First Ave.

City/State/Zip: Nitro, WV 25143

Comments/Suggestions

126-86-1. General.

This policy should be left open for review until such time that schools are back in session and the general public (parents and students) can be made aware of its implications. Revising the policy and providing for review of the policy over the summer months is a disservice to the people it most affects.

126-86-3. Operational Definitions, Food Sales and Service.

126-86-4.6. Nutrition Standards for Other Foods Sold or Served during the School Day.

I think this portion of the policy will become detrimental to many of our students. Our school begins early (7:40 am). Some of our students come to school without breakfast and do not eat at school. Yet they will buy a snack at school to eat during our morning snack time. This policy (Section 4.6.4) would eliminate this. So we will have students, trying to do their best in school, without breakfast, without snack, and then eating lunch at 11:00 or 11:30 am. How can we provide for these children under this policy?

126-86-4.7. Nutrition Recommendations for Other Foods Sold on School Premises

Please submit comments by August 18, 2004 to:

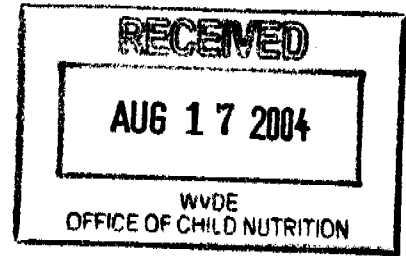
**Mary Kay Harrison
Executive Director
Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330**

**E-mail: mrharris@access.k12.wv.us
FAX: (304) 558-1149**

West Virginia Soft Drink Association

405 Capitol Street • Suite 513 • Charleston, WV 25301

(304) 346-9883 - FAX (304) 346-5743



August 16, 2004

Ms. Mary Kay Harrison
Executive Director, Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Blvd., East
Charleston, West Virginia 25305-0330

Dear Ms. Harrison,

This letter comes to you in response to Policy 4321.1 Standards for School Nutrition. The soft drink industry applauds your efforts to ensure a wide variety of beverages is available to students in the schools throughout your state. Each of our member companies has a large portfolio of beverages that includes water, juices, juice drinks, sports drinks, teas, as well as traditional soft drinks. We believe that all of these beverage choices play a part in a healthy diet. We are pleased to be able to offer these choices to students in West Virginia. While I understand that your emphasis is on child nutrition, it is unfortunate that your policy regarding beverage and food choices in the school could not also address the even more important issue of including exercise and physical activity in the school day. Perhaps we will have the opportunity to work on this challenge together at some future date.

Another policy change included in the proposal is the requirement that soft drink contracts comply with 126CSR202. As you know, 126CSR202 is a seventy-five page volume of procedures and policies. These policies seem more applicable to larger purchases than to the purchase of beverages for sale in schools. Our member companies strive to strictly comply with the letter of every law and regulation regarding our business. This policy change is very complex and seems unnecessary. If the intent of this policy change is to require school principals to have the approval of the county superintendent or school board prior to entering into a contract for the sale of soft drinks, it would seem to be a much clearer policy to just state that point clearly in these rules rather than including by reference a complicated seventy-five page policy by reference. This is bureaucracy at its worst.

West Virginia Code 18-2-6a provides that county boards of education may permit the sale of soft drinks in high schools in this state. I believe that this code provision is meant to ensure that parents, principals and teachers maintain control over their local schools regarding the manner in which soft drinks are made available for sale in their schools. According to this code section, policies concerning the sale of soft drinks in high schools are not an issue under the authority of the State Board of Education. The County Boards of Education may not agree that the policy changes including in Policy 4321.1 that relate to soft drink sales in high schools are a valid exercise of the State Board's authority.

Thank you for the opportunity to comment on these important policy changes. Please do not hesitate to contact me if you would like to discuss these issues in more detail.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Larry Swann".

Larry Swann, President
West Virginia Soft Drink Association

CC: Honorable Mike Ross, Committee Chair
Honorable Virginia Mahan, Committee Chair
Alison Patient, Chair, West Virginia Soft Drink Association

**Policy 4321.1: Standards for School Nutrition
Comment Response Form**

Please use this form when commenting on proposed revisions to Policy 4321.1. You may attach additional sheets if necessary.

Individual/Organization: Beverly E. Blough MS, RD, LD
Title: Director of Food Service, Wood County Schools
Street Address: 1210 13th Street
City/State/Zip: Parkersburg, WV 26101

Comments/Suggestions

126-86-1. General.

126-86-3. Operational Definitions, Food Sales and Service.

3.10 defines elementary school up to grade 4. There is a definition for elementary school, high school but nothing in between.

Elementary schools in our county include grades 5 and 6.

126.86.4.3.1 United States Department of Education (USDA) is what is written should that not be United States Department of Agriculture (USDA) ?

126.86.4.6 Lunch Implementation Option B

Term lower sodium choices is vague and no parameters are provided yet the SMI review includes an assessment of school menus for sodium content. The majority of WV school food service directors are lay people with very little formal nutrition education and may not be able to determine what foods constitute "lower sodium".

126.86.4.5 Breakfast Implementation Option **

Under Meat/Meat Alternate the term low-salt choices is used. Low salt is not the correct terminology. The term should be lower-sodium as was used in Lunch Implementation descriptions.

126-86-4.6. Nutrition Standards for Other Foods Sold or Served during the School Day.

4.6.2 This sentence does not indicate or assign responsibility for who must make equally accessible...

Who will have the oversight for this regulation? The FSD? If the school cafeteria sells milk during breakfast and lunch will that satisfy this regulation or is the intent to have vending machines with these products? Define "make available".

RECEIVED

AUG 11 2004

WVDE
OFFICE OF CHILD NUTRITION

*faked
8-10-04
945*

**Policy 4321.1: Standards for School Nutrition
Comment Response Form**

Please use this form when commenting on proposed revisions to Policy 4321.1. You may attach additional sheets if necessary.

Individual/Organization: Susan Bossie

Title: President Elect West Virginia Assoc of
Secondary School Principals

Street Address: 2 Riverview Circle City/State/Zip: Charleston, WV 25311

Comments/Suggestions

126-86-1. **General.** *maybe regulate snack and beverage sales at the elementary level. Middle schools and high schools already regulate sales but need revenue for unfunded mandate.*

126-86-3. **Operational Definitions, Food Sales and Service.**
Middle schools were left out of the operational definition.

126-86-4.6. **Nutrition Standards for Other Foods Sold or Served during the School Day.**

4.3 will be excluded

4.4 " " "

4.6.2 most high schools do this

126-86-4.7. **Nutrition Recommendations for Other Foods Sold on School Premises.**

ok

Please submit comments by August 18, 2004 to:

Mary Kay Harrison
Executive Director
Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

E-mail: mrharris@access.k12.wv.us
FAX: (304) 558-1149

*Soft drinks
don't make our
students overweight!
Physical Exercise
should be added to
the nutrition guidelines.
Our students are latch key
kids, coach potatoes and
spend too much time
in the computer and
watching T.V.*

Tyia Reveal

From: Mary Kay Harrison [mrharris@access.k12.wv.us]
Sent: Tuesday, August 24, 2004 2:12 PM
To: Tyia Reveal A
Subject: FW: School Nutrition Policy on Public Comment

Mary Kay Harrison

Executive Director, Office of Child Nutrition
West Virginia Department of Education
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
Telephone 304-558-2709

-----Original Message-----

From: Vanessa Miles [mailto:VMiles@drink-milk.com]
Sent: Monday, August 16, 2004 9:43 AM
To: mrharris@access.k12.wv.us
Subject: FW: School Nutrition Policy on Public Comment

Hi Mary Kay

Below are comments from Joyce Abercrombie, Vice President of School Programs, for Dairy Council Mid East.

Thanks,
Vanessa

-----Original Message-----

From: Joyce Abercrombie
Sent: Tuesday, July 27, 2004 2:25 PM
To: Vanessa Miles; June Wedd
Cc: Jenny Hubble; Scott Higgins
Subject: RE: School Nutrition Policy on Public Comment

Thanks for forwarding the revisions to the WV standards, Vanessa. How about recommending that the wording from the new Child Nutrition Authorization be used for the standards on milk? And I think they could get rid of the asterisks in the lunch and breakfast matrixes (4.4 and 4.5) since the CNA no longer requires whole milk.

I applaud WVDE for having such comprehensive standards, particularly:
1)for the requirement for the county nutrition program director, and
2)for establishing a NAC. WV is far ahead of the game.

Joyce

-----Original Message-----

From: Vanessa Miles
Sent: Friday, July 23, 2004 10:17 AM



August 18, 2004

Mary Kay Harrison
Executive Director
Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, WV 25305-0330

Dear Ms. Harrison:

On behalf of the 2,800 physicians who are members of the West Virginia State Medical Association, I am writing in support of the revisions to the policy related to Standards for School Nutrition (4321.1).

Data derived from the Coronary Artery Risk Detection in Appalachian Communities (CARDIAC) Project (1998-2004) documents an alarmingly high prevalence of overweight children and adolescents in West Virginia. Nearly half (46.4%) of 5th grade students and one-third of kindergarten children are greater than the 85th percentile for body mass index (BMI), approximately double the national average. The 2002 West Virginia Behavioral Risk Factor Survey Report stated that West Virginia ranked 1st in the nation in the prevalence of obesity at 27.6% while 36.1% of the population was overweight. Obesity and overweight individuals are also at higher risk for chronic diseases such as heart disease, diabetes and certain types of cancer.

In addition, the economic costs of obesity are tremendous. For example, during the fiscal year 2001, the West Virginia Public Employees Insurance Agency's estimated medical and pharmacy cost associated with obesity-related diseases was more than \$78 million while Medicaid expenditures during the same time was \$134 million.

The West Virginia State Medical Association also supports the American Academy of Pediatrics policy statement of soft drinks in school recommending that if there are soft drink machines in school they should mandate the following:

- Soft drinks should not be sold as part of or in competition with the school lunch program, as stated in regulations from the US Department of Agriculture.
- Vending machines should not be placed within the cafeteria space where lunch is sold. Their location in the school should be chosen by the school district, not the vending machine company.
- Vending machines with foods of minimal nutritional value, including soft drinks, should be turned off during lunch hours and ideally during school hours.
- Vended soft drinks and fruit-flavored drinks should be eliminated in all elementary schools.
- Incentives based on the amount of soft drinks sold per student should not be included as part of exclusive contracts.

West Virginia State Medical Association

4307 MacCorkle Avenue, SE
P. O. Box 4106 • Charleston, West Virginia 25364
Phone: 304-925-0342 • Toll Free: 800-257-4747 • Fax: 304-925-0345

www.wvsma.com

- Within the contract, the number of machines vending sweetened drinks should be limited. Schools should insist that the alternative beverages such as real fruit and vegetable juices, water, and low-fat white or flavored milk be provided in reference over sweetened drinks in school vending machines.
- Schools should preferentially vend drinks that are sugar-free or low in sugar to lessen the risk of obesity and overweight students.

The issue of obesity and overweight children must not only focus on nutrition. We simply must increase the level of physical activity of each and every West Virginia child. Education regarding energy balance and the amount of activity it takes to burn off the calories consumed must be taught to our children at an early age.

We applaud you for your efforts to make healthy food choices available for students in our schools. Please let us know if there is anything else we can do to be of assistance in this worthwhile endeavor.

Best regards,



Ron D. Stollings, MD
President