

7804

2009-2010 Regular Sessions

I N A S S E M B L Y

April 24, 2009

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Introduced by M. of A. NOLAN -- (at request of the Governor) -- read once and referred to the Committee on Education

AN ACT to amend the public health law, in relation to requiring the department of health to develop media health promotion campaigns to communicate positive correlations between health, physical activity and academic performance and identify and promote best practices in communities to support healthful nutritional choices; to require the commissioner of health, in consultation with the commissioner of education and the commissioner of agriculture and markets, to develop recommendations for nutritional and dietary standards for healthy school foods and beverages; to require the departments of education and health to provide technical assistance to schools in complying with nutritional standards; to amend the education law, in relation to providing training and technical assistance to schools and establishing nutritional standards for food and beverages available in schools and requiring school wellness policies; and to amend the agriculture and markets law, in relation to nutritional and dietary standards

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "healthy schools act".  
3     S 2. Legislative findings. The legislature finds that it is in the  
4     interest of the state wherever practical to educate and encourage chil-  
5     dren to make healthier food choices and develop healthy habits both in  
6     and outside school. Because children spend a significant part of their  
7     lives in school and at school-related activities, schools can influence  
8     children's nutrition and food choices by serving as model environments  
9     that support academic performance and healthful behaviors. Similarly,  
10    encouraging physical activity in school will teach children the impor-  
11    tance of making such activity a regular part of their lives.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 S 3. Paragraphs (a) and (c) of subdivision 2 of section 2599-b of the  
2 public health law, as amended by section 88 of part B of chapter 58 of  
3 the laws of 2005, are amended and a new paragraph (h) is added to read  
4 as follows:

5 (a) developing media health promotion campaigns targeted to children  
6 and adolescents and their parents and caregivers that emphasize increas-  
7 ing consumption of low-calorie, [high-nutrient] NUTRIENT-RICH foods,  
8 decreasing consumption of high-calorie, low-nutrient foods [and],  
9 increasing physical activity designed to prevent or reduce obesity, AND  
10 COMMUNICATING THE POSITIVE CORRELATION BETWEEN CHILD HEALTH, PHYSICAL  
11 ACTIVITY AND ACADEMIC PERFORMANCE;

12 (c) establishing community-based childhood obesity prevention nutri-  
13 tion education and physical activity programs including programs TO  
14 IDENTIFY AND PROMOTE BEST PRACTICES TO HELP COMMUNITIES CHANGE THEIR  
15 ENVIRONMENT TO SUPPORT HEALTHFUL NUTRITIONAL CHOICES, AND TO DEVELOP  
16 PROGRAMS which involve parents and caregivers, and which encourage  
17 communities, families, child care, SCHOOLS and other settings to provide  
18 safe and adequate space and time for physical activity and encourage a  
19 healthy diet;

20 (H) INCREASING COLLABORATION, WITHIN AND ACROSS COMMUNITIES, OF COMMU-  
21 NITY BASED NUTRITION AND PHYSICAL ACTIVITY PROFESSIONALS, EDUCATORS AND  
22 HEALTH CARE PROVIDERS, INCLUDING STAFF FROM NEW YORK STATE'S COMPREHEN-  
23 SIVE CARE CENTERS FOR EATING DISORDERS, TO PRESENT CONSISTENT AND EFFEC-  
24 TIVE MESSAGES IN RELATION TO HEALTHY EATING BEHAVIORS AND PHYSICAL  
25 ACTIVITY PATTERNS, AND IN PARTICULAR TO ADDRESS THE FACTORS WHICH  
26 CONTRIBUTE TO EATING DISORDERS.

27 S 4. Section 2599-c of the public health law, as amended by section 88  
28 of part B of chapter 58 of the laws of 2005, is amended to read as  
29 follows:

30 S 2599-c. School-based childhood obesity prevention and physical  
31 activity programs. 1. The commissioner shall encourage the establishment  
32 of school-based childhood obesity prevention and physical activity  
33 programs that promote:

34 [1.] A. A healthy school environment, including physical and aesthetic  
35 surroundings and culture designed to prevent and reduce the incidence  
36 and prevalence of obesity; and

37 [2.] B. Parent/community involvement, including an integrated school,  
38 parent, and community approach for enhancing the health and well-being  
39 of students.

40 2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE COMMISSIONER OF  
41 EDUCATION AND THE COMMISSIONER OF AGRICULTURE AND MARKETS, DEVELOP  
42 RECOMMENDATIONS FOR NUTRITIONAL AND DIETARY STANDARDS FOR HEALTHY SCHOOL  
43 MEALS, ENTREES, SNACKS AND BEVERAGES CONSISTENT WITH SECTION NINE  
44 HUNDRED FIFTEEN OF THE EDUCATION LAW. THE RECOMMENDATIONS SHALL BE  
45 PROVIDED IN WRITING TO THE COMMISSIONER OF EDUCATION NO LATER THAN MAY  
46 THIRTY-FIRST, TWO THOUSAND NINE, AND REVISED RECOMMENDATIONS SHALL BE  
47 PROVIDED AS DEEMED NECESSARY BY THE COMMISSIONER. IN COMPLYING WITH THE  
48 REQUIREMENTS OF THIS SUBDIVISION THE COMMISSIONER SHALL SEEK THE ADVICE  
49 OF NEW YORK STATE'S COMPREHENSIVE CARE CENTERS FOR EATING DISORDERS.

50 3. THE COMMISSIONER SHALL COLLABORATE WITH THE COMMISSIONER OF EDUCA-  
51 TION AND CONSULT WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS IN  
52 GATHERING DATA AND MAKING REPORTS PURSUANT TO PARAGRAPH D OF SUBDIVISION  
53 THREE OF SECTION NINE HUNDRED FIFTEEN OF THE EDUCATION LAW.

54 4. THE COMMISSIONER SHALL, IN COLLABORATION WITH THE COMMISSIONER OF  
55 EDUCATION, PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO SCHOOLS TO  
56 ASSIST SCHOOLS IN COMPLYING WITH THE REQUIREMENTS OF SECTION NINE

1 HUNDRED FIFTEEN OF THE EDUCATION LAW AND THE REGULATIONS PROMULGATED  
2 THEREUNDER. IN COMPLYING WITH THE REQUIREMENTS OF THIS SUBDIVISION, THE  
3 COMMISSIONER SHALL SEEK THE ADVICE OF NEW YORK STATE'S COMPREHENSIVE  
4 CARE CENTERS FOR EATING DISORDERS.

5 S 5. Section 305 of the education law is amended by adding a new  
6 subdivision 42 to read as follows:

7 42. THE COMMISSIONER SHALL, IN COLLABORATION WITH THE COMMISSIONER OF  
8 HEALTH, PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO SCHOOLS TO ASSIST  
9 SCHOOLS IN COMPLYING WITH THE REQUIREMENTS OF SECTION NINE HUNDRED  
10 FIFTEEN OF THIS CHAPTER AND THE REGULATIONS PROMULGATED THEREUNDER.

11 S 6. Section 915 of the education law, as added by chapter 674 of the  
12 laws of 1987, is amended to read as follows:

13 S 915. [Prohibiting the sale of certain sweetened foods. From the  
14 beginning of the school day until the end of the last scheduled meal  
15 period, no] HEALTHY SCHOOL FOODS AND BEVERAGES. 1. FOR PURPOSES OF THIS  
16 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

17 A. "SCHOOL MEALS" SHALL MEAN MEALS WHICH MEET THE NUTRITIONAL REQUIRE-  
18 MENTS OF, AND ARE REIMBURSABLE UNDER, ANY PROGRAM AUTHORIZED BY THE  
19 RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT OR THE CHILD NUTRITION ACT  
20 OF 1966.

21 B. "ENTREES" SHALL MEAN A COMBINATION OF FOODS OR A SINGLE FOOD ITEM  
22 THAT IS SOLD, SERVED OR OFFERED AS THE MAIN COURSE SEPARATELY FROM  
23 SCHOOL MEALS.

24 C. "SNACKS" SHALL MEAN FOOD ITEMS THAT ARE SOLD, SERVED OR OFFERED  
25 INDIVIDUALLY, OUTSIDE OF SCHOOL MEALS, AND THAT DO NOT CONSTITUTE  
26 ENTREES THAT ARE SOLD, SERVED OR OFFERED INDIVIDUALLY.

27 2. A. THIS SECTION AND THE REGULATIONS PROMULGATED HEREUNDER SHALL  
28 APPLY TO ELEMENTARY AND SECONDARY SCHOOLS AND PROGRAMS UNDER THE JURIS-  
29 DICTION OF THE FOLLOWING, COLLECTIVELY REFERRED TO IN THIS SECTION AS  
30 "SCHOOL DISTRICTS": SCHOOL DISTRICTS, NON-PUBLIC SCHOOLS THAT PARTIC-  
31 IPATE IN ANY PROGRAM AUTHORIZED BY THE RICHARD B. RUSSELL NATIONAL  
32 SCHOOL LUNCH ACT OR THE CHILD NUTRITION ACT OF 1966, BOARDS OF COOPER-  
33 ATIVE EDUCATIONAL SERVICES, CHARTER SCHOOLS AND SCHOOLS OPERATING PURSU-  
34 ANT TO ARTICLES EIGHTY-THREE, EIGHTY-FIVE, EIGHTY-SEVEN AND EIGHTY-EIGHT  
35 OF THIS CHAPTER. SUCH SCHOOL DISTRICTS SHALL BE REQUIRED TO ENSURE  
36 COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND REGULATIONS PROMUL-  
37 GATED HEREUNDER.

38 B. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH C OF THIS SUBDIVISION,  
39 THIS SECTION AND REGULATIONS PROMULGATED HEREUNDER SHALL APPLY TO SCHOOL  
40 MEALS, ENTREES, SNACKS AND BEVERAGES: (I) SOLD, SERVED OR OFFERED ON  
41 SCHOOL GROUNDS BEFORE, DURING OR AFTER THE REGULAR SCHOOL DAY FROM ANY  
42 SOURCE INCLUDING, BUT NOT LIMITED TO, SCHOOL CAFETERIAS, A LA CARTE  
43 LINES, SCHOOL STORES, OR VENDING MACHINES; OR (II) SUPPLIED BY SCHOOLS  
44 DURING OFFICIAL TRANSPORTATION TO AND FROM SCHOOL AND SCHOOL SPONSORED  
45 ACTIVITIES INCLUDING, BUT NOT LIMITED TO, FIELD TRIPS AND INTERSCHOLAS-  
46 TIC SPORTING EVENTS.

47 C. NOTWITHSTANDING ANY OTHER PARAGRAPH OF THIS SUBDIVISION, THIS  
48 SECTION AND REGULATIONS PROMULGATED HEREUNDER SHALL NOT APPLY TO: (I)  
49 FOODS AND BEVERAGES PROVIDED UNDER THE FEDERAL CHILD AND ADULT CARE FOOD  
50 PROGRAM, WHICH SHALL BE SUBJECT TO THE REQUIREMENTS IMPOSED UNDER THAT  
51 PROGRAM; (II) FOODS AND BEVERAGES SOLD, SERVED OR OFFERED AT AFTER  
52 SCHOOL ACTIVITIES ATTENDED BY BOTH ADULTS AND STUDENTS, SUCH AS CONCERTS  
53 AND SPORTING EVENTS; OR (III) FOODS AND BEVERAGES SOLD: (A) BY STUDENTS,  
54 THEIR IMMEDIATE FAMILY MEMBERS OR GUARDIANS OR SCHOOL EMPLOYEES, (B)  
55 THROUGH SOURCES OTHER THAN SCHOOL CAFETERIAS, A LA CARTE LINES, SCHOOL  
56 STORES, OR VENDING MACHINES, (C) AFTER THE END OF THE LAST SCHEDULED

1 MEAL PERIOD OF THE SCHOOL DAY, AND (D) ONLY FOR THE PURPOSE OF RAISING  
2 FUNDS TO SUPPORT SCHOOL ACTIVITIES.

3 D. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING: (I) A  
4 STUDENT OR SCHOOL EMPLOYEE FROM CONSUMING ANY FOOD OR BEVERAGE PURCHASED  
5 BY THE STUDENT OR SCHOOL EMPLOYEE OFF OF SCHOOL GROUNDS AND BROUGHT INTO  
6 THE SCHOOL FOR THE STUDENT'S OR EMPLOYEE'S PERSONAL CONSUMPTION OR FOR  
7 CLASSROOM-WIDE ACTIVITIES OR CELEBRATIONS; OR (II) CAFFEINATED COFFEE OR  
8 TEA FROM BEING SOLD, SERVED OR OFFERED TO SCHOOL EMPLOYEES.

9 3. A. THE REGENTS AND THE COMMISSIONER SHALL PROMULGATE REGULATIONS  
10 TO ESTABLISH NUTRITIONAL AND DIETARY STANDARDS BASED UPON THE RECOMMEN-  
11 DATIONS DEVELOPED PURSUANT TO SUBDIVISION TWO OF SECTION TWENTY-FIVE  
12 HUNDRED NINETY-NINE-C OF THE PUBLIC HEALTH LAW.

13 (I) THE NUTRITIONAL AND DIETARY STANDARDS MAY BE UPDATED AS DEEMED  
14 NECESSARY BY THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF  
15 HEALTH, BUT NOT LESS THAN EVERY FIVE YEARS AND SHALL BE MADE AVAILABLE  
16 FOR PUBLIC COMMENT AND REVIEW PURSUANT TO THE STATE ADMINISTRATIVE  
17 PROCEDURE ACT.

18 (II) THE NUTRITIONAL AND DIETARY STANDARDS FOR HEALTHY SCHOOL MEALS,  
19 ENTREES, SNACKS AND BEVERAGES SHALL BE DEVELOPED TO PROMOTE A HEALTHFUL  
20 DIET AND SHALL BE BASED ON THE PREPONDERANCE OF THE NUTRITIONAL, SCIEN-  
21 TIFIC AND MEDICAL KNOWLEDGE WHICH IS CURRENT AT THE TIME THE REGULATIONS  
22 ARE BEING PROMULGATED.

23 (III) WHEN PROMULGATING SUCH REGULATIONS, THE REGENTS AND COMMISSIONER  
24 SHALL TAKE INTO ACCOUNT THE LOCAL AND REGIONAL CONCERNS OF ANY SCHOOL OR  
25 SCHOOL DISTRICT REQUIRED TO COMPLY WITH THE NUTRITIONAL AND DIETARY  
26 STANDARDS.

27 (IV) UNDER NO CIRCUMSTANCE SHALL THE NUTRITIONAL AND DIETARY STANDARDS  
28 INTERFERE WITH THE SPECIAL DIETARY NEEDS OF STUDENTS IN RELATION TO  
29 HEALTH CONDITIONS, FOOD ALLERGIES, DIETARY INTOLERANCES AND RELIGIOUS  
30 MANDATES.

31 (V) THE NUTRITIONAL AND DIETARY STANDARDS SHALL REFLECT THE NEEDS OF  
32 STUDENTS AT DIFFERING AGES AND GRADE LEVELS.

33 (VI) NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRA-  
34 RY, STANDARDS FOR SCHOOL MEALS SHALL COMPLY WITH ALL FEDERAL LAWS AND  
35 REGULATIONS APPLICABLE TO SUCH MEALS.

36 B. THE NUTRITIONAL AND DIETARY STANDARDS SHALL INCLUDE APPROPRIATE  
37 NUTRITIONAL STANDARDS AND CONSUMPTION AMOUNTS RELATED, BUT NOT LIMITED  
38 TO: (I) DIETARY CHOLESTEROL; (II) SODIUM; (III) CALORIES DERIVED FROM  
39 FAT AND SATURATED FAT; (IV) CALORIES DERIVED FROM SUGAR; (V) TOTAL  
40 CALORIE AMOUNTS; (VI) TOTAL FAT CONTENT OF MILK AND OTHER DAIRY  
41 PRODUCTS; AND (VII) SERVING SIZES, AND SUCH STANDARDS SHALL FURTHER  
42 PROHIBIT ARTIFICIAL TRANS FATTY ACIDS.

43 C. THE REGULATIONS DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION SHALL  
44 BE PROMULGATED NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND NINE  
45 AND SHALL BE EFFECTIVE UPON SUCH DATE OR DATES AS DETERMINED BY THE  
46 COMMISSIONER; PROVIDED, HOWEVER, THAT SUCH REGULATIONS SHALL BE EFFEC-  
47 TIVE NO EARLIER THAN SEPTEMBER FIRST, TWO THOUSAND TEN, AND SHALL APPLY  
48 ONLY TO FOOD OR BEVERAGE CONTRACTS BETWEEN SCHOOL DISTRICTS AND VENDORS  
49 THAT WERE ISSUED, RENEWED, MODIFIED, ALTERED OR AMENDED AFTER SUCH  
50 EFFECTIVE DATE OR DATES.

51 D. THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH AND  
52 IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS SHALL:  
53 (I) PERIODICALLY GATHER DATA RELATED TO THE IMPACT OF THE NUTRITION  
54 STANDARDS ON THE HEALTH OF NEW YORK STATE'S STUDENTS; (II) MAKE PERIODIC  
55 REPORTS, NO LESS THAN ONCE A YEAR, TO THE LEGISLATURE AND GOVERNOR  
56 REGARDING THEIR FINDINGS, WITH THE FIRST SUCH REPORT BEING MADE NO LATER

1 THAN DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE; AND (III) MODIFY NUTRI-  
2 TIONAL STANDARDS AS NEEDED, BASED UPON CRITERIA WHICH SHALL INCLUDE, BUT  
3 NOT BE LIMITED TO, DATA COLLECTED BY THE DEPARTMENT AND SCIENCE-BASED  
4 BEST PRACTICES FOR CREATING HEALTHY NUTRITIONAL CHOICES.

5 4. THE REGULATIONS PROMULGATED PURSUANT TO PARAGRAPH A OF SUBDIVISION  
6 THREE OF THIS SECTION SHALL PROVIDE THAT WHEN SELLING, OFFERING OR SERV-  
7 ING SCHOOL MEALS, SCHOOLS SHALL:

8 A. OFFER DURING EACH LUNCH PERIOD AT LEAST ONE PLANT-BASED MEAT ALTER-  
9 NATIVE WHICH COMPLIES WITH THE STANDARDS OF THE FEDERAL DEPARTMENT OF  
10 AGRICULTURE;

11 B. OFFER DURING EACH BREAKFAST AND LUNCH PERIOD FRUIT WITH NO ADDED  
12 SWEETENERS;

13 C. OFFER DURING EACH LUNCH PERIOD VEGETABLES WHICH ARE NOT FRIED;

14 D. ENSURE THAT AT LEAST FIFTY PERCENT OF GRAIN PRODUCTS OFFERED, OVER  
15 A SCHOOL WEEK, ARE WHOLE GRAIN PRODUCTS; AND

16 E. ENSURE THAT ENTREES SOLD, SERVED OR OFFERED INDIVIDUALLY ARE THE  
17 SAME AS THE ENTREES THAT ARE SOLD, SERVED OR OFFERED AS PART OF SCHOOL  
18 MEALS, OR ARE COMPARABLE IN PORTION SIZE, CALORIES AND NUTRITIONAL VALUE  
19 TO THE ENTREES THAT ARE SOLD, SERVED OR OFFERED AS PART OF SUCH SCHOOL  
20 MEALS.

21 5. NO sweetened soda water, no chewing gum, no candy including hard  
22 candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy  
23 and candy coated popcorn, and no water ices except those which contain  
24 ONE HUNDRED PERCENT fruit or fruit juices, shall be sold in any [public]  
25 school [within the state] DISTRICT EXCEPT AS PERMITTED UNDER PARAGRAPH C  
26 OF SUBDIVISION TWO OF THIS SECTION.

27 6. THE REGULATIONS PROMULGATED PURSUANT TO PARAGRAPH A OF SUBDIVISION  
28 THREE OF THIS SECTION SHALL INCLUDE EXEMPTIONS OR OTHER ACCOMMODATIONS  
29 AS NECESSARY TO ACCOMMODATE THE DIETARY NEEDS OF STUDENTS IN RELATION TO  
30 HEALTH CONDITIONS, FOOD ALLERGIES, DIETARY INTOLERANCES AND RELIGIOUS  
31 MANDATES.

32 7. A. WITH RESPECT TO SNACKS AND BEVERAGES THAT MAY BE SOLD, SERVED OR  
33 OFFERED ONLY AT PARTICULAR TIMES OF THE DAY, SCHOOLS THAT UTILIZE VEND-  
34 ING MACHINES FOR THE PROVISION OF SUCH FOOD ITEMS OR BEVERAGES SHALL  
35 EQUIP ANY SUCH VENDING MACHINE WITH A TIMING DEVICE OR PERFORM AN ALTER-  
36 NATIVE ACTION TO ENSURE THAT THE FOOD ITEMS OR BEVERAGES ARE SOLD,  
37 SERVED OR OFFERED ONLY AT THE TIMES ALLOWED.

38 B. COMMERCIAL PRODUCTS OR LOGOS ON VENDING MACHINE PROHIBITED. SCHOOLS  
39 SHALL PROHIBIT VENDING MACHINES WHICH DEPICT COMMERCIAL PRODUCTS OR  
40 LOGOS OR SUGGEST THAT CONSUMPTION OF VENDED ITEMS CONVEYS A HEALTH OR  
41 SOCIAL BENEFIT, OR THAT PRODUCTS PURCHASED FROM SUCH VENDING MACHINE  
42 SUPPORT SPECIFIC SCHOOL ACTIVITIES OR GROUPS.

43 8. SCHOOLS SHALL MAKE AVAILABLE TO THE DEPARTMENT, UPON REQUEST,  
44 DOCUMENTATION SETTING FORTH THE INGREDIENTS AND NUTRIENTS OF ANY FOOD  
45 ITEM SOLD, SERVED OR OFFERED BY OR ON BEHALF OF SUCH ENTITIES, WHETHER  
46 SUCH ITEM IS SOLD, SERVED OR OFFERED IN THE FORM PURCHASED BY OR ON  
47 BEHALF OF SUCH ENTITIES OR IS USED AS AN INGREDIENT IN AN ITEM SOLD,  
48 SERVED OR OFFERED BY OR ON BEHALF OF SUCH ENTITIES.

49 S 7. The education law is amended by adding a new section 918-a to  
50 read as follows:

51 S 918-A. LOCAL SCHOOL WELLNESS POLICIES. 1. EACH SCHOOL DISTRICT,  
52 NON-PUBLIC SCHOOL THAT PARTICIPATES IN ANY PROGRAM AUTHORIZED BY THE  
53 RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT OR THE CHILD NUTRITION ACT  
54 OF 1966, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CHARTER SCHOOL, AND  
55 SCHOOL OPERATING PURSUANT TO ARTICLES EIGHTY-THREE, EIGHTY-FIVE, EIGHT-  
56 Y-SEVEN AND EIGHTY-EIGHT OF THIS CHAPTER, COLLECTIVELY REFERRED TO IN

1 THIS SECTION AS "SCHOOL DISTRICTS", SHALL ESTABLISH A LOCAL SCHOOL WELL-  
2 NESS POLICY. SUCH POLICY SHALL BE IN ADDITION TO OR A PART OF A WELLNESS  
3 POLICY THAT MAY BE REQUIRED PURSUANT TO FEDERAL LAW AND RELATED IMPL-  
4 MENTING REGULATIONS. IN DEVELOPING THE POLICY, THE GOVERNING BODY OR  
5 OFFICER OF THE SCHOOL DISTRICTS SHALL:

6 A. INVOLVE, AT A MINIMUM, PARENTS AND GUARDIANS, STUDENTS, REPRES-  
7 TATIVES OF THE SCHOOL FOOD AUTHORITY, SCHOOL ADMINISTRATORS, SCHOOL  
8 NURSES OR OTHER HEALTH STAFF, A CERTIFIED DIETITIAN/NUTRITIONIST IF  
9 AVAILABLE, PHYSICAL EDUCATION STAFF, AND TEACHERS; AND

10 B. CONSIDER ANY RECOMMENDATIONS MADE BY A SCHOOL DISTRICT NUTRITION  
11 ADVISORY COMMITTEE ESTABLISHED IN SECTION NINE HUNDRED EIGHTEEN OF THIS  
12 ARTICLE, IF SUCH COMMITTEE HAS BEEN FORMED BY THE SCHOOL DISTRICT.

13 2. LOCAL SCHOOL WELLNESS POLICIES SHALL:

14 A. INCORPORATE A PLAN FOR MEASURING IMPLEMENTATION OF THE LOCAL SCHOOL  
15 WELLNESS POLICY;

16 B. RECOMMEND TO SCHOOLS IDEAS FOR HEALTHY FUNDRAISING ACTIVITIES AND  
17 CLASSROOM EVENTS AND CELEBRATIONS;

18 C. DETERMINE: (I) WHETHER AND TO WHAT EXTENT EACH SCHOOL SHOULD  
19 CONTAIN NUTRITIONAL EDUCATION AS PART OF ITS CURRICULUM TO PROVIDE KNOW-  
20 LEDGE AND TEACH SKILLS TO HELP STUDENTS ADOPT AND MAINTAIN LIFELONG,  
21 HEALTHY EATING PATTERNS IN BALANCE WITH PHYSICAL ACTIVITY AND INCORPO-  
22 RATE MEDIA LITERACY;

23 (II) WHETHER AND TO WHAT EXTENT ADMINISTRATORS, TEACHERS, SCHOOL FOOD  
24 SERVICE STAFF, AND OTHER STAFF SHOULD BE TRAINED IN NUTRITION AND NUTRI-  
25 TION EDUCATION;

26 (III) WHETHER AND TO WHAT EXTENT ADMINISTRATORS, TEACHERS, SCHOOL FOOD  
27 SERVICE STAFF, AND OTHER STAFF SHOULD BE TRAINED IN HOW TO RECOGNIZE AND  
28 RESPOND TO EATING DISORDERS, AND WHETHER AND TO WHAT EXTENT EACH  
29 SCHOOL'S CURRICULUM SHOULD ADDRESS EATING DISORDERS;

30 (IV) WHETHER STUDENTS ARE PROVIDED WITH SUFFICIENT TIME TO EAT BREAK-  
31 FAST AND LUNCH AND WHETHER TO REQUIRE SCHOOLS TO PROVIDE STUDENTS WITH A  
32 MINIMUM AMOUNT OF TIME FOR SUCH PURPOSES;

33 (V) HOW TO INCREASE OPPORTUNITIES FOR PHYSICAL ACTIVITY DURING THE DAY  
34 BY REQUIRING RECESS, IMPROVING COMPLIANCE WITH PHYSICAL EDUCATION  
35 REQUIREMENTS, OR BOTH; AND

36 (VI) HOW TO INCREASE AND ENCOURAGE THE PURCHASE OF FRESH FRUITS, VEGE-  
37 TABLES AND DAIRY PRODUCTS WHICH ARE PRODUCED BY LOCAL OR REGIONAL FARMS,  
38 CONSISTENT WITH APPLICABLE FEDERAL PROCUREMENT STANDARDS;

39 D. REVIEW COMPLIANCE WITH EXISTING LAW, REGULATION AND POLICIES  
40 REGARDING NUTRITION EDUCATION AND PHYSICAL EDUCATION; AND

41 E. ESTABLISH RECOMMENDATIONS TO THE GOVERNING BODY OR OFFICER, AS  
42 APPROPRIATE, TO ADDRESS THE FINDINGS AND DETERMINATIONS MADE PURSUANT TO  
43 PARAGRAPHS C AND D OF THIS SUBDIVISION.

44 3. EACH SCHOOL DISTRICT SHALL, ON AN ANNUAL BASIS BEGINNING THE FIRST  
45 OF JULY, TWO THOUSAND TEN, FILE THE LOCAL SCHOOL WELLNESS POLICY WITH  
46 THE DEPARTMENT AND VERIFY THE STATUS OF THE IMPLEMENTATION OF THE LOCAL  
47 SCHOOL WELLNESS POLICY. THE LOCAL SCHOOL WELLNESS POLICIES SHALL BE MADE  
48 AVAILABLE BY SCHOOLS TO THE DEPARTMENT OF HEALTH UPON ITS REQUEST.

49 S 8. Subdivision 1 of section 2854 of the education law is amended by  
50 adding a new paragraph (f) to read as follows:

51 (F) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS  
52 NINE HUNDRED FIFTEEN AND NINE HUNDRED EIGHTEEN-A OF THIS CHAPTER.

53 S 9. The agriculture and markets law is amended by adding a new  
54 section 28 to read as follows:

55 S 28. SCHOOL NUTRITIONAL AND DIETARY STANDARDS. 1. THE COMMISSIONER  
56 SHALL PROVIDE CONSULTATION TO THE COMMISSIONERS OF EDUCATION AND HEALTH

1 IN ESTABLISHING AND REVISING NUTRITIONAL AND DIETARY STANDARDS FOR HEAL-  
2 THY SCHOOL MEALS, ENTREES, SNACKS AND BEVERAGES, CONSISTENT WITH SECTION  
3 NINE HUNDRED FIFTEEN OF THE EDUCATION LAW AND SUBDIVISION TWO OF SECTION  
4 TWENTY-FIVE HUNDRED NINETY-NINE-C OF THE PUBLIC HEALTH LAW.

5 2. THE COMMISSIONER SHALL PROVIDE CONSULTATION TO THE COMMISSIONERS OF  
6 EDUCATION AND HEALTH IN GATHERING DATA AND MAKING REPORTS PURSUANT TO  
7 PARAGRAPH D OF SUBDIVISION THREE OF SECTION NINE HUNDRED FIFTEEN OF THE  
8 EDUCATION LAW.

9 S 10. Severability clause. If any clause, sentence, paragraph, section  
10 or part of this act shall be adjudged by any court of competent juris-  
11 diction to be invalid, such judgment shall not affect, impair or invali-  
12 date the remainder thereof, but shall be confined in its operation to  
13 the clause, sentence, paragraph, section or part thereof directly  
14 involved in the controversy in which such judgment shall have been  
15 rendered.

16 S 11. This act shall take effect immediately.