



Local School Wellness Policy Final Rule

Nutrition Services Division Management Bulletin

Purpose: Policy, Action Required

To: National School Lunch and School Breakfast Program Sponsors

Attention: County and District Superintendents, Chief Business Officials, and Food Service Directors

Number: SNP-20-2016

Date: November 2016

Reference: Title 7, *Code of Federal Regulations*, parts 210 and 220

Subject: Local School Wellness Policy Final Rule as of July 29, 2016

This Management Bulletin (MB) provides information and instructions for local educational agencies (LEA) on the final rule (FR) for local school wellness policy (LSWP) requirements. On July 29, 2016, the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) issued the FR for the federal LSWP implementation under the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) (Title 7, *Code of Federal Regulations* [7 CFR], parts 210 and 220), which became effective on August 29, 2016. The rule is located on the USDA FNS School Meals FR Web page at <http://www.fns.usda.gov/school-meals/fr-072916c>.

Background

The Child Nutrition and Women, Infants, and Children Reauthorization Act of 2004 mandated that all LEAs participating in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) were required to establish an LSWP by School Year (SY) 2006–07. The HHFKA, Public Law 111-296, required significant changes in the child nutrition programs (CNP) to give eligible children access to nutrition benefits, improve children's diets, and reduce childhood obesity as well as to strengthen integrity in CNPs. Section 204 of the HHFKA added Section 9A to the Richard B. Russell National School Lunch Act (Title 47, *United States Code* [U.S.C.], Section 1758[b]) to expand the scope of the LSWP and requires additional stakeholder involvement in the development, implementation, and review of LSWP, and requires periodic assessment and public updates.

Proposed Rule

On February 26, 2014, the FNS issued the LSWP proposed rule. The proposed rule amended the NSLP and SBP regulations to further expand the LSWP, including the requirements for specific and

measurable goals for nutrition promotion and education, and nutrition guidelines and standards for all foods and beverages for sale or available on campus. The proposed rule also established LSWP leadership requirements to ensure that each school complied with the LEA's LSWP. Stakeholder participation in the development and implementation of LSWP, periodic assessment of compliance, and public updates on the progress towards achieving the goals of the LSWP were also included in the proposed rule.

Summary of the Changes in the FR

The LSWP FR requires all LEAs that participate in the NSLP and SBP to meet the expanded LSWP requirements consistent with the requirements set forth in Section 204 of the HHFKA. The FR requires LEAs to establish minimum content requirements for the LSWP, ensure stakeholder participation in the development and updates of policies, and periodically assess and disclose compliance with the LSWP to the public. These regulations are expected to result in LSWP policies that strengthen the ability of an LEA to create a school environment that promotes student health, well-being, and ability to learn. In addition, these regulations will increase transparency for the public with regard to the LSWP and contribute to the integrity of the School Nutrition Programs. Please refer to Attachment 1: LSWP Comparison Chart of the HHFKA versus 2016 FR Requirements as a reference for the changes in the FR.

Administrative Reviews

The USDA requires full compliance with the LSWP FR by June 30, 2017. Therefore, administrative reviews (AR) conducted during SY 2016–17 will evaluate all LSWP requirements set prior to the LSWP FR. The ARs conducted during SY 2017–18 will evaluate all LSWP requirements included in the LSWP FR.

LSWP Leadership

The FR requires LEAs to identify to the public the position or title of the LEA or school official(s) responsible for the LSWP oversight. Methods could include posting the information on the LEA Web page or mailing letters to families. LEAs have discretion designating the responsible person(s) for leadership. The USDA recommends that the contact information, such as phone numbers or e-mails, also be included in the public disclosure, but is not required. LEAs can locate this requirement in 7 *CFR*, Section 210.30(c)(4).

Public Involvement in the LSWP

As defined by the FR, 7 *CFR*, Section 210.30(c)(5), LEAs must allow parents, students, school food authority representatives, teachers of physical education, school health professionals, the school board, school administrators, and members of the general public to participate in the development, implementation, and periodic review and update of the LSWP. LEAs are also encouraged to include Supplemental Nutrition Assistance Program Education (SNAP-Ed) coordinators or educators on the LSWP committee, as appropriate. LEAs, however, have discretion in exactly how they implement this requirement. LEAs must include a plan for involving the required stakeholders in the written LSWP.

Public Notification

The FR retains the requirement that LEAs must notify households on an annual basis of the availability of the LSWP and provide information that would enable interested households to obtain additional details. The FR provides LEAs flexibility to determine the most effective method of providing this notification within their communities. LEAs can locate this requirement in 7 *CFR*, Section 210.30(d)(2).

Nutrition Promotion and Education, Physical Activity, and Other School-based Activities

The FR requires the LEA to include in their LSWP specific and measurable goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. In developing these goals, LEAs must review and consider evidence-based strategies and techniques. At minimum, the LEA is required to review Smarter Lunchrooms Movement tools and strategies. LEAs can locate this requirement in 7 *CFR*, Section 210.30(c)(1).

Nutrition Guidelines for All Foods

The FR clarifies that the LSWP must include nutrition guidelines that are consistent with the federal meal standards and competitive food and beverage requirements for all food and beverage items available on the school campus during the school day. This includes food or beverage items given away or sold. The LEA has discretion in establishing food and beverage standards for items offered but not sold to students on the school campus during the school day including foods and beverages provided at classroom parties, school celebrations, or offered as rewards and incentives. LEAs simply need to have a policy in place that addresses food and beverage items provided in school, but not made available for sale. LEAs can locate this requirement in 7 *CFR*, Section 210.30(c)(2).

Policies for Food and Beverage Marketing

The FR clarifies that school marketing of food and beverage items must meet competitive food and beverage standards. Additionally, the FR clarifies what is and is not subject to policies for food and beverage marketing in schools.

The FR defines marketing as advertising and other promotions in schools. LEAs are required to include marketing policies in their LSWP. The LSWP marketing policies must only allow the marketing of those food and beverage items that meet the smart snack guidelines. LEAs must apply the marketing policies to products on the exterior of vending machines, posters, menu boards, coolers, trash cans, and other food service equipment, as well as cups used for beverage dispensing.

The FR does not require LEAs to immediately replace menu boards, coolers, tray liners, beverage cups, and other food service equipment with depictions of noncompliant products or logos, or remove or replace an existing scoreboard on a sports field or in a gymnasium. However, as LEAs review new contracts and consider replacing durable equipment, decisions should reflect the applicable marketing guidelines established in the LEA LSWP. LEAs can locate this requirement in 7 *CFR*, Section 210.30(c)(3).

Implementation, Assessments, and Updates

The FR requires each LEA to assess compliance with its LSWP within three years of their update and to make this assessment available to the public. The assessment must include, at a minimum, compliance with the LSWP, how the LSWP compares to model LSWPs, and progress made in attaining the goals of the LSWP. The FR removes the requirement for LEAs to annually report progress of LSWPs for each school. However, LEAs are required to annually notify the public about the content of the LSWP and any updates to the policy. LEAs can locate this requirement in 7 *CFR*, Section 210.30(e)(2).

The LEA can use a variety of methods to assess compliance with the LSWP with schools in their jurisdiction and determine progress toward benchmarks, goals, and objectives. Developing an LSWP with measurable objectives, and realistic annual benchmarks will help when it is time to evaluate progress. LEAs can access various resources on the USDA School Nutrition Environment and Wellness Resources Web page at <http://healthymeals.nal.usda.gov/school-wellness-resources>.

Recordkeeping

The FR establishes that records retained by the LEAs must include, at a minimum, the written LSWP, documentation demonstrating compliance with community involvement, documentation of the every three years assessment, and documentation to demonstrate compliance with the public notification requirements. LEAs can locate this requirement in 7 *CFR*, Section 210.30(f).

Documentation demonstrating compliance with community involvement requirements may include a copy of the invitation to participate located on the LEA's Web page. Documentation demonstrating compliance with the every three-year assessment may include a copy of the report regarding the results of the assessment and the date the assessment was conducted. Documentation of compliance with the public notification requirements may include a copy of the LEA's Web page where the LSWP has been posted.

Implementation Timeline

The FR requires LEAs to fully comply with the requirements of the FR by June 30, 2017 including establishing a plan for completing their first every three-year assessment no later than June 30, 2020 (and at least every three years thereafter). The CDE has attached a comparison chart that summarizes the changes made in the FR from the HHFKA, which is located in Attachment 1: LSWP Comparison Chart of the HHFKA versus 2016 FR Requirements. Also attached is a document that lists the recommended action steps for LEAs to complete for SY 2016–17 to meet the requirements for the FR, which is located in Attachment 2: FR for LSWP, Action Steps for SY 2016–17.

Contact Information

If you have any questions regarding this subject, please contact Heather Reed, Nutrition Education Consultant, by phone at 916-323-3581 or by e-mail at hreed@cde.ca.gov.
