

Competitive Foods in Schools

The chart below summarizes the restrictions for the sale of foods and beverages to students in Connecticut schools, based on federal and state requirements and whether the district participates in healthy food certification (HFC) under section 10-215f of the Connecticut General Statutes (CGS). The applicable federal and state requirements are described on pages 2-5.

Summary of Restrictions for Competitive Foods in Connecticut Schools		
Food or Beverage	All Public Schools	HFC Districts
BEVERAGES		
Soda, regular and diet	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Coffee, regular, decaffeinated and iced	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Tea, regular, herbal and iced	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Hot chocolate, cocoa	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Sports drinks	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Energy drinks	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Juice drinks or beverages that are not 100 percent juice , e.g., lemonade, punch drinks, cranberry cocktail	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Waters with added sugars, artificial sweeteners or nonnutritive sweeteners	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Beverages containing only water and juice with added sugars, artificial sweeteners or nonnutritive sweeteners	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Any beverages that do not meet the requirements of CGS section 10-221q	<ul style="list-style-type: none"> Prohibited for sale to students on school premises.* 	Same
Carbonated or aerated waters (e.g., seltzer, sparkling water) that meet the requirements of CGS section 10-221q	<ul style="list-style-type: none"> Can be sold only outside the meal service periods. However, if sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Same
Carbonated or aerated 100 percent juices that meet the requirements of CGS section 10-221q	<ul style="list-style-type: none"> If exempt from the federal “soda water” category, can be sold at any time (see “USDA Exemptions for FMNV” on page 2). If not exempt, can be sold only outside the meal service periods. If sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Same
Carbonated or aerated water and juice beverages containing only water and juice and that meet the requirements of CGS section 10-221q	<ul style="list-style-type: none"> If exempt from the federal “soda water” category, can be sold at any time (see “USDA Exemptions for FMNV” on page 2). If not exempt, can be sold only outside the meal service periods. If sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Same
All beverages that meet the requirements of CGS section 10-221q and are sold in competition with school meals	<ul style="list-style-type: none"> Can be sold at any time. However, if sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Same
FOODS		
Candy, all kinds (including sugarless), e.g., chocolate, hard candy, breath mints	<ul style="list-style-type: none"> Cannot be sold or dispensed to students anywhere on school premises from 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs. 	Prohibited for sale to students on school premises.**
Gum, including sugarless	<ul style="list-style-type: none"> Cannot be sold or dispensed to students anywhere on school premises from 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs. 	Prohibited for sale to students on school premises.**
Water ices (see definition on page 2)	<ul style="list-style-type: none"> Can be sold only outside the meal service periods. However, if sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Prohibited for sale to students on school premises.**
All foods that meet the Connecticut Nutrition Standards and are sold in competition with school meals	<ul style="list-style-type: none"> Can be sold to students at any time. However, if sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Same
All foods that do not meet the Connecticut Nutrition Standards and are sold in competition with school meals	<ul style="list-style-type: none"> Can be sold to students at any time, except for candy, gum and water ices (see restrictions above). However, if sold during the time frame of 30 minutes before up through 30 minutes after any of the U.S. Department of Agriculture Child Nutrition Programs, the income must accrue to the nonprofit food service account. 	Prohibited for sale to students on school premises.**

* Prohibited beverages can be sold to students **only** if the board of education votes to allow exemptions and the beverages are sold at the *location of events that occur after the school day or on the weekend*, provided they are not sold from a vending machine or school store.

** In districts participating in healthy food certification, foods that do not meet the Connecticut Nutrition Standards can be sold to students **only** if the board of education votes to allow exemptions and the foods are sold at the *location of events that occur after the school day or on the weekend*, provided they are not sold from a vending machine or school store.

Competitive Foods in Schools

Connecticut schools must comply with federal and state requirements regarding the sale of competitive foods on school premises. “Competitive foods” refer to any foods or beverages sold or dispensed to children at school other than meals served through the U.S. Department of Agriculture (USDA) school meal programs, such as cafeteria a la carte sales, vending machines, school stores and fundraisers. Competitive foods include the federally defined foods of minimal nutritional value and all other foods and beverages available outside of school meals. Schools can sell or dispense competitive foods only within certain time frames and only if they meet certain criteria.

USDA Federal Competitive Food Services Regulation

The federal competitive food services regulation for the National School Lunch Program (7 CFR Part 210.11) and School Breakfast Program (7 CFR Part 220.12) prohibits the sale of foods of minimal nutritional value (FMNV) during meal periods. The federal FMNV definition is limited to the following four specific categories of foods and beverages:

- **soda water** (any carbonated or aerated beverages, i.e., beverages that are labeled as “aerated” or that bubble and fizz for several minutes after opening);
- **water ices** (any frozen, sweetened water such as “...sicles” and flavored ice with the exception of products that contain fruit, fruit juice, milk, milk ingredients or egg ingredients other than egg whites);
- **chewing gum** (regular and sugarless); and
- **certain candies** (regular and sugarless), including hard candy (e.g., sour balls, candy sticks, lollipops, starlight mints, after-dinner mints, sugar wafers, rock candy, cinnamon candy), jellies and gums (e.g., gum drops, jelly beans, jellied and fruit-flavored slices and “Gummi-bear”-type products), marshmallow candies, fondant, such as candy corn and soft mints, licorice, spun candy and candy coated popcorn).

The federal definition of FMNV does **not** include any other competitive foods or beverages of low nutrient density (e.g., cake, cookies, chips, chocolate and sweetened beverages) except for the four categories listed above. However, state statutes and regulations require further restrictions for all competitive foods including FMNV (see “State Statutes and Regulations” below).

USDA Exemptions for FMNV: Product manufacturers may petition the USDA requesting that, based on a statement of nutrient content, a particular food or beverage be exempt from the FMNV definition under the federal competitive food services regulation. If approved, the company will have a letter from the USDA stating which products are exempted and why. Only the company’s products listed in the letter from the USDA are exempted. The exemption of one product does not mean that similar products or a family of products are exempted.

Foods and beverages that the USDA has exempted from the FMNV definition are listed on *Exemptions Under the U.S. Department of Agriculture’s Competitive Foods Regulation for School Nutrition Programs* (see “Resources” on page 5). However, products that are exempted under the federal regulation may still be prohibited by Connecticut’s regulations and statutes. Most of the exempted beverages do not meet the state statutory requirements (see “State Beverage Requirements” on page 3). None of the exempted foods meet the Connecticut Nutrition Standards (see “State Healthy Food Certification” on page 3).

State Statutes and Regulations

Several Connecticut statutes and regulations supersede the federal competitive food services regulation by extending the time frame and imposing additional restrictions regarding food and beverage sales to students in schools.

- **State Competitive Foods Regulations:** Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies apply to all public schools that participate in the USDA Child Nutrition Programs. Section 10-215b-1 prohibits the sale or dispensing of candy to students anywhere on school premises from 30 minutes before the start of any state or federally subsidized meal or milk program (National School Lunch Program, School Breakfast Program, After-School Snack Program and Special Milk Program) until 30 minutes after the end of the program. Section 10-215b-23 requires that the income from any foods or beverages sold to students anywhere on school premises during this same time frame must accrue to the nonprofit food service account. Any food and beverage sales held anywhere on school premises during this time frame must comply with this regulation, including beverages that meet the requirements of state statute and foods that meet the Connecticut Nutrition Standards.

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- Section 10-215b-1 also prohibits coffee, tea and soft drinks during this time frame. However, effective July 1, 2006, section 10-221q of the Connecticut General Statutes eliminates the sale of coffee, tea and soft drinks to students in all public schools, so it supersedes the time frame previously allowed by section 10-215b-1 (see “State Beverage Requirements” below).
- If the district implements healthy food certification under section 10-215f of the Connecticut General Statutes (CGS), candy can be sold to students on school premises only if the board votes to allow exemptions and the candy is sold at the *location of events that occur after the school day or on the weekend*, provided it is not sold from a vending machine or school store (see “State Healthy Food Certification” below).

■ **State Beverage Requirements:** CGS section 10-221q allows only five categories of beverages to be sold to students in public schools at all times and from all sources including, but not limited to, cafeterias, vending machines, school stores and fundraisers. This statute applies to all public schools, regardless of whether they participate in the USDA Child Nutrition Programs or healthy food certification (see “State Healthy Food Certification” below). Beverages that do not meet the statutory requirements can be sold to students only if the board of education votes to allow exemptions and the beverages are sold at the *location of events that occur after the school day or on the weekend*, provided they are not sold from a vending machine or school store. Prohibited beverages include soda (regular and diet), coffee (regular, decaffeinated and iced), tea (regular, herbal and iced), hot chocolate, sports drinks, energy drinks, and any other beverages that do not meet the statutory requirements. For more information, see *Allowable Beverages in Connecticut Schools* and *Questions and Answers on Connecticut Statutes for School Foods and Beverages* under “Resources.”

■ **State Healthy Food Certification:** CGS section 10-215f requires that each board of education or governing authority for all public schools participating in the National School Lunch Program must certify annually to the Connecticut State Department of Education (CSDE) whether they will follow the Connecticut Nutrition Standards for all food items sold to students separately from a reimbursable school breakfast or lunch. The Connecticut Nutrition Standards apply to all food offered for sale to students *at all times, in all schools and from all sources* including cafeterias, vending machines, school stores, fundraisers on school premises and any other sources of food sales to students. For more information, see the CSDE Healthy Food Certification Web page at <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322420>.

Connecticut Nutrition Standards

The Connecticut Nutrition Standards address all foods sold to students separately from a reimbursable school breakfast or lunch. They focus on limiting fat, saturated fats, trans fats, sodium and sugars, moderating portion sizes, and promoting increased consumption of nutrient-rich foods, such as fresh fruits, vegetables, whole grains, low-fat dairy, lean meats and legumes. For more information, see the CSDE Connecticut Nutrition Standards Web page at <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322422>.

■ **State Requirement to Sell Healthy Food Choices:** CGS section 10-221p requires that at all times when food is available for purchase by students during the regular school day, nutritious and low-fat foods (including, but not limited to, low-fat dairy products and fresh or dried fruit) must also be available for sale. These foods must be sold whenever any other competitive foods are sold, either at the location of the food sales or elsewhere on school premises at the same time. This statute applies to all public schools, regardless of whether they participate in the USDA Child Nutrition Programs or healthy food certification (see “State Healthy Food Certification” above).

Beverages Defined as FMNV

The federal USDA regulations define one beverage category of FMNV (soda waters). Under federal regulations, all carbonated and aerated beverages are “soda waters” (including carbonated waters and carbonated juices) and are prohibited for sale during the meal service periods unless the USDA has exempted them from the federal FMNV category. However, Connecticut’s beverage statute supersedes the federal regulation by imposing stricter requirements on what and when beverages can be sold to students. Most of the exempted beverages cannot be sold in Connecticut schools because they do not meet the beverage requirements of state statute (see “State Beverage Requirements” above).

Schools must verify that any carbonated or aerated beverages sold to students meet both **state** and **federal** requirements. Some carbonated or aerated waters, juices or water and juice beverages meet the state requirements

for the appropriate beverage category. However, if the USDA has not exempted them from the federal FMNV category of “soda waters,” they can be sold to students only *outside of the meal service periods*. For example, some seltzers and sparkling waters meet the state statutory requirements for “water,” but the USDA has not exempted them from the federal “soda waters” category. Therefore, the federal regulation prohibits their sale to students during the meal service periods, even though they meet the state requirements. Beverages that meet both federal and state requirements are listed on the CSDE *List of Acceptable Foods and Beverages* (see “Resources”).

There are only three categories of carbonated or aerated beverages that may be permitted for sale to students in public schools, if they meet both federal and state requirements.

1. **Carbonated or aerated waters** (plain or flavored) containing no added sugars, sweeteners (including nonnutritive sweeteners), artificial sweeteners or caffeine are allowed by CGS section 10-221q but are still defined as FMNV under the federal regulation, which prohibits their sale during the meal service periods. *They can be sold only outside the meal service periods.*
2. **Carbonated or aerated 100 percent juices** (fruit juice, vegetable juice or combination of juices) containing no added sugars, sweeteners (including nonnutritive sweeteners) or artificial sweeteners in portion sizes not exceeding 12 fluid ounces are allowed by CGS section 10-221q but are still defined as FMNV under the federal regulation, which prohibits their sale during the meal service periods. If the USDA has exempted them from the “soda water” category of FMNV, they may be sold at any time. *If they are not exempt, they can be sold only outside the meal service periods.*
3. **Carbonated or aerated water and juice beverages** containing only water and fruit or vegetable juice with no added sugars, sweeteners (including nonnutritive sweeteners) or artificial sweeteners in portion sizes not exceeding 12 fluid ounces and that meet the criteria specified in *Requirements for Beverages Containing Water and Juice* (see “Resources”) are allowed by CGS section 10-221q but are still defined as FMNV under the federal regulation, which prohibits their sale during the meal service periods. If the USDA has exempted them from the “soda water” category of FMNV, they may be sold at any time. *If they are not exempt, they can be sold only outside the meal service periods.*

If the beverages listed above are sold during the time frame of 30 minutes before the start of any state or federally subsidized meal or milk program until 30 minutes after the end of the program, the income must accrue to the nonprofit food service account (see “State Competitive Foods Regulations” on page 2). No other carbonated or aerated beverages can be sold to students on school premises at any time, unless the board of education votes to allow beverage exemptions and the beverages are sold at events meeting the three exemption conditions specified under CGS 10-221q (see “State Beverage Requirements” on page 3).

Foods Defined as FMNV

The federal regulations define three food categories of FMNV (water ices, chewing gum and certain candies) that cannot be sold during the USDA meal periods. However, Connecticut’s healthy food certification statute and sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies supersede the federal requirements by mandating additional requirements for these foods.

- **Candy:** While the federal FMNV definition includes only certain types of candy, the state regulation addresses *all candy*. Section 10-215b-1 of state regulations supersedes the time frame of the federal competitive food services regulation by prohibiting schools from selling or dispensing all candy (including breath mints and sugarless candy) to students anywhere on school premises from 30 minutes before the start of any USDA meal or milk program until 30 minutes after the end of the program (see “State Competitive Foods Regulations” on page 2). Candy could be sold outside this time frame if the district is not implementing healthy food certification under CGS section 10-215f (see “State Healthy Food Certification” on page 3). However, the CSDE strongly encourages all districts to promote consistent health messages to students by prohibiting the sale and serving of candy on school premises at all times, or at least during the entire school day.
- **Water Ices and Gum:** The federal competitive food services regulation allows water ices and gum to be sold to students *outside* the meal periods. However, section 10-215b-23 of state regulations specifies that the income from any foods or beverages sold anywhere on school premises during 30 minutes before until 30 minutes after

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the end of any USDA meal or milk program must accrue to the nonprofit food service account (see “State Competitive Foods Regulations” on page 2). Water ices and gum (including sugarless gum) could be sold *outside* this time frame if the district is not implementing healthy food certification under CGS section 10-215f. However, the CSDE strongly encourages all districts to promote consistent health messages to students by prohibiting the sale and serving of water ices and gum on school premises at all times, or at least during the entire school day.

Candy, water ices and gum do **not** meet the Connecticut Nutrition Standards. They cannot be sold to students in districts implementing healthy food certification unless the board of education votes to allow food exemptions and they are sold at the *location of events that occur after the school day or on the weekend*, provided they are not sold from a vending machine or school store (see “State Healthy Food Certification” on page 3).

School Wellness Policy

Many school districts choose to establish additional local requirements for competitive foods as part of their school wellness policy. The Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265) requires that all schools participating in the USDA Child Nutrition Programs establish a local wellness policy. This policy must include nutrition guidelines for all foods available at school during the school day, with the objectives of promoting student health and reducing childhood obesity. For more information, see the CSDE School Wellness Policy Web page at <http://www.sde.ct.gov/sde/cwp/view.asp?a=2678&q=322438>.

Resources

- *Aerated Beverages Categorized as “Soda Water” from the Competitive Food Services Regulation, Operational Memorandum 2-09:* http://www.sde.ct.gov/sde/LIB/sde/pdf/DEPS/Nutrition/OPmemos/09/OM_02_09.pdf
- *Allowable Beverages in Connecticut Schools:* http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Student/NutritionEd/Allowable_Beverages.pdf
- *Beverage Requirements Web Page:* <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322418>
- *Connecticut Nutrition Standards Web Page:* <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322422>
- *Clarification of Competitive Foods and Foods of Minimal Nutritional Value (FMNV) and Updates to the USDA Exemptions List for FMNV, Operational Memorandum 8-11:* http://www.sde.ct.gov/sde/LIB/sde/pdf/DEPS/Nutrition/OPmemos/11/OM_08_11.pdf
- *Exemptions Under the U.S. Department of Agriculture’s Competitive Foods Regulation for School Nutrition Programs:* <http://www.sde.ct.gov/sde/LIB/sde/pdf/deps/nutrition/nslp/ExemptionsList.pdf>
- *Federal and State Laws for Foods and Beverages in Connecticut Schools:* <http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Student/NutritionEd/NutritionLaws.pdf>
- *Foods of Minimal Nutritional Value (Appendix B of 7 CFR Part 210 National School Lunch Program Regulations), U.S. Department of Agriculture:* <http://www.fns.usda.gov/cnd/menu/fmfv.htm>
- *List of Acceptable Foods and Beverages:* <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322432>
- *State Competitive Foods Regulations:* http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Student/NutritionEd/CT_Competitive_Food_Regulations.pdf
- *Questions and Answers on Connecticut Statutes for School Foods and Beverages:* http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Student/NutritionEd/HF_Q&A.pdf
- *Requirements for Beverages Containing Water and Juice:* http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Student/NutritionEd/Water_Juice_Beverages.pdf



For more information, visit the CSDE School Foods and Beverages Web page at <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322416> or contact: Susan S. Fiore, MS, RD, Nutrition Education Coordinator, Connecticut State Department of Education, Bureau of Health/Nutrition, Family Services and Adult Education, 25 Industrial Park Road, Middletown, CT 06457, 860-807-2075, susan.fiore@ct.gov.

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