

“Anytime, Anywhere”

New Regulation Says Milk Sales are Always Okay

Issue

A USDA regulation for the National School Lunch Program gives new protection to schools that want to sell milk in vending machines or anywhere else on school campuses. Exclusive beverage sales contracts can no longer be used to prevent milk sales.

Background

Many schools have exclusive sales contracts with soft drink bottlers, who provide schools a share of vending revenue in exchange for being the sole supplier of vended beverages. Few if any bottlers offer 100% fluid milk. A growing number of schools have been interested in selling milk in vending machines in an effort to promote healthy food and beverage choices. However, exclusive sales contracts could be used to prevent schools from selling milk, with bottlers claiming that milk was competing with soft drinks.

In 2004, Congress passed a law renewing the school meal programs. The new law included a section that is often called “anytime, anywhere”: It said exclusive sales contracts could not limit schools’ ability to market milk anytime, anywhere on school property or at school events.

USDA issued a regulation to implement “anytime, anywhere” November 21, 2005. The regulation is in effect now, but USDA is taking comments until May 22, 2006.

Discussion

Here are some important points to keep in mind about the “anytime, anywhere” rule.

- **It does not require schools to offer milk in vending machines or a la carte.** The rule just means that no one can *prevent* the school from marketing milk anywhere it wants to. The decision is always up to the local school district.
- **The rule *does* affect existing contracts.** USDA has told schools that have contracts in conflict with the regulation that they should “either conduct a new procurement or amend these existing contracts to conform with the statute” by the beginning of the 2006-07 school year or the renewal of the current contract, whichever comes first.

Congress and USDA have acted to make sure there is no contractual barrier to schools that want to promote student wellness and health by vending delicious varieties of 100% milk. Schools now have a new incentive to move into healthy vending!