

RESTRICTING FOOD AND BEVERAGE ADVERTISING IN PUBLIC SCHOOLS

A Legal Tool for Advocates

A California state law (Education Code section 35182.5) gives parents and educators a powerful tool to influence whether and how foods and beverages are advertised in schools.

This fact sheet is designed to help schools, community-based organizations, public health departments, and others better understand the law and use it to help create healthier school environments.

Schools can use contracts to allow or restrict advertising on school property. Your school or district may be about to start or renew a contract that generates income by granting advertising rights through any of the following channels:

- Vending machine fronts
- Posters
- Billboards
- Book covers
- Sporting event scoreboards
- Corporate-sponsored educational materials (e.g., multimedia teaching kits, videos, software, books, posters, workbooks)
- Corporate-sponsored contests and incentive programs
- Classroom-oriented programs (e.g., TV programs like Channel One)
- Internet (e.g., “free” computers provided to schools by internet service providers in exchange for the right to advertise products via the internet browser)

California state law requires a school board to do *all* of the following before it renews or enters into a contract that grants rights to any company to advertise its products in public schools:

Step 1: The school board must **hold a public hearing** about the proposed advertising contract. Notice must be made accessible to the public at least 72 hours in advance of the hearing.

Step 2: As a result of the hearing, the board must **adopt a policy** ensuring that:

- The district has internal controls in place to safeguard public funds (i.e., check-handling and other procedures to ensure that money raised through the contract is properly accounted for and spent)
- The funds raised will benefit public education
- The contracts are entered into on a competitive basis, by either issuing a request for proposals (RFP) or an invitation for bid (IFB) (see additional fact sheets from the Public Health Law Program for more information on RFPs and IFBs)

Step 3: Before the school board signs any contract involving the sale of advertising rights, it must **hold another public hearing** that occurs during a regularly scheduled board meeting and

allows parents/guardians, pupils, and members of the public the opportunity to comment on the proposed advertising contract.

Step 4: The school board must ensure that certain terms and conditions are *not* included in the advertising contract:

- The contract **cannot contain a confidentiality clause** that would prevent a school or school district from making any part of the contract public
- The contract **cannot prohibit school district employees from disparaging** the goods or services of the company contracting for advertising rights

Advertising does not have to be the sole or main purpose of the contract in order for this state law to apply. The law applies even if only a portion of the contract grants advertising rights.

Schools *can* prohibit all advertising on their campuses. For more information, see “Limiting ‘Junk Food’ Advertising on School Campuses,” available at www.schoolhealthlaw.org.



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