

NOTICE OF PUBLIC HEARING

- Subject:** Opportunity to Comment on Proposed Amendment of Article 48 (Summer Day Camps, Children's Overnight Camps, Children's Traveling Summer Day Camps, and Municipal Camps) of the New York City Health Code, found in Title 24 of the Rules of the City of New York.
- Date / Time:** July 25, 2012 / 10 A.M. to 12 P.M.
- Location:** New York City Department of Health and Mental Hygiene
2 Gotham Center, 20th Floor, Room 20-38
42-09 28th Street
Long Island City, NY11101-4132
- Contact:** Rena Bryant
(347) 396-6071

Proposed Amendment

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 48 of the Health Code relating to nutritional requirements at children's summer camps. This was included in the Department's regulatory agenda.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to:

New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
2 Gotham Center, 14th Floor, Room 14-15, Box 31
Long Island City, NY11101-4132

or electronically through NYC RULES at www.nyc.gov/nycrules or by email to RESOLUTIONCOMMENTS@HEALTH.NYC.GOV or online (without attachments) at <http://www.nyc.gov/html/doh/html/notice/notice.shtml> on or before 5:00 P.M., on July 25, 2012.

- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact Rena Bryant at the phone number shown above by July 11, 2012.
- Copies of written comments and a summary of oral comments received at the hearing will be available within a reasonable time after receipt between the hours of 9:00 A.M. and 5:00 P.M. at the

New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
2 Gotham Center, 14th Floor, Room 14-15, CN 31
Long Island City, NY11101-4132

Statement of Basis and Purpose

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.

Background of Proposed 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.

Many of these camps provide food and beverages for campers. To help combat childhood obesity, as well as enable children’s camps to improve the diets and better safeguard the health of the City’s children, the Department proposes that the Board of Health amend Article 48. This proposal would align nutritional requirements for children’s camps with similar standards used for other child care environments. Those standards include requirements in Article 47 for early child care centers and City standards for school-provided meals.

Overview of Proposed Amendment

The proposed changes would establish nutritional requirements for children’s camps that hold permits issued pursuant to Article 48 of the Health Code. Specifically, the new requirements would:

- Prohibit service of certain beverages to campers, specifically:
 - Sugary drinks,
 - Non-100% juice,
 - Beverages with additives, and
 - Higher fat and flavored milk;
- Require potable water; and
- Prohibit camper access to vending machines both on and off camp premises.

The goal of these amendments is to decrease the amount of energy-dense items that children in New York City consume.

*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.

Basis for Proposed 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.

- ***The proposed 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

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.

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 BehavNutrPhys 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/rdonlyres/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/rdonlyres/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.*

“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 with no artificial or natural sweeteners must be made available and easily accessible to campers while on camp premises and must be provided with all 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 XXX 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 the City’s children. In this context, “wherever feasible and practicable” means wherever campers can 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 to campers while 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.**

* * *

§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 XXX 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. The goal is to decrease consumption of energy-dense snacks and sugary drinks among the City's children.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Nutritional Requirements for Children's Camps (Health Code Article 48)

REFERENCE NUMBER: 2012 RG 045

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: June 5, 2012

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Nutritional Requirements for Children's Camps (Health Code Article 48)

REFERENCE NUMBER: DOHMH-17

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because a cure period would present a risk to public safety.

/s/ Rachel Squire
Mayor's Office of Operations

06/05/2012
Date