

Office of Superintendent of Schools
Board Meeting of January 16, 2002

December 20, 2001

Management and Accountability
Carol Cortes, Deputy Superintendent

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: INITIAL
READING 6Gx13- 3E-1.22, FOOD AND NUTRITION SERVICE**

This item is submitted for consideration by the Board to amend School Board Rule 6Gx13- 3E-1.22, Food and Nutrition Service, due to the amendments of Section 2 of the National School Lunch Act, State Board of Education Rules 6A-7.042 and 7.0421, and to comport with current Board rules and policies.

Attached are the Notice of Intended Action, the rule proposed for amendment, and Section A, Program Authority, of the document, Department of Food and Nutrition Procedures Manual, which is incorporated by reference and is a part of this rule, proposed for amendment. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of School Board Rule 6Gx13- 3E-1.22, Food and Nutrition Service.

RECOMMENDED: That the School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Rule 6Gx13- 3E-1.22, Food and Nutrition Service.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on January 16, 2002, its intention to amend School Board Rule 6Gx13- 3E-1.22, Food and Nutrition Service, at its meeting of March 13, 2002.

PURPOSE AND EFFECT: To amend the School Board Rule to reflect changes in Section 2 of the National School Lunch Act, State Board of Education Rules 6A-7.042 and 6A-7.0421, and to comport with current Board rules and policies.

SUMMARY: The amendment reflects changes in titles of state officials, department names, State Board of Education Rules and to reflect current laws, regulations, rules and policies.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 230.22(2); 230.23(22) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 228.195 F.S.; 6A-7.040; 6A-7.041; 6A-7.042; 6A-7.0421; 6A-7.045 FAC.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING OF March 13, 2002, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida, 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1) F.S., must do so in writing by February 12, 2002, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by the School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105 Florida Statutes).

A COPY OF THE PROPOSED AMENDED RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida, 33132.

Originator: Mrs. Onetha J. Gilliard
Supervisor: Ms. Carol Cortes
Date: December 20, 2001

Non-instructional Operations

FOOD AND NUTRITION SERVICE

The objectives of the Food and Nutrition Service program are to: (1) provide school food services consistent with the nutritional needs of students and (2) provide school food services that contribute to the student's educational experiences and to the development of desirable eating habits.

The Food and Nutrition Service program shall be operated on a non-profit, non-loss basis in accordance with the Board's contractual agreement with the Florida Department of Education and in compliance with Florida Statutes, State Board of Education Administrative Rules, and the National Child Nutrition (P.L. 89-642) and School Lunch (P.L. 79-396) Acts.

In compliance with federal and state laws and regulations, all students determined to be economically needy are to be provided, upon request, a free or reduced price meal or meals at school. Such determination shall be made in accordance with a publicly announced plan applied equitably to all families in the school district.

Responsibility for the administration and operation of the Food and Nutrition Service program is at the district level. Accounting and fiscal control, purchasing, inservice education and the development of standardized recipes and district-wide menu planning are district level services.

Expenditures from the Food and Nutrition Service Operating Fund, shall be in compliance with the State Board of Education Administrative Rules: 6A-1.012, Purchasing Policies; and National School Lunch Act Regulations 7CFR 210 through 250.

The Board shall approve any change in the prices for student meals, sold in the schools. Prices of individually priced food and beverage items and adult meals shall be determined by the food service director.

Purchase of equipment for the Food and Nutrition Service program shall be in compliance with State Board of Education Administrative Rules: 6A-2, Educational Facilities; 6A-7.040; 6A-7.042, and National School Lunch Act Regulations 7CFR Parts 210 through 250.

All Food and Nutrition Service personnel employed after September 1, 1973 shall be paid on an hourly basis except food service managers, food service manager trainees, satellite assistants, and assistants to the food service manager.

School-allied special programs are permitted to contract with Food and Nutrition Service for meals and supplemental nourishments upon approval by the Superintendent of Schools.

Meals for non-school allied community groups may be provided if a written contract is approved by the Board. The Board shall be fully compensated for the full cost of services provided.

The Deputy Superintendent, School Operations, under the direction of the Superintendent of Schools, shall administer the School Food and Nutrition Service program.

The document entitled **Department of Food and Nutrition Procedures, Section A, Program Authority, Miami-Dade County Public Schools** is incorporated by reference in this rule and is a part hereof. **The Department of Food and Nutrition Procedures, Section A, Program Authority, Miami-Dade County Public Schools** is on file in the Office of the Board Recording Secretary to the ~~School Board~~ and in the Citizen Information Center.

This document sets forth specific policies which shall be the basis for the ~~Department of Food and Nutrition Principal's Manual~~ and **Department of Food and Nutrition Operating Procedures** which outline the procedures for the implementation of the program according to Board rules.

Specific Authority: 230.22(2); 230.23(22) F.S.

Law Implemented, Interpreted, or Made Specific: 228.195 F.S.; 6A-7.040; 6A-7.041; 6A-7.042; 6A-7.0421; 6A-7.045 FAC

History

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

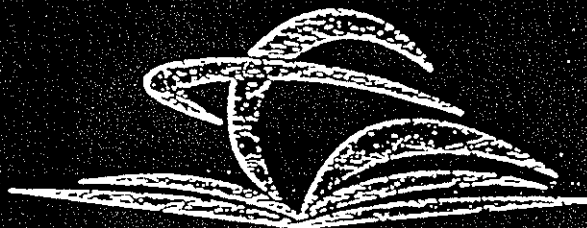
Repromulgated: 12-11-74

Amended: 1-23-80; 5-20-81; 3-10-82; 6-22-83; 4-1-87; 9-25-91

Technical Change: 5-1-98

SECTION A
PROGRAM AUTHORITY

DEPARTMENT OF FOOD AND NUTRITION PROCEDURES MANUAL



**Miami-Dade County
Public Schools**
giving our students the world

Board Rule 6Gx13- 3E-1.22

Initial Reading: January 16, 2002

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

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MS. PERLA TABARES HANTMAN, CHAIR

~~MS. JANET R. McALILEY, VICE-CHAIRPERSON~~
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~~MR. ROBERT RENICK~~

DR. SOLOMON C. STINSON

MR. EVAN B. ROSEN
STUDENT ADVISOR

~~MR. PAUL W. BELL~~
MR. MERRETT R. STIERHEIM
SUPERINTENDENT OF SCHOOLS

PROGRAM AUTHORITY

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The National School Lunch Act of 1946 authorized the establishment of school lunch programs to address several vital concerns relating to the health of the children of the United States.

GOALS

Section 2 of the National School Lunch Act, as amended, states:

- A. "It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation and expansion of nonprofit school lunch programs."
- B. "In furtherance of program these objectives, participating schools shall serve lunches that are nutritionally adequate, as set forth in these regulations, and shall to the extent practicable, ensure also coordinate the school's health education activities with the formation of good eating habits in the lunchroom, to the end that participating children will gain a full understanding of the relationship between proper eating and good health."

PURPOSE

The purpose of the school food service program according to Florida Statutes is set forth below:

"In recognition of the demonstrated relationship between good nutrition and the capacity of children to develop and learn, it is declared to be the policy of the state to safeguard the health and well-being of Florida children by providing standards for school food service and by requiring school districts to establish and maintain an appropriate nonprofit school food service program consistent with the nutritional needs of children."

OBJECTIVES

Part of the State Board of Education Rule states the food service program has the following objectives:

"To provide school food services consistent with the nutritional needs of students. Such services shall include a reimbursable lunch or breakfast, priced as a unit, and supplemental nourishment as needed.

To provide school food services that contribute to the student's educational experiences."

SPECIFIC PROCEDURES

The specific procedures to be followed are herein authorized and incorporated by reference in Board Rule. Guidelines for the administration of the food service program by the school principal ~~as authorized by this rule are found in the document entitled "Department of Food and Nutrition Principal's Manual."~~ Guidelines for the administration of the food service program by and the food service manager as authorized by this rule are found in the document entitled "Department of Food and Nutrition Operating Procedures Manual."

The Department of Food and Nutrition shall adhere to Federal Rules and Regulations as set forth in Federal Register by the Department of Agriculture, Food and Nutrition Service, Title 7, CFR Parts 210, 220, 225, 226, 227, 245, and 250; Florida State Statutes, Florida State Board Rules, The Child Nutrition Programs Agreement and all other conditions set forth in contracts entered into by the Board to provide food service to other agencies.

RESPONSIBILITY OF THE BOARD

Florida School Law Statutes Chapter 228.195 states:

"Each district school board shall consider the recommendations of the district superintendent and adopt policies to provide for an appropriate food and nutrition program for children consistent with regulations and standards prescribed by the commissioner state board."

State Board Rule 6A-7.042 Section 2 states that:

"Each district school board shall have the following responsibilities:

- A. To provide the necessary food service programs to meet nutritional needs of students during the school day. These food service programs shall be appropriately scheduled and shall include as a minimum a reimbursable lunch and if desired, a reimbursable breakfast, both priced as a unit. Supplemental foods which make a nutritional contribution to these meals may also be provided.
- B. To adopt policies covering all phases of the district school food service program.
- C. To ~~prohibit~~ control the sale of food and beverage items in competition with the district approved food service program, including those classified as "foods of minimum nutritional value," listed in Code of Federal Regulations 210, Appendix B. These items may be sold in secondary schools only, with the approval of the school board, one (1) hour following the close of the last lunch period. A school board may allow the sale of carbonated beverages to students in high schools by a school activity or organization authorized by the principal at all times if a beverage of one hundred (100) percent fruit juice is sold at each location where carbonated beverages are sold. However, carbonated beverages may not be sold where breakfast or lunch is being served or eaten. Non-carbonated beverages,

including one hundred (100) percent fruit juice, may be sold at all times during the day at any location. Consideration should be given to allowing only the sale of nutritious food and beverage items which meet at least United States Department of Agriculture dietary guidelines for Americans.

- D. To require that when competitive food and beverage items are sold during the school day all proceeds from such sales shall accrue to the food service program or to a school organization approved by the school board.
- E. To provide an alternative food service program for students attending double session schools. The school board, after considering the nutritional needs of all the students attending the school, shall determine the alternate program needed.
- F. To provide facilities and equipment necessary for the efficient and effective operation of the school food service programs, in compliance with Chapter 6A-2, FAC.
- G. To provide for the control, administration, supervision, and operation of all of the food service programs of the district. The school board may contract with a food management company to provide food service in one (1) or more schools; provided that the school board shall retain responsibility for its operation, administration, supervision and control, in compliance with the program agreement and federal regulations.
- H. To adopt a policy for providing economically needy students with free and reduced price lunches and breakfasts, when breakfasts are served, that will comply with federal regulations. This policy shall include a plan for verifying economic need of students and shall be approved by the Deputy Commissioner for Planning, Budgeting and Management, Director, Division of Public Schools.
- I. To adopt policies prescribing procedures for purchases of food and nonfood items in compliance with the requirements of Rule 6A-1.012, FAC, of these rules, provided that such policies:
 - 1. Shall establish procedures to assure that all foods purchased conform to the Federal Food, Drug and Cosmetic Act, the Federal Meat Inspection Act, and the Meat Inspection Law of Florida, and any other federal or state safeguards relating to wholesomeness of specific items being purchased.

2. May exempt food products except milk from the bid requirements of Rule 6A-1.012, FAC. Milk may be exempt under the following conditions:
 - a.) The district school board has made a finding that no valid or acceptable firm bid has been received within the prescribed time; or
 - b.) The district school board has made a finding that an emergency situation exists and may enter into negotiations with suppliers of milk and shall have the authority to execute contracts under whatever terms and conditions as the board determines to be in the best interest of the school system.
- J. To provide optional meal service at cost to Department approved nonprofit child nutrition sponsors of federal or state nutrition programs operating within a district.
- K. To limit, beginning with fiscal year 1984-85, the amount of funds recovered annually for food service indirect costs to the district's approved restricted federal indirect cost rate, multiplied by the total Food Service Fund expenditures less expenditures for capital outlay, replacement of equipment, and United States Department of Agriculture donated foods; and cash-in-lieu of donated foods.
- L. To conduct a survey at the beginning of each school year, in each school not having a breakfast program asking parents whether their children would participate if a reimbursed breakfast program were available. Within thirty (30) days after completion of the survey, upon due public notice, the superintendent shall present the results of these surveys on a school-by-school basis to the school board. The survey results shall include the number of students represented by parents requesting school breakfast and recommendations from individual principals desiring a school breakfast program, based on the needs of the children within their school. Upon presentation of the survey to the school board, the school board shall determine whether or not to accept the breakfast program in individual schools. If surveys have been conducted for three (3) consecutive years and the school board has not established a breakfast program, the survey may be conducted thereafter once every three (3) years."

School Board Rule 6Gx13- 3E-1.22 states that the:

"Responsibility for the administration and operation of the Food and Nutrition Service program is at the district level. Accounting and fiscal control, purchasing, inservice education and the development of standardized recipes and district-wide menu planning are district level services.

Expenditures from the Food and Nutrition Service Operating Fund shall be in compliance with the State Board of Education ~~Administrative Rules: 6A-1.012, Purchasing Policies Finance and Administration;~~ and National School Lunch Act; Regulations 7CFR 210 through 250.

Purchase of equipment for the ~~School Food and Nutrition Service~~ program shall be in compliance with State Board of Education ~~Administrative Rules: 6A-2, Educational Facilities; 6A-7.040; 6A-7.042;~~ and National School Lunch Act; Regulations 7CFR Parts 210 through 250."

RESPONSIBILITY OF PRINCIPAL

State Board Rule 6A-7.042 states that:

"The school principal and local school staff shall have the following responsibilities:

- A. To comply with federal and state laws, regulations and district school board policies.
- B. To effect, through classroom instruction and learning experiences outside the classroom, ways to increase the pupil's knowledge concerning nutrition.
- C. To schedule meal serving periods in such a manner as to permit and encourage maximum student participation in the food service program."

ADMINISTRATION AND SUPERVISION

School Board Rule 6Gx13- 3E-1.22 states that:

"The Food and Nutrition Service program shall be operated on a non-profit, non-loss basis in accordance with the Board's contractual agreement with the Florida Department of Education and in compliance with Florida Statutes, State Board of Education ~~Administrative Rules,~~ and the National Child Nutrition (P.L.89-642) and School Lunch (P.L.79-396) Acts."

Educational Requirements

According to State Board Rule 6A-7.045:

ADMINISTRATORS AND SUPERVISORS --

A food service district administrator shall hold a master's degree. A food service supervisor shall hold as a minimum, a bachelor's degree. Both shall meet the qualifications for food service certification as prescribed by Rule 6A-4.30, FAC. Food service administrators and supervisors employed by the district prior to December 5, 1974, shall be exempt from the requirement contained herein.

FOOD SERVICE MANAGERS --

Each manager of a food service operation at the site level shall have at least a high school equivalency diploma and three (3) years of experience in school food service or related work; provided that in the event acceptable personnel meeting the educational requirements are not available, the school board may employ a manager on the condition that the educational requirement be met within one (1) year from date of employment. A manager so employed, who fails to meet the educational requirement within the prescribed time limits shall not be continued in employment. Managers employed by a district prior to December 5, 1974, shall be exempt from the requirement contained herein.

Part-time Status

School Board Rule 6Gx13- 3E-1.22 states that:

"All Food Service personnel employed after September 1, 1973 shall be paid on an hourly basis except food service managers, food service manager trainees, satellite assistants and assistants to the food service manager.

STUDENT ELIGIBILITY

State Board Rule 6A-7.0421 states:

- A. "In determining eligibility of children for free and reduced price meals in the national school lunch program, school breakfast program, child care food program, and commodity schools, and for free milk in the special milk program during each state fiscal year, participating schools and institutions shall use the income level provided by the Deputy Commissioner for Educational Programs Director, Division of Public Schools in the manner prescribed herein.

- B. Federal law requires that the state establish an income level for family size by applying a specified percentage to "Income Eligibility Guidelines" promulgated each year by the Secretary of the U.S. Department of Agriculture. This ministerial act shall be performed by the Deputy Commissioner for Educational Programs ~~Director of the Division of Public Schools~~, who is directed to make the calculations in accordance with 42 U.S.C. s.1758(b) and 7 C.F.R. s. 245.1. The calculations are to be made and transmitted to participating schools and institutions within ten (10) work days from the date the "Income Eligibility Guidelines" are published in the Federal Register. The income levels established by law are to be calculated as follows:
1. For free meals and free milk: One hundred thirty (130) percent multiplied by the poverty level of income corresponding to a family size as specified in the applicable "Income Eligibility Guidelines."
 2. For reduced price meals: One hundred eighty-five (185) percent multiplied by the poverty level of income corresponding to a family size as specified in the applicable "Income Eligibility Guidelines."
- C. The income level specified above is the maximum income a family may receive and the children be eligible for free and reduced price lunch or breakfast or free milk.
- D. Reduced price for lunch shall be forty (40) cents or less and for breakfast thirty (30) cents or less.
- E. "Income" as used in this rule shall be determined in accordance with the federal statutes, regulations and directives that are applicable to the particular federal program."

School Board Rule 6Gx13- 3E-1.22 states:

"In compliance with federal and state laws and regulations, all students determined to be economically needy are to be provided, upon request, a free or reduced price meal at school. Such determination shall be made in accordance with a publicly announced plan applied equitably to all families in the school district."

USE OF FACILITIES

School Board Rule 6Gx13-1D-1.01 requires that:

Because of the food supplies and expensive equipment at the steam tables and in the cafeteria kitchens, these facilities and areas are not to be used by non-school-allied groups. If school-allied groups use these areas, a member of the school's food service staff shall be present. The school-allied group shall reimburse Facilities Support Services ~~the school~~ for the food service personnel overtime charge at the standard overtime rate.

USE OF CAFETERIAS IN SHELTER SCHOOLS

School Board Rule 6Gx13- 1D-1.09 states:

~~"When the Red Cross requests the opening of schools as hurricane shelters, the cafeteria worker will be responsible for securing snack type food to be served to the refugees while the shelter is open. The Red Cross will assist in coordinating the delivery of milk, bread, etc. The school is to keep a record of all expenditures and invoices which are to be forwarded to the Red Cross for payment as soon as the emergency is over.~~

~~All full and broken cases of food items used for emergency feeding will be charged to the Red Cross. Broken cases will be left for the use of the school cafeteria."~~

CONTRACTED PROGRAMS

School Board Rule 6Gx13- 3E-1.22 states:

"School-allied special programs are permitted to contract with Food and Nutrition Service for meals and supplemental nourishments upon approval by the Superintendent of Schools.

Meals for non-school-allied community groups may be provided if a written contract is approved by the Board. The Board shall be fully compensated for the full cost of services provided."

MEAL/FOOD PRICES

School Board Rule 6Gx13- 3E-1.22 states:

"The Board shall approve any change in the prices for student meals sold in the schools. Prices of individually priced food and beverage items and adult meals shall be determined by the food service director."

SNACKS AND BEVERAGES

School Board Rule 6Gx13- 3B-1.061 states that:

"No food and beverage items including those of minimal nutritional value listed in the Code of Federal Regulations 210, Appendix B, are to be sold on school grounds in competition with the school food service program except in senior high schools with restrictions.

Sale by vending or other means of carbonated beverages to students in senior high schools by a school activity or organization authorized by the principal may only be sold if a beverage of one-hundred (100%) percent fruit juice is sold at the same location. However, carbonated beverages may not be sold where breakfast or lunch is being served or eaten. Non-carbonated beverages, including one hundred (100%) percent fruit juice, may be sold at all times during the day at any location.

Sale of food and beverage items by groups other than the Department of Food and Nutrition by vending or other means is not permitted in the middle, junior and senior high schools from the beginning of the school day until one hour following the close of the last lunch period.

In the elementary schools, the sale or vending of food or beverages other than the School Lunch Program, is not permitted during the school day in student areas."

The School Board of Miami-Dade County, Florida, adheres to a policy of nondiscrimination in employment and educational programs/activities and strives affirmatively to provide equal opportunity for all as required by:

Title VI of the Civil Rights Act of 1964 - prohibits discrimination on the basis of race, color, religion, or national origin.

Title VII of the Civil Rights Act of 1964, as amended - prohibits discrimination in employment on the basis of race, color, religion, gender, or national origin.

Title IX of the Education Amendments of 1972 - prohibits discrimination on the basis of gender.

Age Discrimination in Employment Act of 1967 (ADEA), as amended - prohibits discrimination on the basis of age with respect to individuals who are at least 40.

The Equal Pay Act of 1963, as amended - prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Section 504 of the Rehabilitation Act of 1973 - prohibits discrimination against the disabled.

Americans with Disabilities Act of 1990 (ADA) - prohibits discrimination against individuals with disabilities in employment, public service, public accommodations, and telecommunications.

The Family and Medical Leave Act of 1993 (FMLA) - requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons.

The Pregnancy Discrimination Act of 1978 - prohibits discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions.

Florida Educational Equity Act (FEEA) - prohibits discrimination on the basis of race, gender, national origin, marital status, or handicap against a student or employee.

Florida Civil Rights Act of 1992 - secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

School Board Rules 6Gx13- 4A-1.01, 6Gx13- 4A-1.32, and 6Gx13- 5D-1.10 - prohibit harassment and/or discrimination against a student or employee on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability.

Veterans are provided re-employment rights in accordance with P.L. 93-508 (Federal Law) and Section 295.07 (Florida Statutes), which stipulate categorical preferences for employment.