



1st June 2022

Tena koutou,

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

This submission is from the Public Health Association of New Zealand (PHANZ), Kāhui Hauora Tūmatanui.

We have collated feedback from our members (Dr Shabnam Jalili – Moghaddam, Registered Nutritionist; Wendy Voon, Public Health Nutritionist), Nutritionist advisors, and PHANZ National Office employees.

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Signed,

Dr Alana McCambridge, PhD



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 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

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.

The Public Health Association of New Zealand (PHANZ) is a national association with members from the public, private, and voluntary sectors. Our vision is 'Hauora mō te katoa – oranga mō te Ao' or 'Good health for all – health equity in Aotearoa'. We advocate for the health of all New Zealanders. We are providing feedback as an organisation that includes parents, public health experts, and nutritionists. Members in our organisation may also be providing feedback individually.

¹ 'State' schools include: ordinary State schools, designated character schools (including Kura Kaupapa Māori), State integrated schools, specialist schools and distance schools.

² Schools that have water-only policies only allow water and plain, low-fat milk to be permitted on-site.

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 The consumption of free sugars in sugar sweetened beverages now contributes to 26% of the total sugar intake of children.⁴ 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 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

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?

We don't agree with the narrow view of the problem provided in the discussion document. Tooth decay among New Zealand children due to consumption of sugar-sweetened beverages is only one of the myriad of problems that occur as a result of unhealthy food environments in childhood and adolescence. The problem is actually much broader as sugary drinks are associated with increasing the risk of obesity and development of non-communicable diseases such as type 2 diabetes mellitus, hypertension, dyslipidaemia, inflammation, gout, fatty liver disease, cardiovascular disease, as well as mental health issues such as stigmatization, depression and anxiety. The New Zealand Health Survey 2020/21 has shown that the rate of obese children aged 2 - 14 years has increased by 9.5%, most prevalent in the Pacific (35.3%) and Māori (17.8%) children. It also found that children living in the most socioeconomically deprived areas were 2.5 times as likely to be obese as children living in the least deprived areas. The State of World's Children 2019 report by UNICEF has shown that New Zealand had the second highest prevalence of overweight children 5 -19 years (UNICEF, 2019). Therefore the absence of healthy food

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.

⁴ Sundborn et al, "New Zealand's growing thirst for a sugar-sweetened beverage tax", New Zealand Medical Journal, 2015.

⁵ Ministry of Health, WAI 2575 Maori Health Trends Report, 2019.

⁶ Health Quality & Safety Commission New Zealand: Bula Sautu report - Pacific health in the year of COVID-19, 2021.

and drink regulations and unhealthy food environments in schools are putting our tamariki at risk of harm and setting them up for an unhealthy future.

The discussion document also misses several important opportunities.

(1) The document doesn't include a narrative that can demonstrate Government obligations under Te Tiriti that include addressing health inequalities and supporting tamariki hauora. By keeping Te Tiriti central along with the wider health implications of unhealthy food and drink in schools, it will be clearer to see why it is important for everyone to play their part and have strong policy in this area. If forgotten, continued breaches of Te Tiriti will be evident by allowing schools to feed tamariki Māori unhealthy food and drinks, thereby, limiting the ability of students to achieve Pae Ora (Ministry of Health, 2022).

(2) All children, no matter what age, deserve to be educated in a healthy environment. We strongly believe that healthy food and drink policies should be applicable to early childcare settings, primary school, Kohanga Reo, Kura Kaupapa, and secondary schools – leaving no gaps in a child's care or education. In the Under 5 Energize programme in the Waikato positive messages in early childhood centres around water and milk as the best drinks were associated with less visible dental decay than seen in comparable centres not receiving positive messages (Rush et al., 2017). We have the opportunity to teach children and role model healthy nutrition from the outset.

(3) Although the discussion document mentions the result of structural health inequities and how they have disproportionately affected Māori and Pacific children compared to non-Māori/non-Pacific. The objectives lack an equity focus and thus the opportunity to address inequities. Without policy that aims to address structural inequities and prioritise equity, the status-quo will remain and Māori and Pacific children will continue to be disadvantaged.

(4) As outlined above, the problem provided in this discussion document narrowly focuses on sugary drinks only and misses the opportunity to look holistically at food/kai and the whole food environment at schools. Regulations on only part of a child's intake will not have the optimal effect on health and hauora.

(5) There is also the opportunity to think about sustainability, food sovereignty, and the environmental impact of our food and drinks. Both in terms of the food/drink options, packaging, and disposal of waste. Schools can be role model organisations for sustainability, by taking into consideration the health of our planet as well.

References:

UNICEF (2019) The State of the Worlds Children 2019. Children, Food and Nutrition: Growing well in a changing world. UNICEF, New York

Ministry of Health (2022). He Korowai Oranga. <https://www.health.govt.nz/our-work/populations/maori-health/he-korowai-oranga>

Rush, E., Obolonkin, V., Young, L., Kirk, M., & Tseng, M. (2017). Under 5 Energize: tracking progress of a preschool nutrition and physical activity programme with regional measures of body size and dental health at age of four years. *Nutrients*, 9(5), 456.

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?

The proposed objectives should be strengthened if we are to truly put the health of all children at the centre of this policy.

We recommend that the objectives be amended to specify that the Regulations;

- (1) will be best-practice evidence-based recommendations
- (2) will uphold Te Tiriti obligations and Kaupapa Māori views
- (3) will aim to address health inequities facing those most disadvantaged
- (4) will aim to role-model sustainable food and drink choices

Some ambiguities we need further clarification on are;

- (1) What does 'positive education' entail? Who will be responsible for developing and providing the educational materials and delivering them? Will they be culturally appropriate?
- (2) What auditing processes will be done to measure the impact of these Regulations?

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?

We think a fourth option should be considered which would extend Option 2 to regulate **food and drinks in all school settings (early childcare, primary and secondary, Kohanga Reo, Kura Kaupapa)**. Educating and promoting healthy eating and drinking habits from early childhood right through to secondary school will help children to follow a healthier lifestyle later in adulthood with reduced risk of health issues. Regulation of both food and drink within the school environment across all age groups will achieve the best outcomes for Māori and Pacific children.

We also recommend promoting sustainable food practices. For example, reducing food packaging and appropriate disposal of food and drink packaging and organic waste. All schools should promote the use of reusable water bottles and this should be facilitated by

the Government. The Government should equip all schools with good quality water filters that are designed to fill reusable water bottles. This would make drinking water at school the easiest, cheapest, and most sustainable option. Sustainable food practices also include prioritising a plant-based diet, minimising meat consumption, and sourcing food/produce locally.

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?

We recommend that the definition provided should be slightly amended.

While reduced or low fat milk is preferable, standard milk is also acceptable for school-aged children and it is also cheaper. The saturated fat in milk is a very small amount. ~2 g/100 mL and for growing children this may be necessary as a source of energy and fat soluble vitamins. There is a concern about the protein content of plant based milk and they should not be considered a good source of protein even if B12 and Calcium are added as the protein quality and quantity is much less than milk. Further consideration should be given to the environmental footprint of food/drink options (e.g., [dairy relative to plant-based milk production](#)) and the affordability of the options provided.

Instead we think the definition of 'healthy drinks' should be:

- Plain, unflavoured water;
- Plain, unflavoured dairy milk;
- Plain, unflavoured and unsweetened plant-based milks (e.g. soy, rice, almond, oat)

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?

There is a duty of care to provide supportive environments for children. Children need to be protected from the harmful effects caused by a poor diet. We think a 'lead in' period is not necessary for implementation of a healthy drinks only policy. Consideration for a lead in period would however be warranted if the regulations were to extend to healthy food as well. By not including food regulations as well as drinks you are likely to undermine the health-based messages and education provided in the curriculum. Therefore, we recommend that regulations are put in place for food and drinks within the school

environment, and that the drink regulations be implemented immediately (including the installation of water filters for encouraging use of reusable bottles), while a lead in period be allowed for regulations on healthy and sustainable food options.

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 options⁷. 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?

The benefits of having healthy food and drink regulations in secondary schools by far outweighs any of the challenges. If you are to put children's hauora at the centre of this policy then the inconvenience that some schools may face due to ending contracts with unhealthy drink suppliers and the reduction of fundraising through vending machine contracts is a spurious argument. Economically the huge cost involved with treatment of health issues (such as ≈\$33 million for decayed teeth and extraction under general anaesthesia among 8,400 in year 2021) are highly related to consumption of sugary drinks and processed, low-nutrient foods and therefore is a reason to keep the date of the Regulation to Oct 2022. Our tamariki are being exposed to sugary, carbonated, and even highly caffeinated drinks that are negatively affecting their ability to learn and thrive. The time to act is now.

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.

⁷ For this survey, 'primary schools' included full primary and intermediate schools, 'secondary schools' included secondary and composite schools

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.

The guidance given to promote healthy food and nutrition should be replaced with regulations that will support the school environment to be a role-model for healthy food and nutrition. Voluntary policies are not as effective as government-led policies in reducing the consumption of unhealthy food and drinks (Ashfin et al., 2015). We also believe that regulations makes it easier for school boards to action the changes that need to be happen. In our members experience with Project Energize, principals, school boards and teachers welcomed the ability to be able to say "this is the rule" rather than having to defend and justify their actions to those that oppose it.

Reference:

Afshin A, Penalvo J, Del Gobbo L, Kashaf M, Micha R, Morrish K, et al. (2015) CVD Prevention Through Policy: a Review of Mass Media, Food/Menu Labeling, Taxation/Subsidies, Built Environment, School Procurement, Worksite Wellness, and Marketing Standards to Improve Diet. *Curr Cardiol Rep*

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?

Careful consideration needs to be given to any exemptions as you are at risk of undermining the health-based messages. For the duty to be successful it has to be clear, and there should be limited exceptions. The school should act at all times as a role-model organisation/environment for the students and must put children's health in the centre of all decisions. If the school understands that as their obligation, they can then be trusted to make decisions on particular exemptions to the duty.

Our feedback on the specific exemptions provided in the discussion document are;

- At any school event to mark any religious or cultural occasion (for example, communion, pōwhiri) there must be a range of options and the healthy option should be the easy option to choose. These events should be infrequent (i.e., only special occasions, once a term).
- For any drinks consumed as part of the curriculum (for example, using fruit grown at school to make a drink in a cooking class) would be acceptable given it was for educational purposes and happened infrequently throughout the year.
- For any drinks provided as part of any medically prescribed dietary requirements such as diabetic children or anorexia would be acceptable.
- In any school in an area where a boil water notice is currently in effect we would expect that bottled water be provided to the students.

Selling unhealthy food and drinks as fundraisers for the school should also no longer be allowed. It is contradictory to the healthy food curriculum and does not model the healthy nutritious environment we want to see in our schools and also in our homes. For example, parents of children in our organisation have been tasked with selling chocolate or pies to fundraise for schools. This should not be allowed and schools should think of better ways to fundraise.

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.

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

We think that a high-trust light-touch approach with an auditing component would be appropriate. Enforcement of the regulation should not be the role of kaimahi but their role is to encourage, support and provide a role model environment. Auditing of compliance with the duty could be included in ERO reports which are publicly available – this means parents and other interested parties have the opportunity to know what is being done, and the school can have data on how they are tracking and where they can improve. The government can then collate all the data to provide an overall view of the school environment in Aotearoa, providing a feedback loop to guide further changes or initiatives as needed.