

Summary of Proposed Changes:

The purpose of these proposed regulations is to replace prior regulations (Rhode Island Nutrition Requirements 2009 “RINR 2009” Nutrition Criteria for RI School Food Service Programs) (simultaneously repealed) to bring RINR into alignment with current practice and with state-specific nutrition requirements that are being enforced at the present time by the RIDE School Nutrition Office. The regulations that are currently being enforced have their basis in RINR 2009, in provisions of state law that were repealed in 2016 (R.I. Gen. Laws §§16-21-7 and 16-21-29, repealed by Ch. 529 of the Laws of 2016) which mandated the sale/distribution of only healthier beverages and snacks in all elementary, middle, junior high and high schools and with a guidance document incorporated into RINR 2009 entitled “RI Healthy Schools Coalition Nutrition Guidelines for School Vending and a la Carte.” The proposed regulations will now incorporate by reference federal nutritional requirements and set forth state-specific requirements explicitly. Taken together with the federally-imposed nutritional requirements and limitations on reimbursable meals and competitive foods and beverages, these proposed regulations will maintain high nutrition standards for school meals that are reimbursed by the USDA and all other food and beverages that are sold on the school campus in Rhode Island. There are no changes in the existing state-specific requirements that have been consistently enforced over the last several years and the actual implementation of the current regulations will not change. There is, therefore, no fiscal impact involved in the adoption of the proposed regulations.

The proposed regulations also comply with RICR formatting and codification guidelines, concisely describe the specific authority and purpose for this Rule and add a definitions section of necessary regulatory terms. All non-regulatory language was deleted from the prior RINR 2009 to now concisely and explicitly set forth Rhode Island nutritional requirements for reimbursable meals and competitive foods and beverages as well as limitations on competitive foods and beverages at meal times in elementary schools.

RIDE will monitor and enforce these proposed regulations during the USDA Administrative Review Process set forth in 7 CFR § 210.18.

More specifically, the differences between the prior regulations and the proposed regulations are:

- 1) The entire “Background” section was deleted from the prior regulations as non-regulatory language.
- 2) A new section on “Authority” was added with specific citations to statutory and regulatory authority.
- 3) A specific “Purpose” section was added to emphasize that the regulations were intended to maintain more rigorous and additional nutritional requirements for school meals and competitive foods than those imposed by the United States Department of Agriculture (USDA).
- 4) A “Definitions” section was added with necessary regulatory terms.
- 5) An “Incorporated Materials” section was added pursuant to R.I. Gen. Laws § 42-35-3.2.

For Reimbursable Meals and Snacks:

- 6) The definition of “whole grain,” and rationale for the whole grain requirement were deleted. Language describing the existing whole grain requirement was revised to read “On a weekly basis, at least one-half (1/2) of the “grain servings” in USDA meals must be one hundred (100%) percent whole grain and the remaining “grain servings” must be whole grain rich.” Limitation on grams of total sugar per ounce in whole grain products was deleted. The amended language more concisely explains the existing requirement as it was set forth in RINR 2009.
- 7) Preference for “locally (preferably RI) grown and harvested produce” was deleted as non-regulatory language.
- 8) Requirement for and examples of dark green/orange vegetables were deleted. USDA Regulations presently address this requirement.
- 9) Requirement for and examples of orange fruits were deleted. USDA Regulations presently address this requirement.
- 10) Requirement for minimum number of servings of fruits and vegetables per each breakfast, lunch and after school snack were deleted as were the minimum number of different fruits and vegetables per week and replaced by the requirement that “in all menu-planning options, schools will offer each day, at a minimum, two (2) different fruits and/or vegetables at breakfast; three (3) different fruits and/or vegetables at lunch.” The amended language more concisely explains the existing requirement.
- 11) Limitation on number of servings of 100% juice offered per day for breakfast and lunch was deleted and replaced with “No more than one (1) serving of one hundred (100%) percent juice may be offered per day. Juice may be offered at breakfast or at lunch each day, but not at both meals.” The amended language is a clarification of the existing requirement.
- 12) Limitation on number of servings of 100% juice offered “for every 5 consecutive snacks served” was deleted and replaced with “no more than two (2) servings of one hundred (100%) percent juice may be offered each week as part of an afterschool snack”. This change is intended to provide flexibility in menu planning for after school snacks by placing a maximum on the number of servings of 100% juice per week.
- 13) Restrictions on added sugars/sweeteners were deleted. USDA Regulations on maximum calories presently address this restriction.
- 14) Prohibition on sugar alcohols was added to prohibition on artificial sweeteners. Sugar alcohols are often substituted for sugar and/or artificial sweeteners. This aligns the regulation with current practice and enforcement by the RIDE School Nutrition Office.
- 15) Prohibition on Caffeine in reimbursable meals, except naturally-occurring trace amounts, was added. Although caffeine would not be expected to be present in reimbursable meals, this cannot be ruled out. This aligns the regulation with current practice and enforcement by the RIDE School Nutrition Office.
- 16) Limitations on sodium content in school meals were deleted. USDA Regulations presently address this requirement and RIDE determined that alignment with current less stringent USDA sodium standards was adequate.

- 17) Restrictions on milk fat content of milk were deleted. USDA Regulations presently address this requirement.
- 18) Requirement for one or more servings per week of cooked legumes (dried beans or peas) was deleted as were examples of dried peas or beans. USDA Regulations presently address this requirement.

For Competitive Foods:

- 19) Requirements for all competitive foods were added to specifically prohibit artificial sweeteners and sugar alcohols, prohibit added sweeteners in beverages and prohibit caffeine, except naturally-occurring trace amounts. The prior Regulations incorporated a guidance document that specifically listed all permitted competitive foods, to the exclusion of the items specifically listed here as prohibited. Prior provisions of state law also listed permitted snacks and beverages, to the exclusion of the items not expressly/explicitly permitted. This requirement now aligns the regulation with current practice and enforcement by the RIDE School Nutrition Office.
- 20) Limitations on competitive foods offered at mealtimes in elementary schools were changed from “fresh milk, whole or cut fresh fruits and/or vegetables OR kitchen-prepared (unprocessed) fruit and/or vegetable side dishes” to “the entrée that is included in that day’s reimbursable meal; the same entrée when served the next school day; whole or cut fresh fruits; whole or cut fresh vegetables (may include low-fat dressing or hummus); yogurt (may be layered with fruit); water- any size of plain water (with or without carbonation); fluid milk – up to eight (8) ounce portions limited to: (a) unflavored low-fat milk (1% fat) or (b) unflavored or flavored fat free milk or (c) milk alternatives permitted by USDA National School Lunch Program. An expanded list was developed to give schools more choices in healthy competitive foods. This expanded list aligns the regulation with current practice and enforcement by the RIDE School Nutrition Office.
- 21) Limitation on competitive foods in middle and high schools to those foods and beverages meeting the “RI Healthy Schools Coalition Nutrition Guidelines for School Vending and a la Carte” or those appearing on the RI Approved Product List prepared by Kids First were deleted. “Guidelines” are not permitted to be incorporated by reference and the “RI-Approved Product List” no longer exists.