



United States
Department of
Agriculture

Food and
Nutrition
Service

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SUBJECT: Smart Snacks Nutrition Standards and Culinary Education Programs

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

The purpose of this memorandum is to provide guidance regarding the treatment of culinary education programs that operate in schools participating in the federal school meal programs. Section 10 of the Child Nutrition Act of 1966 (CNA), 42 USC 1779, as amended by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), requires that all food sold outside of the school meal programs, on the school campus and at any time during the school day must meet the Smart Snacks nutrition standards set forth in the interim final rule titled “National School Lunch Program (NSLP) and School Breakfast Program (SBP): Nutrition Standards for All Foods Sold in School as required by the HHFKA of 2010”. This interim final rule was published on June 28, 2013 and is effective on July 1, 2014. As the Department of Agriculture (USDA) continues to move forward with implementation of Smart Snacks, State agencies are reminded to advise their respective schools that these standards will take effect this coming school year.

Culinary education programs providing students with technical career training operate in some schools nationwide. Some of those culinary education programs operate food service outlets that sell foods to students, faculty, or others in the community, with a minority of programs doing so during the school day. The Smart Snacks nutrition standards have no impact on the culinary education programs’ curriculum in schools, nor do they have any impacts on foods sold to adults at any time or to students outside of the school day. However, to the extent that such programs are selling food to students on campus during the school day, the statutory applicability of the Smart Snacks nutrition standards to all foods sold outside of the School meals programs is clear. As a result, foods sold to students must comply with the Smart Snacks nutrition standards. Section 12(l)(4)(J) of the Richard B. Russell National School Lunch Act (NSLA), 42 USC 1760(l)(4)(J), prohibits the Secretary from granting a waiver that relates to the requirements of the NSLA, the CNA, or any regulation issued under either statute with regard to the sale of foods sold outside of the school meal programs. Therefore, the nutrition standards included in the interim final rule apply to all foods sold to students on the school campus during the school day, including food prepared and/or sold by culinary education programs.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

It is important to reiterate that schools with culinary education programs are in no way required to alter their existing curriculum, and we recognize the importance of these programs in building a wide range of student skills including business, operations, food safety, and the culinary arts. However, for the small number of culinary education programs that significantly rely on revenue generated from the sale of foods, there are multiple alternatives available to maintain adequate funding for their operations. For instance, the majority of these programs already receive some revenue from catering services for adults, which would not be impacted by the Smart Snacks nutrition standards. Programs could further expand their services in this area, as well as to restaurants and off-campus school events. Lastly, schools can choose to increase their sales of foods that meet the Smart Snacks standards, which may require recipe adaptations or even simple adjustments to portion sizes offered.

In recognition of the legitimate challenges facing these culinary education programs, State agencies are encouraged to consider addressing culinary education programs as a part of an infrequent exempt fundraiser policy. This approach supports the intent of the HHFKA and the Smart Snacks nutrition standards to make bold steps toward healthier school environments. Such an exemption would not interfere with the culinary education program curricula because the standards do not limit the skills that can be taught, but instead focuses on which foods can be sold to students during the school day on school grounds. While there is no limit on the sale of items meeting the Smart Snacks nutrition standards, some product sales could be planned for infrequent sale, for example, a pastry sale.

In recognition of the significant changes the Smart Snacks standards entail, USDA continues to listen and offer technical assistance, training and guidance to support schools in successfully meeting these standards. Further, States are reminded that during reviews of local education agencies (LEAs) and schools where noncompliance is identified, the appropriate response is technical assistance in conjunction with a corrective action plan to assist schools in working toward compliance. As stated in the interim final rule, there are currently no financial penalties associated with noncompliance with these standards identified during an administrative review.

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Information on implementation and guidance on Smart Snacks may be found at <http://www.fns.usda.gov/school-meals/smart-snacks-school> on the FNS website. State agencies should disseminate this policy to the LEAs and school food authorities (SFAs). LEAs and SFAs should contact their State agency for additional information. State agencies may direct any questions concerning this guidance to the appropriate FNS Regional Office. We look forward to continuing to work with you on improving the nutrition of our Nation's children.

Original Signed

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