Discussion document: Proposed changes to the promotion and provision of healthy drinks in schools

**We are seeking your views** **on the promotion and provision of healthy drinks in schools**

**Overview**

The promotion of healthy food and drink in schools improves children’s behaviours around what they eat and drink at school and at home. Eating habits developed at a young age shape a person’s ongoing approach to healthy eating and drinking through to adulthood, so it’s important to promote the benefits of healthy eating and drinking during children’s early development.

The National Administration Guidelines (NAGs) set out the Government’s administrative requirements for State school boards.[[1]](#footnote-2) NAG 5(b) guides school boards to promote healthy food and nutrition for all students. Since 2009, the Ministry of Health has been working with schools to encourage the voluntary adoption of healthy eating and water-only policies.[[2]](#footnote-3)

From 1 January 2023, all NAGs, including NAG 5(b), will no longer be in effect in the legislation, because of some changes we’re making to how schools do their planning and reporting. We are currently looking at transferring the NAG requirement relating to nutrition and healthy eating into a new Regulation made through the Education and Training Act 2020.

The introduction of new Regulations also provides an opportunity to strengthen the requirements so that schools can provide healthy drinks only. This would bring schools in line with the healthy drinking standards in the Ka Ora Ka Ako Healthy School Lunches programme, and existing guidance from the Ministry of Health’s Healthy Active Learning programme.

We plan to bring the Regulations into force from the end of this year, before the NAGs stop having effect.

This discussion document presents the government’s preferred option and two other options we have considered that we’d like your feedback on.

**Question 1:**

**In what capacity are you providing feedback? For example, are you responding as a parent, student, organisation, principal, teacher, or other interested person? Please specify your role and, if applicable, the type of school you work in.**

**Problem definition/opportunity**

*New Zealand students in primary schools experience high rates of decayed, missing or filled teeth and sugar sweetened beverages are a significant contributor.*

Research in New Zealand has highlighted ‘free sugars’ as contributing significantly to high rates of obesity, poor oral health, diabetes and other health-related diseases.[[3]](#footnote-4) The consumption of free sugars in sugar sweetened beverages now contributes to 26% of the total sugar intake of children.[[4]](#footnote-5) Studies conducted by the Environmental Health Indicators New Zealand (EHINZ) note that dental decay is now the most common disease reported among children in New Zealand.

The government has committed, through the Child and Youth Wellbeing Strategy, to ensure that children have the best possible health as a foundation for wellbeing. Long-standing structural and historic inequities in New Zealand society have disadvantaged particular groups, which has resulted in Māori and Pacific children being over-represented in these figures.

The Ministry of Health’s Health Survey found that Māori children were more likely to consume sugar sweetened beverages than non-Māori children. Between 2002 and 2016, Māori children in Year 8 were significantly more likely to suffer from decayed, missing, or filled teeth than their non-Māori peers.[[5]](#footnote-6) In 2018/2019, Pacific children aged 1-14 years were nearly twice as likely as non-Pacific children to have had teeth removed due to decay, an abscess, infection or gum disease in the past 12 months.[[6]](#footnote-7)

**Question 2:**

**Do you agree with our view of the problem? If not, why not?**

**What other problems, if any, do you think should be taken into consideration in assessing options?**

**Objectives**

Our proposed objectives for these new Regulations are:

* All students continue to receive positive education on healthy food and nutrition
* Schools model healthy drink consumption behaviours for children at a young age
* The Regulations are reasonable and fit for purpose in all schools.

**Question 3:**

**Are these the right objectives? Can you think of any others to add?**

**Options analysis**

We have identified three options that we’d like to get your feedback on. These are:

* **Option 1:** replace the existing NAG 5b with a duty in Regulations for all schools and kura to promote healthy food and nutrition, and a duty on all schools with students in years 1-8 to only supply healthy drinks to year 1-8 students.
* **Option 2**: replace the existing NAG 5b with a duty in Regulations and place an additional duty on all schools (primary and secondary) to only provide healthy drinks.
* **Option 3**: replace the existing NAG 5b with a duty in Regulations to promote healthy food and nutrition with no additional duties on school boards regarding the provision of healthy drinks.

Option 1 is our preferred option, and what we’re proposing to do, but we’re keen to get your feedback on all of them. The options are explained in more detail on the following pages, along with specific questions.

**Question 4: Are there any other options that you think should be considered?**

**Definition of ‘healthy drinks’**

For options 1 and 2, ‘healthy drinks’ are defined as:

* Plain, unflavoured water;
* Reduced or low-fat milk; and
* Unsweetened reduced or low-fat plant based milks (e.g. soy, rice, almond, oat) with added calcium and vitamin B12.

This is consistent with the Ministry of Health’s existing guidance on healthy drinking in schools, and the guidelines for the Ka Ora Ka Ako free lunches programme.

**Question 5: Do you agree with this definition of healthy drinks? Are there any other drinks you think should be allowed, or any included in this definition that shouldn’t be? If so, what are your reasons for including or excluding these drinks?**

**Why not regulate healthy food?**

Regulation of school-level provision of healthy food and drink is common practice in other OECD countries, with some going as far as specifying percentages of micronutrients (such as zinc and iron) that should be provided. However, regulating food standards and/or nutritional requirements for the food provided in schools would not be possible to roll out nationally before 1 January 2023.

In the first instance, regulating the provision of healthy drinks is simpler to implement and makes a difference to schools and students. This is because water is the healthiest drink humans can consume. No other drinks are as good at hydrating your body while also being good for your oral health.

The same cannot be said for food. Fruit is good for you, but only eating fruit is not. A healthy diet requires a balance of different food types and getting this right in Regulations, while accounting for specialist diets and allergies, takes time. For this reason, we are not proposing healthy food regulation as part of these changes.

**Option 1: replace the existing NAG 5b with a duty in Regulations for all schools and kura to promote healthy food and nutrition, and a duty on all schools with students in years 1-8 to only supply healthy drinks to year 1-8 students**

For option 1, when we say ‘primary schools’, we mean:

* full primary schools
* contributing primary schools
* area and composite schools
* intermediate schools.

Approximately 110 secondary schools comprise some primary school-aged children (usually in Years 7 and 8). Applying the Regulation to primary school-aged children in these settings may make it difficult for these schools to adopt a whole-school approach to healthy drinking. For example, the children in Year 8 would not be allowed to purchase drinks from a vending machine, but children in Years 9-13 would. We are therefore seeking feedback on the impact for these schools of a requirement to only provide healthy drinks to year 1-8 students.

Similarly, approximately 170 area and composite schools comprise both primary and secondary school-aged children, but in many cases, the schools contain a majority of primary school children and some secondary school-aged children. Because most of these schools contain a majority of primary school children, we are proposing to include these schools within the requirement to only provide healthy drinks to year 1-8 students. We’d like to hear your feedback on the impacts for these area and composite schools.

The benefits of healthy drink policies are the same for secondary schools as they are for primary schools. However, we know that the earlier in a child’s development we can encourage healthy habits, the better. So in the first instance, we are proposing to start with a duty on primary schools to only supply healthy drinks, though we recognise that some primary schools may require additional time to move towards a full healthy drinking policy.

There are different circumstances in secondary schools compared to primary schools regarding provision of drinks. In particular, fewer secondary schools already have healthy drinking policies compared to primary schools, and canteens and tuck shops are more prevalent in secondary school settings. More work needs to be done to understand the challenges that secondary schools would face in implementing this policy.

For the reasons above, this is our preferred option.

**Question 6: Can you think of any difficulties primary schools might have in only providing healthy drinks? Would a ‘lead-in’ period be helpful for schools to transition to the new duty?**

**If you are an area and/or composite school, are there particular difficulties you may face implementing this duty?**

**Option 2: replace the existing NAG 5b with a duty in Regulations, and place an additional duty on all schools (primary and secondary) to only provide healthy drinks**

According to a 2016 University of Auckland survey, of the 819 schools sampled, 67.5% of primary and 23.3% of secondary schools with a school food service (e.g. canteen or lunch order system) offered only milk and water as beverage options[[7]](#footnote-8). It is unclear however, from the data available, exactly how many schools have a healthy drinking policy in 2022.

Healthy drinking is beneficial to children. Avoiding sugary, carbonated drinks is good for a child’s general health, dental hygiene, concentration, school behaviour and educational outcomes. Schools that have voluntarily implemented water-only policies have seen that it benefits teaching and learning as well as student health and wellbeing.

By making sure schools promote healthy eating and nutrition, and that schools also refrain from providing unhealthy drinks in all circumstances, healthy consumption messages remain consistent, and learners are more likely to ‘buy-in’ to the messages they are being taught if the school itself models those behaviours.

We are seeking feedback from schools about the impact of introducing a new duty on school boards of primary and secondary schools to only provide healthy drinks. For example, we don’t know if some schools have catering contracts with unhealthy drink suppliers that will exceed the introduction date of the Regulations in October 2022. If a school is not able to easily withdraw from such a contract, they may be left with a large supply of drinks which they are then unable to sell.

**Question 7: Can you think of any benefits and/or challenges that secondary schools would face in meeting a new legal duty to only provide healthy drinks?**

**Option 3: replace the existing NAG 5b with a duty in Regulations to promote healthy food and nutrition with no additional duties on school boards regarding the provision of healthy drinks**

Option 3 would continue the current requirement all State school boards have been subject to since 2009.

School-level promotion of healthy food and nutrition is proven to be effective in improving children’s attitudes and behaviours towards the food and drink they consume at school, and at home. Eating habits established at a young age significantly impact a person’s ongoing approach to healthy eating and drinking throughout their life. That’s why it is important to establish healthy habits and patterns in the early stages of children’s development.

A school’s promotion of healthy food and nutrition is undermined where the school also actively provides unhealthy food and drink. Whole-school approaches to healthy eating and drinking, where the educational messages are underpinned with consistent messaging from the school itself, have been found to be more effective in influencing students’ healthy food and drink choices.

If we didn’t replace the existing requirement under NAG 5b to promote healthy eating and food, there is a possibility that some schools may choose not to do so. However, under this option, schools could continue to promote healthy food and nutrition while also providing unhealthy food and drinks to their students.

**Question 8: Do you agree that we should replace the current guidance to promote healthy food and nutrition with Regulations that require school boards to continue doing this? Please explain the reasons for your agreement or disagreement.**

**Circumstances where the duty will not apply**

Under options 1 and 2, we recognise that it may not be appropriate to apply this duty under all circumstances. There may be some exceptions for infrequent events that many people would consider to be reasonable.

* At any school event to mark any religious or cultural occasion (for example, communion, pōwhiri);
* For any drinks consumed as part of the curriculum (for example, using fruit grown at school to make a drink in a cooking class);
* For any drinks provided as part of any medically prescribed dietary requirements;
* In any school in an area where a boil water notice is currently in effect.

We want to ensure that students are drinking healthy drinks as part of their everyday habits, but also want to make sure the new duty is reasonable and accounts for the realities of school life. We’d like your feedback on whether you think there are other circumstances – such as school discos, school fairs and galas – where it would be reasonable to not apply the duty to only provide healthy drinks.

**Question 9: What do you think about these circumstances? Are any of them unnecessary?**

**Can you think of any other circumstances where it would be reasonable to not have the duty? If so, why?**

**Monitoring and compliance**

It is important to note that the proposed new duty for options 1 and 2 to only provide healthy drinks only applies to school boards. **The duty would not apply to parents of students in that school**, who could still choose to provide unhealthy drinks to their children to take to school.

However, schools could go further than the Regulations by putting in place a school policy which stopped children from bringing unhealthy drinks into school, so long as they consult with their school community and parents can access a written version of the policy on request.

We know from a 2016 Auckland university survey, that a majority of primary school boards that submitted a response had already introduced a healthy drinks policy themselves. Given this, we’re proposing to have a light-touch compliance approach to the new duty. This means that if we receive complaints from parents, students or other agencies saying that a school is in breach of the duty, the local regional office would get in touch to find out why. We are not proposing any formal sanctions for failure to comply with the duty. We think this is a proportionate response to a system where many schools boards have already opted to implement a healthy drinks policy.

The Ministry of Health has employed 30 staff based in regional public health units to assist with voluntary approaches to healthy food in schools’ policies, and the roll-out of the Ka Ora, Ka Ako Healthy School Lunches programme. Given their existing responsibility to visit, encourage and work with schools in their area to establish healthy eating and drinking policies, these staff would be well-placed to highlight a new, strengthened Regulation for school provision of healthy drinks, as well as the impact on Māori and Pacific children. These staff will not be required to inspect schools’ compliance with the new duty and would instead continue to encourage and advocate healthy eating and drinking policies.

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| **Question 10: Do you feel that the high-trust light-touch compliance approach is appropriate? If not, why not?** |

**How to have your say**

We are seeking your views on proposed changes to the promotion and provision of healthy drinks in schools.

You can email your submissions to legislation.consultation@education.govt.nz

or write to:

Education Consultation

Ministry of Education

PO Box 1666

Wellington 6140

New Zealand

Submissions close on 2 June 2022 and will inform advice to the Minister of Education on final policy proposals that would be submitted to Cabinet.

Webinars to discuss the proposed Regulations will also be held during the period of public consultation. The webinars will give you the opportunity to discuss the proposals, ask us questions and make suggestions. If you would like to attend one, please contact us on [legislation.consultation@education.govt.nz](mailto:legislation.consultation@education.govt.nz), and let us know your name and the email address you’d like to be contacted on.

*Purpose of feedback*

We are seeking your views on the suggested changes discussed above. Your feedback will enable us to make better informed decisions about proposed changes to the promotion and provision of healthy drinks in schools.

Please be assured that any feedback you provide will be confidential to those involved in analysing the consultation data. We will not identify any individuals in the final analysis and report writing unless you expressly give permission for this. However, submissions, including submitters’ names, and documents associated with the consultation process may be subject to an Official Information Act 1982 request.

1. ‘State’ schools include: ordinary State schools, designated character schools (including Kura Kaupapa Māori), State integrated schools, specialist schools and distance schools. [↑](#footnote-ref-2)
2. Schools that have water-only policies only allow water and plain, low-fat milk to be permitted on-site. [↑](#footnote-ref-3)
3. Free sugars are defined by the World Health Organisation as monosaccharides and disaccharides added to food by both the manufacturer and consumer, including sugars naturally present in honey, syrups, and fruit juice. [↑](#footnote-ref-4)
4. Sundborn et al, “New Zealand’s growing thirst for a sugar-sweetened beverage tax”, New Zealand Medical Journal, 2015. [↑](#footnote-ref-5)
5. Ministry of Health, WAI 2575 Maori Health Trends Report, 2019. [↑](#footnote-ref-6)
6. Health Quality & Safety Commission New Zealand: Bula Sautu report - Pacific health in the year of COVID-19, 2021. [↑](#footnote-ref-7)
7. For this survey, ‘primary schools’ included full primary and intermediate schools, ‘secondary schools’ included secondary and composite schools [↑](#footnote-ref-8)