

DECEMBER 9, 1994

SUBJECT: Applicability of P.L. 103-227 to CACFP

TO: Director
Child Nutrition Programs
All Regions

As you are aware, Part C of P.L. 103-227, known as the Pro-Children Act of 1994, was enacted on March 31, 1994. Among its provisions are those which forbid smoking within any indoor facility owned, leased or contracted for the provision of regular or routine health care or day care or early childhood development services to children. The children's services covered by the legislation are defined as health, day care, education or library services provided on a routine or regular basis and funded by Federal grants, loans, and contract programs administered by the Secretary of Health and Human Services, the Secretary of Education, or the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of the Child Nutrition Act of 1966 or that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds.

Within the past several months, we were informed that a child care advocacy group, the Child Care Law Center, reported in its newsletter that the smoking prohibitions contained in this legislation applied to entities participating in the Child and Adult Care Food Program (CACFP). Although we had always taken the position that they did not apply to the CACFP, we consulted with the Office of the General Counsel (OGC) on this matter. OGC agrees with our position that the above-referenced provisions of this legislation are not applicable to the CACFP.

If you have any questions on this matter, please feel free to contact Bob Eadie or Jim O'Donnell at 703-305-2620.

/ORIGINAL SIGNED/

ALBERTA C. FROST
Director
Child Nutrition Division