

**POWAY UNIFIED SCHOOL DISTRICT  
ADMINISTRATIVE PROCEDURE**

**ARTICLE: 5.0 STUDENT PERSONNEL**

**5.31 SCHOOL WELLNESS POLICY**

**Originator:** Assistant Superintendent  
**Issue No:** 1  
**Date:** 4/20/09  
**Page:** 1 of 11  
**Reference:** 42 USC 1751; 7 CFR 210, 210.10, 220, 220.8, 220.12; CalCode 113794.1, 113980, 114143; EC 8990-8997, 35182, 35182.5, 38085, 49431, 49431.2, 49431.5, 49432, 49433, 49547, 49550.3, 49557, 51210, 51222, 51223, 51241

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**SECTION 5.31.1 School Wellness**

The District recognizes the significant link between student health and learning and desires to provide a comprehensive program that promotes healthy eating habits and physical activity for all students. The Superintendent, or designee, shall build a coordinated school health system that supports and reinforces health literacy through health education, physical education, health services, nutrition services, psychological and counseling services, health for staff, a safe and healthy school environment, and parent and community involvement.

The Board's policy related to school wellness policy has been developed with the involvement of parents/guardians, students, school food and nutrition professionals, school administrators, Board representatives, and members of the public. (42 USC 1751 Note)

**1. Physical Education and Activity Goals**

*Physical education* is a standards-based curriculum that promotes lifelong and safe physical activity designed to develop basic movement skills, physical fitness, rhythms and dance, sports skills, as well as to enhance social and emotional abilities.

Schools are encouraged to provide all students in grades Pre K-12 the opportunity and support to be physically active on a regular basis through physical education instruction and physical activity programs.

The minimum requirements for physical education include:

- a. Instruction for a total period of time of not less than 200 minutes each ten (10) school days for students in grades 1-5 and not less than 400 minutes each ten (10) school days for students in grades 6-12. Students should be moderately to vigorously active as much time as possible within the physical education class. This includes students with disabilities and/or special health-care needs and those in alternative educational settings. (EC 51210, 51222, 51223)
- b. Temporary exemptions from physical education are limited to students whose medical conditions do not allow for inclusion in the general, modified, or adapted physical education program. (EC 51241)
- c. Physical education staff appropriately limiting the amount or type of physical exercise required of students during air pollution episodes, hot weather, or other inclement conditions. Indoor classroom space and physical education facilities should be provided.

*Physical activity* refers to bodily movement of any type, including recreational, fitness, and sport activities such as jumping rope, playing soccer, lifting weights, and other daily activities.

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Physical activity programs may provide participants with structured activity (games, sports, etc.), unstructured activity (walking programs, dance, etc.), or opportunities to participate in physical activity in the daily routine (walk-to-school programs, etc.).

The minimum requirements for physical activity include:

All elementary school students should have daily supervised recess, preferably outdoors, during which schools should encourage moderate-to-vigorous physical activity and provide space, equipment, and an environment that is conducive to safe and enjoyable activity. (Recess does not count toward physical education minutes.)

Students should participate each day in a variety of age-appropriate physical activities designed to achieve optimal health, wellness, fitness, and performance benefit. Whenever possible, supervised, age-appropriate physical activity opportunities before school, during recess, after school, and during lunch should be provided for all students in addition to planned physical education.

- a. Opportunities for physical activity should be incorporated into other subject lessons and can be used as reinforcement, reward, and celebration for achievement, positive behavior, and completion of assignments. Classroom teachers should provide short physical activity breaks between lessons or classes, as appropriate.
- b. Extended Student Services and after school enrichment programs, as appropriate, should encourage daily periods of moderate-to-vigorous physical activity for all participants, including the provision of space and equipment.
- c. Staff members are encouraged to engage in regular physical activity, as appropriate.

*Safety Procedures concerning the safety of students and staff during physical education and physical activity have been established. To ensure maximum opportunity for the school community to participate in activity, the following minimum standards apply:*

- a. Facilities and equipment used for physical activity should be properly monitored and maintained to ensure participants' safety.
- b. Weather and air quality standards should be followed whenever students are participating in outdoor physical activity.
- c. Students and staff should have access to appropriate hydration (e.g., water or other fluids).
- d. The emergency response system should be followed to expedite aid to students and/or staff who are injured or become ill at school.
- e. Specified school staff should be current in first aid and cardiopulmonary resuscitation (CPR). Swim instructors should be Water Safety Instructor (WSI) certified.
- f. School staff should be notified and trained (as allowed by law), in the use of any necessary medications that students are authorized to carry and/or use.
- g. School staff should follow established guidelines to allow students with medical conditions to participate in physical activity at school. The intent is to protect students' well-being and provide for students' maximum participation in physical activity, at an appropriate level.

**Staff Development**

As available, staff development will be offered to implement a standards-based physical education curriculum and support physical activity goals.

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Fitness Testing

- Physical Performance Testing: Administrative Procedure 3.3.4

**2. Nutrition Education Goals**

The District recognizes that students and staff benefit from a variety of nutritious food choices. These choices are designed to build lifelong healthy habits around eating, and support physical and emotional well-being.

Students in pre-kindergarten through grade twelve (pre K-12) will receive a comprehensive, standards-based nutrition education. The primary goal of nutrition education is for students to develop positive attitudes, behaviors and the appropriate lifelong skills associated with healthy and enjoyable eating patterns.

The nutrition education program may include the following:

- a. Coordination of the food and nutrition program with classroom-based nutrition education and with other components of the coordinated school health system.
- b. Promotion of fruits, vegetables, whole-grain products, and low-fat and fat-free dairy products as healthy eating choices.
- c. Emphasis on maintaining a caloric balance between food intake and energy expenditure (physical activity/exercise).
- d. Emphasis on students as active participants in developing, advocating, and implementing nutrition-related policies, programs, and services.
- e. Inservice nutrition education training. (EC 8990)

The nutrition education curriculum should focus on students' eating behaviors and be based on theories and methods proven effective by published research. Nutrition education should be designed to help students with:

- a. Nutritional knowledge, including, but not limited to, the benefits of healthy eating, essential nutrients, nutritional deficiencies, principles of healthy weight management, and the use and misuse of dietary supplements. (EC 51210.4)
- b. Nutrition-related skills, including, but not limited to, planning a healthy meal, understanding and using food labels, and critically evaluating nutrition information, misinformation, and commercial food advertising. (EC 51210.4)
- c. Assessing personal eating habits, setting goals for self improvement, and achieving those goals by using educational materials, including, but not limited to, the Food Guide Pyramid, Dietary Guidelines for Americans, Nutrition Fact Labels, and the Physical Activity Pyramid. (EC 51210.4)

**3. Nutrition Guidelines for Foods and Beverages Served and Sold on Campus**

- Food and Nutrition Program: Board Policy 6.60
- Use of Food and Nutrition Facilities and Equipment: Administrative Procedure 6.60.5
- Free and Reduced Price Meals: Administrative Procedure 6.61.1
- Other Sales: Board Policy 6.62
- Other Food and Beverage Sales: Administrative Procedure 6.62.1
- Competitive Food Sales: Administrative Procedure 6.62.4
- Guidelines for Food Safety and Sanitation: Administrative Procedure 6.64.1

In order to support children's health and school nutrition education efforts, all foods and beverages sold or served during school hours should meet the District's nutrition standards. This includes,

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but is not limited to, cafeteria à la carte sales, vending, student stores, concession stands, fundraisers, classroom snacks, after-school programs, school or classroom events, and meetings. (EC 49431, 49431.2, 49431.5)

- a. The Food and Nutrition Department should have authority to provide food and beverages from the beginning of the school day until after the last lunch period to ensure food safety and to maximize the District's ability to serve healthy and appealing meals.
- b. *Cafeteria À La Carte Sales, Vending, and Student Stores* - Foods and beverages sold on campus during the school day in cafeterias, vending machines, and school stores should meet the District's nutrition standards described in this section and Attachment A.
- c. Schools should follow the nutrition standards for pre-kindergarten through grade twelve, including before and after school programs, indicated in Attachments A and B.
- d. Individual food and beverage items sold or served outside the school breakfast and lunch programs during the school day shall meet requirements described in this section and Attachment A. (EC 49431, 49431.2, 49431.5)
- e. Classroom snack, celebrations, and food rewards should be limited and should feature healthy food choices that meet the district's nutrition standards.
- f. School administrators should encourage all school-based organizations to use non-food items for fundraising. Students, parent, or school groups should sell compliant food or beverages as described in Attachment A at fundraisers only after the lunch period.
- g. All foods sold or served at school should have a food label listing ingredients so students with food allergies are protected from accidental exposure.
- h. Food or beverages that do not meet nutrition standards described in this section and Attachments A and B may only be sold in accordance with state law and off school premises, or at least one-half hour after the end of the school day. (EC 49431)
- i. *Homemade Food Items* - To ensure food safety, all food to be shared with other students should be commercially prepared, prepackaged, unopened, and, when possible, individually wrapped. Foods prepared at home may be used only for individual student and staff lunches/snacks, and consumed by staff members only on a voluntary basis.
- j. *Outdoor Barbecues* - Barbecues must comply with the County Department of Environmental Health and paragraph 114143 of the California Retail Food Code (CalCode). The Food and Nutrition Department is the only District establishment approved to operate barbecues on school premises. A County health permit is required to operate a barbecue on school grounds if food will be served.

**4. Non-Compliant Foods and Beverages**

The food and beverage nutrition standards are defined in Attachments A and B. Foods of Minimal Nutritional Value (FMNV) are prohibited from being served or sold anywhere school meals are served, sold, and/or eaten. (7 CFR 210.11 and 220.12) The following non-compliant guidelines apply:

- a. Carbonated beverages except fruit juice and water as listed in Attachment A.
- b. Caffeinated beverages containing more than 30 milligrams of caffeine per 12 oz. serving including coffee, tea, and chai (excluding low-fat or fat-free chocolate milk, and hot chocolate, which contain small amounts of caffeine).
- c. Beverages containing vitamin/mineral-like supplements and additives such as food colorings/flavors not approved by FDA, herbal, and non-vitamin supplements (including, but not limited to, ginkgo biloba, ephedra, ginseng, guarana, mahuang, etc.).

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- d. Beverages containing added sweeteners, including, but not limited to, sugar (raw, refined, unrefined, cane, brown, turbinado, white), invert sugar, dextrin, sucrose, honey, corn syrup, high fructose corn syrup, aspartame, saccharin, sucralose, cane juice, molasses, Equal, NutraSweet, and Splenda (excluding hot chocolate). (EC 35182.5)
- e. Products from commercial vendors that do not have an ingredient label or nutritional information on the packaging (except those provided by the Food and Nutrition Department).
- f. Beverages in glass bottles.

**5. Food and Nutrition Reimbursable Meal Program**

School meals shall offer varied and nutritious food choices that are consistent with USDA nutrition standards and the Dietary Guidelines (which focus on increasing fruits, vegetables, and whole grains). School meals should:

- a. Be appealing and attractive to children of various ages and diverse backgrounds.
- b. Be served in clean and safe settings.
- c. Include food and beverages sold or served as part of school breakfast and lunch program that contain no more than 30 percent of total calories from fat and no more than 10 percent of total calories from saturated fat, averaged over a week. (7 CFR 210.10 and 220.8)
- d. Contain a variety of fruit and vegetables in each meal.
- e. Offer at least two non-fried vegetable and two fruit options each day and five different fruits and five different vegetables over the course of a week.
- f. Include only one-percent fat and nonfat milk options.
- g. Contain whole grains (listed as the first ingredient on the label) in at least half of the grains served.
- h. Include food items selected by students and parents through taste-testing, community meetings, and surveys.

*School Breakfast Program* - To ensure that all children have breakfast, either at home or at school, in order to meet their nutritional needs and enhance their ability to learn, schools should:

- a. To the extent possible, operate the School Breakfast Program, including arranging bus and bell schedules to encourage participation. (EC 49550.3)
- b. Encourage participation in the School Breakfast Program by implementing, whenever feasible, serving breakfast in the classroom, "grab-and-go" breakfast, or breakfast during morning break or recess.
- c. Encourage parents to provide a healthy breakfast for their children through newsletter articles, take-home materials, or other means.
- d. Promote the importance of eating a healthy breakfast and the benefits of the School Breakfast Program to students and families.

*Special Dietary Needs* - With appropriate medical documentation, modified meals shall be prepared for students with food allergies or other special dietary needs. (7 CFR 210.10, 220.8)

**6. Food Safety**

School administrators should encourage teachers to order foods for classroom parties that provide food in compliance with the Health Code to ensure compliance with food safety and sanitation

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regulations. Hazard Analysis and Critical Control Points (HACCP) plans and guidelines shall be implemented to prevent food-borne illness in schools. (CalCode 113980)

All foods and beverages made available at school shall comply with state and local food safety and sanitation regulations. Food service equipment and facilities must meet applicable local and state standards for health, sanitation, and safety.

All food handlers must meet the food safety certification requirements established by the San Diego County Department of Environmental Health. (CalCode 113794.1)

**7. Other School-Based Activities and Programs to Promote Student Wellness**

*Surroundings for Eating* - School meals should be served in clean and safe settings. Schools should develop cafeteria environments that provide students with a relaxed and enjoyable climate, adequate space to eat, clean and pleasant surroundings, adequate time to eat meals, and convenient access to hand-washing or hand-sanitizing facilities before meals.

*Time for and Scheduling of Meals* - Meal periods should be scheduled at appropriate times. Meal periods should be long enough for students to eat, relax, and socialize.

Scheduling two or more grade levels of students to start breakfast/lunch meal periods at the same time results in overcrowding the school cafeteria and causes longer lunch lines. To ensure that student have adequate time to eat, schools are encouraged to:

- Schedule meals as near to the middle of the day as possible, e.g., lunch should be scheduled between 11 a.m. and 1 p.m. USDA regulations specify that meals cannot be served before 10 a.m. or after 2:00 p.m. unless an exemption is requested from the California Department of Education. (7 CFR 210.10) On minimum days, schedule the meal period during rather than at the end of the school day. (PUSD Administrative Procedures 3.18.3 and 6.61.1)
  - Schedule sufficient time to enable students to eat after being served – no less than 10 minutes for breakfast and no less than 20 minutes for lunch. (CDE, School Nutrition – By Design)
  - Whenever possible, schedule lunch after recess in elementary schools to encourage students to consume their meals and return to class ready to learn. (CDE, School Nutrition – By Design)
  - Serve lunch at appropriate intervals from other meals, in accordance with current USDA guidelines (e.g., at least two hours between the start of breakfast and the start of lunch).
  - Stagger lunch periods, whenever possible, to allow a minimum of 10 to 15 minutes between grade levels. Younger students should be scheduled to eat before older students.
  - Provide students and staff access to hand-washing, preferably with soap and water, before they eat meals or snacks. Hand-sanitizers may be used only where hand-washing sinks are not available.
  - Take reasonable steps to accommodate tooth-brushing regimens of students with special oral health needs (e.g., orthodontia or high tooth decay risk).
- a. *Free and Reduced Price Meals* - Schools should make every effort to prevent the overt identification of students who are eligible for free and reduced price school meals. Toward that end, schools may use electronic identification and payment systems, promote the availability of school meals to all students, and/or use nontraditional methods for serving school meals, such as “grab-and-go” or classroom breakfast. (EC 49557, PUSD Administrative Procedures 6.60.4, 6.61.1)

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- b. *Summer Food Service Program* - Schools that are conducting summer school classes and have 50 percent or more students who are eligible for free and reduced price meals should sponsor the Summer Food Service Program or the Seamless Summer Feeding Option. (EC 49547.5)
- c. *Professional Development for Food and Nutrition Staff* – Food and Nutrition staff will participate in professional development as appropriate. Staff development should include training and/or certification for Food and Nutrition personnel at their various levels of responsibility, including safe food handling, nutrition education, menu planning, meal preparation, food safety, strategies for promoting healthy eating behaviors, and other appropriate topics. (EC 49433)
- d. *Staff Wellness* - The District values the health and well-being of every staff member and shall support employees' efforts to improve their personal health and fitness so they can serve as role models and promote the health of others, including students. Examples of wellness programs for school staff members include, but are not limited to, health screenings, physical activity and fitness programs, nutrition education, weight management, smoking cessation, influenza vaccinations, and stress management.

**8. Communication with Parents and Promotions**

- a. *Consistent Health Messages* - Students should receive positive, motivating messages, both verbal and nonverbal, about healthy eating and physical activity throughout the school environment. All school personnel should help reinforce these positive messages. Foods and beverages sold or served at school should not contradict healthy eating messages. School staff should not use practices that contradict messages to promote and enjoy physical activity, for example, withholding recess or using physical activity as punishment (e.g., running laps, doing pushups).
- b. *Engaging Families* - Schools should encourage family involvement to support and promote healthy eating and physical activity habits. This includes supporting families' efforts to provide a healthy diet and daily physical activity for their children through effective two-way communication between school and home. Nutrition education should be offered for parents, e.g., providing healthy eating seminars, sending home nutrition information, postings on school website, and providing nutrient analyses of school menus. Such supports should also include sharing information about physical activity and physical education through a website, newsletter, or other take-home materials, special events, or physical education homework.
- c. The District/school should make available to parents a list of foods that meet the District's nutrition standards and ideas for healthy celebrations/parties, rewards, and fundraising activities. School administrators should encourage students and parents to pack healthy lunches and snacks that meet District nutrition standards.
- d. *Marketing Foods and Beverages in Schools* - School-based marketing should be consistent with nutrition education and health promotion. Schools should limit food and beverage marketing to the promotion of foods and beverages that meet the District nutrition standards contained in this policy. Schools should promote healthy food choices and should not allow advertising that promotes less nutritious food and beverage choices. (EC 35182.5)
- e. *Posting* - School should post the District's wellness policies and procedures in public view within all school cafeterias or in other central eating areas along with a summary of nutrition and activity laws and regulations prepared by the California Department of Education. (EC 49432)

**9. Staff Members as Role Models**

Adults can have a significant impact on the development of students' health behaviors. District and school staff members can model healthy eating and physical activity behaviors in a variety of ways, including, and not limited to:

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- a. Using teaching skills that help students gather information, practice problem solving techniques, and use effective communication skills.
- b. Providing healthy snacks in the classroom.
- c. Encouraging non-food fundraisers.
- d. Not using food as a reward for behavior or academics.
- e. Participating in the school meal program and making healthy choices.
- f. Using the stairs instead of the elevator when appropriate.
- g. Participating with children in classroom-based physical activity.
- h. Leading or participating in school fitness activities such as walking or running clubs, yoga class, and weight lifting.
- i. Talking about the physical activities students like to do outside of school.
- j. Using physical activity as a reward rather than as a form of punishment.
- k. Using appropriate safety gear, such as helmets, during physical activity.

**10. Implementation and Enforcement**

District representatives shall develop a plan for implementing the wellness policy and measuring implementation districtwide.

The superintendent, or designee, shall ensure compliance with the adopted wellness policy and its nutrition standards. In each school, the principal, or designee, will ensure compliance with those policies in his/her school and will report on the school's compliance to the superintendent, or designee.

The Food and Nutrition Director will ensure compliance with nutrition policies within school food and nutrition areas and will report on this matter to the Deputy Superintendent.

Each school should post wellness policies and procedures on nutrition and physical activity in public view within all school cafeterias or in other central eating areas. (EC 49432)

As necessary, the wellness policy will be revised to address changes in state and federal law as well as areas in need of improvement.

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Attachment A

**Food and Beverage Nutrition Standards**

<b>Elementary Schools</b>	
<p><b>Food (snack) (EC 49431)</b></p> <p>The only food authorized during breakfast and lunch periods is food that is sold as a full meal through the federal reimbursable meal program.</p> <p>In addition, individually-sold portions of nuts, seeds, nut butters, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes may be sold. Individually-sold dairy items and whole grain food items may be sold, provided they meet the 35/10/35 guidelines listed below and do not exceed 175 calories per individual food item.</p>	<p><b>Beverages (EC 49431.5)</b></p> <p>The only beverages authorized are:</p> <ul style="list-style-type: none"> <li>• Water, with no added sweeteners</li> <li>• Milk (two-percent, one-percent, or nonfat or rice milk, soy milk, or other similar non-dairy milk)</li> <li>• Fruit juice, preferably 100 percent but at least 50 percent fruit juice, with no added sweeteners</li> <li>• Vegetable juice, at least 50 percent vegetable juice, with no added sweeteners</li> </ul>

<b>Middle and High Schools</b>	
<p><b>Food (snack) (EC 49431.2)</b></p> <p>The only food that may be sold outside the federal reimbursable meal programs must meet the following requirements:</p> <ul style="list-style-type: none"> <li>• Not more than 35 percent of its total calories shall be from fat (excluding nuts, nut butters, seeds, eggs, and cheese)</li> <li>• Not more than 10 percent of its total calories shall be from saturated fat and trans fat combined (excluding eggs and cheese)</li> <li>• Not more than 35 percent of its total weight shall be composed of sugar, including naturally-occurring and added sugar (excluding fruits and vegetables)</li> <li>• Calories shall not exceed 250 calories per food item</li> </ul> <p>Entrée items (i.e., foods generally regarded as being the primary food in a meal, including, but not limited to, sandwiches, burritos, pasta, and pizza) shall not exceed 400 calories per food item and 4 grams of fat per 100 calories.</p>	<p><b>Beverages (EC 49431.5)</b></p> <p>The only beverages that shall be sold are:</p> <ul style="list-style-type: none"> <li>• Water, with no added sweeteners</li> <li>• Milk (two-percent, one-percent, or nonfat or rice milk, soy milk, or other similar non-dairy milk)</li> <li>• Fruit juice, preferably 100 percent but at least 50 percent fruit juice, with no added sweeteners</li> <li>• Vegetable juice, at least 50 percent vegetable juice with no added sweeteners</li> <li>• Electrolyte replacement beverages with no more than 42 grams of added sweeteners per 20-ounce serving</li> <li>• Caffeinated beverages containing naturally-occurring caffeine in cocoa with less than 30 milligrams per 12-ounce serving (coffee and tea are not authorized)</li> </ul>

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**Food and Beverage Nutrition Standards (Page 2)**

**Snacks and Desserts**

**Portion Sizes** – Serve reasonable portion sizes. If products meet the District’s nutrition standards for foods and beverages, they may be served in single-serving portion sizes or in a package that does not exceed the serving size limits specified below.

<b>Portion Sizes</b>	
Trail mix, nuts, seeds, soy nuts	1.75 oz.
Crackers, hard pretzels, pita chips, snack mix	1.75 oz.
Peanut butter-filled crackers and cheese-filled crackers	1.50 oz.
Dried fruit, e.g., raisins, apricots	1.50 oz.
Baked chips, popcorn, rice cakes, puffed snacks, jerky	1.50 oz.
Cereals	2 oz.
Cookies, animal crackers, graham crackers, cereal bars, granola bars	2 oz.
Bakery items - pastries, muffins, doughnuts, bagels, soft pretzels	3 oz.
Frozen desserts, ice cream (low-fat or fat-free)	4 oz.
Pudding	4 oz.
Yogurt (non-frozen)	8 oz.
Smoothies (minimum of 50% fruit Juice with no added sweetener)	12 oz.
Beverages, excluding water	12 oz.
Milk (elementary)	8 oz.
Milk (secondary)	12 oz.
Juice (elementary)	6 oz.
Fruit drinks (minimum of 50% fruit juice with no added sweetener)	12 oz.
Cheese (low-fat recommended)	2 oz.
Nut butters - peanut butter, almond butter, soy butter	No more that 4 Tbsp
Entrée items or other protein sources	No larger than the portion size typically provided for each age/grade group under the USDA meal pattern

**Beverages**

If a drink is labeled as a fruit-based drink, it must contain a minimum of 50% full-strength juice and no added sweeteners. The fruit drink is not approved if it has any of the following sweeteners added:

<b>Sugars</b>	<b>Other Sweeteners</b>
Raw, refined, unrefined, cane, brown, white, turbinado, invert, cane juice	Dextrin, glucose, sucrose, corn syrup, high fructose corn syrup, honey, aspartame, saccharin, sucralose, molasses, Equal, NutraSweet, Splenda

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Attachment B

**Foods That are Prohibited During Meal Periods****Categories of Foods of Minimal Nutritional Value**

Title 7, Code of Federal Regulations, appendix B to parts 210 and 220

Foods of Minimal Nutritional Value: in the case of artificially-sweetened foods, a food which provides less than 5 percent of the Reference Daily Intake (RDI) for eight specified nutrients per serving; and in the case of all other foods, a food that provides less than 5 percent of the RDI for eight specified nutrients per 100 calories and per serving. The eight nutrients to be assessed for this purpose are protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron.

1. *Soda Water*: A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60 degrees Fahrenheit. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals, and protein.
2. *Water Ices*: As defined by 21 CFR 135.160 Food and Drug Administration Regulations except that water ices which contain fruit or fruit juices are not included in this definition.
3. *Chewing Gum*: Flavored products from natural or synthetic gums and other ingredients, which form an insoluble mass for chewing.
4. *Certain Candies*: Processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients, which characterize the following types:
  - a. *Hard Candy*: A product made predominantly from sugar (sucrose) and corn syrup which may be flavored and colored, is characterized by a hard, brittle texture, and includes such items as sour balls, fruit balls, candy sticks, lollipops, starlight mints, after-dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers, and cough drops.
  - b. *Jellies and Gums*: A mixture of carbohydrates which are combined to form a stable gelatinous system of jelly-like character, and are generally flavored and colored, and include gum drops, jelly beans, and jellied and fruit-flavored slices.
  - c. *Marshmallow Candies*: An aerated confection composed of sugar, corn syrup, invert sugar, 20% water, and gelatin or egg white to which flavors and colors may be added.
  - d. *Fondant*: A product consisting of microscopic-sized sugar crystals which are separated by a thin film of sugar and/or invert sugar in solution such as candy corn and soft mints.
  - e. *Licorice*: A product made predominantly from sugar and corn syrup, which is flavored with an extract made from the licorice root.
  - f. *Spun Candy*: A product that is made from sugar that has been boiled at high temperature and spun at a high speed on a special machine.
  - g. *Candy-coated Popcorn*: Popcorn which is coated with a mixture made predominantly from sugar and corn syrup.