



## *New Mexico School Boards Association*

### **POLICY SERVICES ALERT**

**To:** All Superintendents and Board Members

**Date:** November 7, 2016

**Regarding:** Public Education Department Wellness Guidance

The following comes from the United States Department of Agriculture Food and Nutrition Services web site (USDA).

“Congress recognizes that schools play a critical role in promoting student health, preventing childhood obesity, and combating problems associated with poor nutrition and physical inactivity. In 2004, Congress passed the Child Nutrition and Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Reauthorization Act (Sec. 204 of [Public Law 108-265](#)). This act required by law that all LEAs participating in the National School Lunch Program or other child nutrition programs create local school wellness policies by School Year 2006. The legislation places the responsibility of developing a wellness policy at the local level so the individual needs of each LEA can be addressed.

In 2010, Congress passed the [Healthy, Hunger-Free Kids Act of 2010](#) (Sec. 204 of [Public Law 111-296](#)), and added new provisions for local school wellness policies related to implementation, evaluation, and publicly reporting on progress of local school wellness policies.

On February 26, 2014, the proposed rule for wellness policies was published in the Federal Register. The public comment period closed on April 28, 2014. FNS appreciates the valuable comments provided by stakeholders and the public. FNS received 57,838 public comments that included 546 distinct submissions and 57,285 form letters that were submitted through four large letter campaigns and four small letter campaigns. FNS considered all comments in the development of this final rule.

On July 21, 2016, the final rule was published in the Federal Register. The final rule strengthens the requirements on public involvement, transparency, implementation, and evaluation among other topics.

#### **Overview of Requirements**

- As of School Year 2006-2007, all districts were required to establish a local school wellness policy.
- The final rule requires LEAs to begin developing a revised local school wellness policy during School Year 2016-2017. LEAs must fully comply with the requirements of the final rule by June 30, 2017. This includes, but is not limited to:
  - Permitting parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the general public to participate in the development, implementation, review, and update of the local wellness policy.
  - Identifying wellness policy leadership of one or more LEA and/or school official(s) who have the authority and responsibility to ensure each school complies with the policy.
  - Informing and updating the public (including parents, students, and others in the community) about the content and implementation of the local wellness policy.
  - Ensuring the wellness policy includes all of the required components:
    - Specific goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. LEAs are required to review and consider evidence-based strategies in determining these goals.
    - Nutrition guidelines for all foods and beverages available or for sale on the school campus during the school day that are consistent with Federal regulations for:
      - School meal nutrition standards, and
      - Smart Snacks in School nutrition standards.
    - Policies for other foods and beverages available on the school campus during the school day (e.g., in classroom parties, classroom snacks brought by parents, or other foods given as incentives).
    - Policies for food and beverage marketing that allow marketing and advertising of only those foods and beverages that meet the Smart Snacks in School nutrition standards.
    - Description of public involvement, public updates, policy leadership, and evaluation plan.

## **Evaluation**

All LEAs must assess their wellness policy at least once every three years on the extent to which schools are in compliance with the district policy, the extent to which the local wellness policy compares to model local school wellness policies, and the progress made in attaining the goals of the local wellness policy. LEAs must make this assessment available to the public.”

**To that end the Public Education Department of New Mexico has sent out a guidance document which is intended to assist Districts in the development of their Wellness Policy and Evaluation.**

As indicated in the USDA document each LEA has until the 2016-2017 school year to comply with the final rule. Perhaps the most important part of the final rule as it effects each school district is that the NM Public Education Department (PED) will be the agency that evaluates compliance based on New Mexico Administrative Code 6.12.6.

**It is the intention of New Mexico School Boards Association Policy Services to assist client districts with the process needed to develop the information required by PED. The conflict that exists in this proposal is that what the USDA and PED consider policy is in reality curriculum, program planning, reporting and providing assurances.**

To assist districts in their efforts to comply with federal and state requirements it will be necessary for Policy Services to prepare a document that will provide the District with references to the Federal and State rules and regulations and the policies that provide the District Boards' direction to accomplish those requirements. As a preliminary to the final documents, Policy Services directs Districts to download and review Policy Advisory 113 in which a summary of the Wellness requirements is given along with the current policies supporting each area in need of development. Also included in Advisory 113 are NMAC 6.12.6 School District Wellness Policy and Federal Regulations 7 CFR 210.11 and 210.11A regarding Competitive Food Service and Standards.

PED has elected to include a number of best practice items in the statements and assurances needed for compliance. Keep in mind that the Federal Regulations give the authority for review and evaluation of the Wellness requirements to the State Education Department. What this means is that they control the funding and therefore they dictate the issues for compliance.

It is Policy Services intention to provide documentation using current policies to support the plans, programs, curriculum, assurances and evaluation that are being required by PED. Unfortunately, the PED is calling this conglomerate of documentation a "Wellness Policy." Please treat it as an assurance and evaluation document and do not request that it be placed in your policy manual.

The PED has indicated that the document shall contain the Emergency Operating Procedures required by a Safe School Plan. While you may provide this for PED evaluation, you must not make that available in the "Wellness Policy" to prevent it being made a public document. It is exempt from public records as a health and safety document.

Policy Services will have a cross reference document of policies and laws referent to the PED guidance document by no later than the end of February, 2017. This document can be integrated into your "Wellness Policy" statement of plans, programs, curriculum and assurances to indicate Board action or delegation of responsibility for the development of the items requested.