

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

BOARD OF HEALTH

NOTICE OF ADOPTION
OF AN AMENDMENT TO
ARTICLE 48
OF THE NEW YORK CITY HEALTH CODE

In compliance with § 1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Article 48 of the New York City Health Code (the “Health Code”) was published in the City Record on June 19, 2012 and a public hearing was held on July 25, 2012. Six comments were received about the proposed amendment (five written and one oral), four in support and two opposed. One change has been made to clarify the resolution. At its meeting on September 13, 2012 the Board adopted the following resolution.

Statutory Authority

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Department of Health and Mental Hygiene (the “Department” or “DOHMH”) extends. Section 1043 grants the Department rule-making authority.

Statement of Basis and Purpose

Background of amendment

Children’s camps (a term that includes summer day camps, children’s overnight camps, and children’s traveling summer day camps) provide a structured place for children up to the age of 16 years during the summer months, when the majority of young people are not in school. In the 2010 summer season, DOHMH issued permits to 862 children’s camps in New York City (NYC). Approximately 165,000* children attended these programs. Most camps provide food and beverages for campers.

Overview of amendment

The amendment is intended to address childhood obesity and to both improve the diets and health of children attending camps by establishing nutritional requirements for children’s camps that hold permits issued pursuant to Article 48 of the Health Code. These provisions:

- Prohibit service of certain beverages to campers, specifically:
 - Sugary drinks,
 - Non-100% juice,
 - Beverages with additives, and
 - Higher fat and flavored milk;

*This number may be an overrepresentation as camps often operate multiple sessions for the season and children who attend multiple sessions are counted per session in the DOHMH database.

- Require potable water; and
- Prohibit camper access to vending machines both on and off camp premises.

The goal of this amendment is to decrease the amount of energy-dense items that children attending New York City camps consume.

Basis for the amendment

- ***Childhood obesity has reached critical levels***
 Nearly 40% of NYC public school students (K-8) are obese or overweight.^{1,2} Obese children are more likely than normal-weight children to have risk factors for heart disease³, type 2 diabetes⁴ and many other disorders and conditions.^{5,6,7} Obese children are more likely to become obese adults,^{8,9} and obesity in adulthood is associated with serious diseases and conditions, and with higher rates of death.¹⁰
- ***Sugary drinks are a leading driver of the obesity epidemic***
 Children have dramatically increased their intake of sugary drinks over the last few decades. At the same time, consumption of healthy beverages such as milk has declined.^{11,12,13} Sugary drinks are the primary source of added sugars and a significant contributor of excess calories in children's diets.¹⁴ Sugar intake has been linked to heart disease risk factors in adolescents,¹⁵ and there is also a link between sugary drinks and weight gain.^{16,17,18,19,20}

According to DOHMH survey in 2009, 44% of NYC children aged 6 to 12 years consumed more than 1 sugary drink per day.²¹ As for public high school students, 26% had consumed 2 or more sugary drinks per day in the last week.²²

- ***Experts recommend limits on 100% juice***
 The United States Department of Agriculture (USDA)²³ and the American Heart Association²⁴ recommend limiting children's intake of 100% juice. When consumed in moderation, 100% juice can be a healthy beverage; however, the USDA recommends that the majority of a child's recommended fruit servings should come from whole fruit. Despite this recommendation, children are consuming more than half of their fruit intake as juice. One hundred percent (100%) juice intake has been associated with higher body weight in overweight and obese children,²⁵ which is of great concern given the large number of overweight and obese children in New York City.
- ***Snacking on energy-dense foods and high-calorie beverages leads to weight gain***²⁶
 Not only are children drinking more sugary drinks than they were several decades ago, but they are also snacking more.²⁷ Although nutrition experts recommend that children consume snacks that are nutritious and minimally processed,²⁸ young people often snack on unhealthy foods, such as sugary drinks, candy, salty snacks, and dessert items.²⁹
- ***Experts recommend that additives be limited in children's diets***
 The nation's leading health advisory organization, The Institute of Medicine (IOM), has taken the position that additives such as caffeine and artificial sweeteners should be limited in children's diets. They recommend that foods and beverages served to children through school meal programs should be caffeine-free, as caffeine "has no place in foods and beverages offered in schools."³⁰ With regard to non-nutritive sweeteners, the IOM states that "there is still uncertainty, particularly about long-term use and about low-level exposure effects on health and development

in children” and recommends that high school-age students should limit consumption to after the school day.³¹

- ***Children are heavily influenced by their environment***
Young people are greatly affected by what is around them.³² Vending machines, which typically sell energy-dense foods, may increase the number of unhealthy snacks that children consume.^{33,34} Like other child care settings in NYC, such as early child care centers and schools, camps should provide an environment that promotes—rather than undermines—health and wellness.
- ***These requirements are similar to other City and national guidelines pertaining to children***
These include: Article 47³⁵ of the New York City Health Code, the New York City Department of Education’s Wellness Policy³⁶ and Chancellor’s Regulation A-812,³⁷ New York City Food Standards,³⁸ *Dietary Guidelines for Americans, 2010*,³⁹ and guidelines issued by the IOM.⁴⁰

Response to Comments

Five written comments regarding the proposed amendment were received during the public comment period. Of these, three comments supported the proposal and two opposed it. In addition, one organization provided oral testimony at the public hearing in support of the proposal.

One comment opposing the proposal stated that, despite its positive intent, the proposal would make camps less appealing to families and children. The other comment opposing the proposal said that the resolution was unclear, and that choices about consumption and availability of sugary drinks should be the responsibility of parents. As noted above, the Department believes that the compelling scientific evidence supporting associations between sugary drinks, childhood obesity, and other negative health consequences requires action.

In response to a comment requesting clarification about the new requirements, the Department will provide education and technical assistance to camps, including information on the products covered and suggested alternatives.

At the June 12 meeting of the Board of Health, a Board member asked if allowing only water and restricting sugary drinks at camps would increase the risk of dehydration among campers. The Department has reviewed the available literature and found that while hydration needs vary dramatically by individual and setting, most recreationally active youths will readily drink water when it is made available. Subdivision (e) has been modified to clarify that potable water must be made available at all times, to encourage its consumption during activities and avoid dehydration. It must also be served with meals.

No other changes have been made to the resolution.

¹ Centers for Disease Control and Prevention. Obesity in K-8 students: New York City, 2006-07 to 2010-11 school years. *Morbidity and Mortality Weekly Report*. 2011;60:1673-1678.

² New York City Department of Health and Mental Hygiene. NYC Vital Signs: Childhood Obesity is a Serious Concern in New York City. June 2009. <http://www.nyc.gov/html/doh/downloads/pdf/survey/survey-2009fitnessgram.pdf>. Accessed May 17, 2012.

³ Freedman DS, Mei Z, Srinivasan SR, Berenson GS, Dietz WH. Cardiovascular risk factors and excess adiposity among overweight children and adolescents: The Bogalusa Heart Study. *J Pediatr*. 2007;150:12-17.e2.

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- ⁴ Hannon TS, Rao G, Arslanian SA. Childhood obesity and type 2 diabetes mellitus. *Pediatrics*. 2005;116:473-480.
- ⁵ Han JC, Lawlor DA, Kimm SY. Childhood obesity. *Lancet*. 2010;375:1737-1748.
- ⁶ Dietz W. Health consequences of obesity in youth: Childhood predictors of adult disease. *Pediatrics*. 1998;101:518-525.
- ⁷ Biro FM, Wien M. Childhood obesity and adult morbidities. *Am J Clin Nutr*. 2010;91:1499S-1505S.
- ⁸ Whitaker RC, Wright JA, Pepe MS, Seidel KD, Dietz WH. Predicting obesity in young adulthood from childhood and parental obesity. *N Engl J Med*. 1997;37:869-873.
- ⁹ Serdula MK, Ivery D, Coates RJ, Freedman DS, Williamson DF, Byers T. Do obese children become obese adults? A review of the literature. *Prev Med*. 1993;22:167-177.
- ¹⁰ National Institutes of Health. *Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults: the Evidence Report*. Bethesda, MD: National Institutes of Health, U.S. Department of Health and Human Services; 1998.
- ¹¹ Harnack L, Stang J, Story M. Soft drink consumption among US children and adolescents: Nutritional consequences. *J Am Diet Assoc*. 1999;99:436-441.
- ¹² Nielsen S, Popkin B. Changes in beverage intake between 1977 and 2001. *Am J Prev Med*. 2004;27:205-210.
- ¹³ Wang Y, Bleich S, Gortmaker S. Increasing caloric contribution from sugar-sweetened beverages and 100% fruit juices among US children and adolescents, 1988-2004. *Pediatrics*. 2008;121:e1604-e1614.
- ¹⁴ Reedy J, Krebs-Smith SM. Dietary sources of energy, solid fats, and added sugars among children and adolescents in the United States. *J Am Diet Assoc*. 2010;110:1477-1484.
- ¹⁵ Welsh, J, Sharma A, Cunningham SA, Vos M. Consumption of added sugars and indicators of cardiovascular disease risk among US adolescents. *Circulation*. 2011;123:249-257.
- ¹⁶ Fiorito LM, Marini M, Francis LA, Smiciklas-Wright H, Birch LL. Beverage intake of girls at age 5 y predicts adiposity and weight status in childhood and adolescence. *Am J Clin Nutr*. 2009;90:935-942.
- ¹⁷ Ludwig DS, Peterson KE, Gortmaker SL. Relation between consumption of sugar-sweetened drinks and childhood obesity: A prospective, observational analysis. *Lancet*. 2001;357:505-508.
- ¹⁸ Malik VS, Schulze MB, Hu FB. Intake of sugar-sweetened beverages and weight gain: A systematic review. *Am J Clin Nutr*. 2006;84:274-88.
- ¹⁹ Mozaffarian D, Hao T, Rimm EB, Willett W, Hu FB. Changes in diet and lifestyle and long-term weight gain in women and men. *N Engl J Med*. 2011;364(25):2392-2404.
- ²⁰ Schulze MB, Manson JE, Ludwig DS, Colditz GA, Stampfer MJ, Willett WC, HU FB. Sugar-sweetened beverages, weight gain, and incidence of type 2 diabetes in young and middle-aged women. *JAMA*. 2004;292:927-34.
- ²¹ New York City Department of Health and Mental Hygiene, Child Health Survey 2009.
- ²² New York City Department of Health and Mental Hygiene, Youth Risk Behavior Survey 2009.
- ²³ U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2010*. 7th Edition, Washington, DC: U.S. Government Printing Office, December 2010. <http://www.health.gov/dietaryguidelines/>. Accessed May 17, 2012.
- ²⁴ American Heart Association. AHA Scientific Position: Dietary recommendations for healthy children. http://www.heart.org/HEARTORG/GettingHealthy/Dietary-Recommendations-for-Healthy-Children_UCM_303886_Article.jsp. Accessed May 17, 2012.
- ²⁵ USDA. *Dietary Guidelines for Americans, 2010*.
- ²⁶ Bisset S, Gauvin L, Potvin L, Paradis G. Association of body mass index and dietary restraint with changes in eating behaviour throughout late childhood and early adolescence: a 5-year study. *Pub Health Nutr*. 2007;10(8):780-789.
- ²⁷ Piernas C, Popkin BM. Trends in snacking among U.S. children. *Health Affairs*. 2010;29:398-404.
- ²⁸ USDA, *Dietary Guidelines for Americans*.
- ²⁹ Piernas et al. (2010)
- ³⁰ IOM (Institute of Medicine). 2007. *Nutrition Standards for Foods in Schools: Leading the Way Toward Healthier Youth*. Washington, DC: The National Academies Press.
- ³¹ IOM, *Nutrition Standards for Foods in Schools*.
- ³² Centers for Disease Control and Prevention. *Children's Food Environment State Indicator Report, 2011*. <http://www.cdc.gov/obesity/downloads/ChildrensFoodEnvironment.pdf>. Accessed May 17, 2012.
- ³³ Neumark-Sztainer D, French SA, Hannan PJ, Story M, Fulkerson JA. School lunch and snacking patterns among high school students: Associations with school food environment and policies. *Int J Behav Nutr Phys Act*. 2005;2:14.

³⁴ Center for Science in the Public Interest. Dispensing Junk: How School Vending Undermines Efforts to Feed Children Well. May 2004. http://www.cspinet.org/new/pdf/dispensing_junk.pdf. Accessed May 17, 2012.

³⁵ 24 RCNY Health Code 47 (2012).

³⁶ New York City Department of Education. Wellness Policy. Issued June 2010.http://schools.nyc.gov/NR/ronlyres/2B99376C-5BA2-4D97-9F85-1C5DA395EFF4/0/NYCDOEWellnessPolicy_June2010.pdf. Accessed May 17, 2012..

³⁷ New York City Department of Education. Regulation of the Chancellor A-812.Issued February 25, 2010. <http://schools.nyc.gov/NR/ronlyres/381F4607-7841-4D28-B7D5-0F30DDB77DFA/78296/A812FINAL.pdf>. Accessed May 17, 2012.

³⁸ New York City Department of Health and Mental Hygiene. New York City Food Standards. <http://www.nyc.gov/html/doh/html/cardio/cardio-vend-nutrition-standard.shtml>. Accessed May 17, 2012.

³⁹ USDA, Dietary Guidelines for Americans.

⁴⁰ IOM, Nutrition Standards for Foods in Schools.

The resolution is as follows.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; deleted material is in [brackets].

RESOLVED, that Article 48 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, by adding a new §48.28, to be printed together with explanatory notes, to read as follows:

§48.28 Nutritional requirements for beverages; camper access to vending machines.

(a) *Sugary Drinks.* Except as provided in subdivision (c) and (d), permittees must not serve campers beverages that contain more than ten (10) calories per eight (8) ounces or beverages that are sweetened with sugar or another caloric sweetener including, but not limited to, high fructose corn syrup, sucrose, and honey.

(b) *Additives.* Beverages that permittees provide to campers must not contain caffeine, artificial sweeteners, or non-nutritive sweeteners including, but not limited to, stevia and erythritol.

(c) *Milk.* Except when permitted by federal law, milk that permittees provide to campers must be unflavored, unsweetened milk with 1% or less milk-fat, unless milk with a higher fat content is medically required for an individual child as documented by the child’s medical provider.

(d) *100%Juice.* Except when permitted by federal law, permittees must not provide more than one portion of juice to campers daily, and such portion must not contain more than six (6) ounces and must consist of 100% fruit or vegetable juice.

(e) Water. Potable water to which no artificial or natural sweetener has been added must be made available and be easily accessible to campers at all times, including at meals and snacks.

(f) Vending machines. Wherever feasible and practicable, permittees must restrict access to food and beverage vending machines in child-accessible areas of the camp during camp hours of operation, and must prohibit campers from using food and beverage vending machines during camp hours and on camp trips.

Notes: §48.28 was added to Article 48 by resolution adopted September 13, 2012 to establish requirements for beverages provided to campers by permittees and to prohibit access to vending machines. Its intent is to prevent children from being provided with, and having access to, minimally nutritious beverages and snacks while attending camp, and to contribute to a more healthful diet. The goal is to decrease consumption of energy-dense snacks and sugary drinks among children attending camps in the City. In the context of prohibiting use of vending machines, “wherever feasible and practicable” means that wherever possible campers should be barred from using food and beverage vending machines without causing undue hardship to persons other than campers and camp staff who might reasonably need to access the vending machines on camp premises, or at other locations by campers on camp trips.

RESOLVED, that the Table of Section Headings of Article 48 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to read as follows:

ARTICLE 48

SUMMER DAY CAMPS, CHILDREN’S OVERNIGHT CAMPS, CHILDREN’S TRAVELING
SUMMER DAY CAMPS, AND MUNICIPAL CAMPS

§48.01 **Scope.**

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§48.27 **Modification**

§48.28 **Nutritional requirements for beverages; camper access to vending machines.**

Notes: Article 48 was further amended by resolution adopted by the Board of Health on September 13, 2012 to add a new §48.28 (Nutritional requirements for beverages; camper access to vending machines) to establish requirements for beverages provided to campers by permittees and to prohibit access to vending machines. Its intent is to prevent children from being provided with, and having access to, minimally nutritious beverages and snacks while attending camp and to contribute to a more healthful diet.