SMART SNACKS FUNDRAISER EXEMPTION
STATE POLICIES
Quarterly Report
Updated November 30, 2015

Prepared by:
Elizabeth Piekarz, JD
Wanting Lin, JD
Jamie F. Chriqui, PhD, MHS

Contact for Questions: Elizabeth Piekarz (epiekcarz@uic.edu)

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Smart Snacks Fundraiser Exemptions

On June 28, 2013, the United States Department of Agriculture issued an interim final rule establishing nutrition standards for all foods sold in schools. With an implementation date of July 1, 2014, “Smart Snacks” sets nutrition standards for all foods and beverages sold on the school campus during the school day, including those sold through school fundraisers. However, under the new rule, states are allowed to establish exemptions for infrequent school-sponsored fundraisers. Exempt fundraisers may not be sold in competition with school meals in the food service area during meal service, and may not occur more frequently than specified by the State agency.

The chart that follows shows that most states have chosen to implement their approved number of exemptions through methods beyond those of codified statutes and regulations. As a result, collection of policies involved a two-step process: 1) searching state databases available through commercial legal research service providers, LexisNexis and Westlaw, for policies adopted in codified statutes and regulations; and 2) searching states’ Department of Education and Child Nutrition Program websites. In addition, secondary sources were consulted from the School Nutrition Association (last updated March 27, 2015) and Pew’s State Data Tables (compiled January 2015).

The information listed here is current with laws available on LexisNexis and Westlaw as of November 30, 2015, as well as with websites and accompanying documents available as of the same date. Effective dates are included in the table below in order to more easily identify recent changes to policies. The sources where fundraiser exemptions were found are separated into 4 categories:

1) Law—including codified statutes and administrative regulations
2) Policy—including state-level memos and board policies
3) Guidance Document—including PowerPoint presentations, handouts, newsletters, and other forms of technical assistance
4) Website—including information posted directly on the Department of Education or Child Nutrition Program website

Under “Smart Snacks,” if a state does not adopt a policy on exemptions, it is considered to have a policy of zero exemptions allowed. However, in the information below, states that have adopted policies explicitly stating zero exemptions are allowed are separated from those states that have not yet adopted a policy. In addition, states that have adopted policies specifically requiring that all foods and beverages sold through fundraisers meet Smart Snack standards, without going on to allow any exemptions, are considered to have a policy that allows zero exemptions (see MD, MT).

Policies below were analyzed for any attempt to provide for fundraiser exemptions during the school day. Four states have not established a policy on exempt fundraisers, 20 states have a policy allowing 0 exemptions, 21 states have a policy that regulates the number of exempt fundraisers, 5 states have a policy that regulates the number of days during which exempt fundraisers may take place, and 1 state regulates the number of school events at which any food or beverages can be sold.

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4 Specifics relating to types of fundraisers or specific events at which non-compliant food and beverages may be sold were not seen outside of this one policy. However, if a policy allows fundraisers per school group or organization, it will be noted below.
<table>
<thead>
<tr>
<th>State</th>
<th>Number of Exemptions Allowed</th>
<th>Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed</th>
<th>Additional Restrictions</th>
<th>Definition of Fundraiser</th>
<th>Source</th>
<th>Effective Date or Document Date</th>
</tr>
</thead>
</table>
| **AK** | NS⁶                           | Elementary and Middle School: 10 days High School: 25 days | • Must apply for waiver  
• Waiver cannot be applied to vending machines  
• Foods under waiver may not be sold during meal service times, or 30 minutes before or after meal service in the meal service area  
• Must be in compliance with USDA school wellness policy requirements | NS | Guidance Document | School Year 2015-2016 |
| **AL** | 30                            | 1 day | • May not be sold as a la carte item, in vending machines, in school stores, or before school on school campus  
• May not be sold one hour before and after meals periods | NS | Policy | July 1, 2015 |
| **AR** | 9 “events”⁷                   | NS | May not be given during meal times in the areas where school meals are being served or consumed | All food and beverage items sold by school administrators or school non-licensed or licensed staff, students or student groups, parents or parent groups, or any other person, company or organization directly associated with the school programs | Law: 005 01 Code Ark. Rules & Regs. 008⁸ | September 17, 2005 |

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⁵ Per school year unless otherwise stated.
⁶ NS=not specified.
⁷ Events are defined as field day, holiday, school recognition activity, end of school event, festival, fundraiser, or other event.
⁸ 005 01 Code Ark. Rules & Regs. 008 was in place prior to the adoption of the Smart Snacks interim final rule.
<table>
<thead>
<tr>
<th>State</th>
<th>Number of Exemptions Allowed[^9]</th>
<th>Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed</th>
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<th>Source</th>
<th>Effective Date or Document Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>AZ</td>
<td>ALL exemption requests for fundraisers by LEAs will be approved by the Arizona Department of Education[^9]</td>
<td>1 week</td>
<td>NS</td>
<td>An event that includes any activity during which currency/tokens/tickets, etc. are exchanged for the sale/purchase of a product in support of the school or school-related activities</td>
<td>Law: Ariz. Rev. Stat. § 15-242; Policy</td>
<td>Law: July 1, 2015</td>
</tr>
<tr>
<td>CO</td>
<td>3</td>
<td>To be determined by LEAs</td>
<td>May not be sold during meal service, and for a period beginning ½ hour prior to and until ½ hour after each meal service[^13]</td>
<td>NS</td>
<td>Policy</td>
<td>June 5, 2014</td>
</tr>
<tr>
<td>CT</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>Any activities during which money or its equivalent (such as tickets, coupons, tokens and similar items) is exchanged for the purchase of a product in support of the school or school-related activities[^14]</td>
<td>Policy[^15]</td>
<td>July 1, 2014</td>
</tr>
</tbody>
</table>

[^9] The Arizona Department of Education will track the number of exemptions granted and only take action to alter the policy if one or more LEAs abuse the policy.

[^10] Note that California also goes on to limit the number of approved fundraisers that meet nutrition standards to four per school year in elementary schools. 5 Cal. Code Regs. 15500. In junior high and high schools, only one organization is allowed to sell foods and beverages that meet the standards each day, except on four days during which multiple organizations may sell items meeting the standards. 5 Cal. Code Regs. 15501.


[^12] 5 Cal. Code Regs. 15575 was in place prior to the adoption of the Smart Snacks interim final rule.

[^13] This additional restriction was added when the fundraiser exemption policy was restated in an April 2015 policy statement. That policy will remain in place until the Smart Snacks final rule is published. Colorado Department of Education. Colorado Policy on Exempt Fundraisers. 2015. Available at [https://www.cde.state.co.us/nutrition/smartsnackscolopolicyexemptfundraisers](https://www.cde.state.co.us/nutrition/smartsnackscolopolicyexemptfundraisers) Last accessed November 30, 2015.


[^15] This policy applies only to those schools that do not participate in Connecticut Healthy Food Certification. Schools that do participate are required to follow Smart Snacks at all times during the school day.
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</thead>
<tbody>
<tr>
<td>DE</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>NS</td>
<td>Guidance Document</td>
<td>Not dated</td>
</tr>
<tr>
<td>FL</td>
<td>NS</td>
<td>Elementary School: 5 days of fundraisers</td>
<td>Not allowed until 30 minutes after the conclusion of the last designated meal service period</td>
<td>Any event or activity occurring on the school campus during which currency, tokens, tickets, or the like are exchanged for the sale or purchase of items or services to benefit the school, a school organization or group, or a charitable organization, and which is authorized according to district board policy and has been approved by the principal or designee</td>
<td>Law: 5P-1.003 FL Admin. Code</td>
<td>September 24, 2014</td>
</tr>
<tr>
<td>GA</td>
<td>30 (board will consider applications for additional exemptions on a case by case basis)</td>
<td>3 days</td>
<td>•Cannot operate anywhere on school campus 30 minutes before until 30 minutes after the end of breakfast and lunch meal services •Cannot be in vending machines, school stores, snack bars, or a la carte line</td>
<td>An event or activity during which students exchange currency/tokens/tickets, etc., for the sale/purchase of a product in support of the school or school-related activities</td>
<td>Website</td>
<td>September 10, 2014</td>
</tr>
<tr>
<td>HI</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>NS</td>
<td>Website</td>
<td>Not dated</td>
</tr>
</tbody>
</table>

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16 State law as well as the DC Local Wellness Policy requires that fundraisers meet USDA Smart Snacks requirements as well as the HealthierUS School Challenge Gold Level. Gold level was revised in August 2014 and states “the school only permits food-related fundraisers that meet USDA’s Smart Snack standards, even if the State allows exemptions.”

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<tr>
<th>State</th>
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<th>Source</th>
<th>Effective Date or Document Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>IA</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>The sale of foods or beverages on school property targeted primarily to PK-12 students by or through other PK-12 students, student groups, school organizations, or on-campus school stores¹⁷</td>
<td>Guidance Document</td>
<td>Not dated</td>
</tr>
<tr>
<td>ID</td>
<td>10 (LEAs can request approval for additional fundraisers)</td>
<td>4 consecutive days</td>
<td>May not be sold in competition with school meals in the food service area during meal service</td>
<td>NS</td>
<td>Policy</td>
<td>Not dated</td>
</tr>
</tbody>
</table>
| IL    | NS                          | Grades 8 and below: 0 days of fundraisers  
Grades 9-12: 9 days of fundraisers | ·School must adopt a policy on exemptions  
·Must include exemption policy in wellness policy  
·Must maintain records | NS | Law: 23 Ill. Admin. Code 305.15¹⁸ | June 25, 2014 |
| IN    | 2                           | 1 day                                                         | NS                     | NS | Policy | March 18, 2014 |
| KS    | 1 per school organization per semester | 2 days | Cannot be given to another group | An event that includes any activity during which currency/tokens/tickets, etc. are exchanged for the sale/purchase of a product in support of the school or school-related activities¹⁹ | Policy | Tracking begins end of 2014-2015 school year |
| KY    | 0                           | NA                                                           | NA                     | NS | Guidance Document | April 2014²⁰ |
| LA    | 0                           | NA                                                           | NA                     | NS | Guidance Document | Not dated |
| MA    | NO POLICY                   |                                                               |                        | NS | Policy | June 27, 2014 |
| MD    | 0                           | NA                                                           | NA                     | NS | Policy | June 27, 2014 |
| ME    | NO POLICY                   |                                                               |                        | NS | Policy | June 27, 2014 |

¹⁷ Definitions. 281 Iowa Admin. Code 58.9 (effective July, 1, 2010).
¹⁸ 23 Ill. Admin. Code 305.15 provided for 9 exempt fundraising days in grades 8 and below and 36 exempt fundraising days in grades 9-12 during school year 2014-2015.
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<tbody>
<tr>
<td>MI</td>
<td>2 per week</td>
<td>1 day</td>
<td>Not allowed to directly compete with federally reimbursable meals</td>
<td>NS</td>
<td>Law: MI Comp. Laws Serv. § 380.1272b; Policy Website</td>
<td>Law: September 1, 2015; Policy: July 1, 2015</td>
</tr>
<tr>
<td>MN</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>An event that includes any activity during which currency, tokens, or tickets, etc., are exchanged for the sale/purchase of a product in support of the school or school-related activity</td>
<td>Website</td>
<td>School year 2015-2016</td>
</tr>
<tr>
<td>MO</td>
<td>5</td>
<td>1 day</td>
<td>May not be sold in competition with school meals in the food service area during meal service</td>
<td>NS</td>
<td>Guidance Document</td>
<td>Not dated</td>
</tr>
<tr>
<td>MS</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>NS</td>
<td>Guidance Document</td>
<td>July 2014</td>
</tr>
<tr>
<td>MT</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>NS</td>
<td>Guidance Document</td>
<td>Not dated</td>
</tr>
<tr>
<td>NC</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>Activities in which students or others sell products to raise money for the school</td>
<td>Guidance Document</td>
<td>August 2014</td>
</tr>
<tr>
<td>ND</td>
<td>3</td>
<td>1 day</td>
<td>NS</td>
<td>Policy</td>
<td>July 1, 2014</td>
<td></td>
</tr>
<tr>
<td>NE</td>
<td>2 per school organization per semester</td>
<td>2 days</td>
<td>May not be sold in competition with school meals in food service area</td>
<td>NS</td>
<td>Website</td>
<td>July 1, 2014</td>
</tr>
<tr>
<td>NH</td>
<td>3</td>
<td>3 days</td>
<td>May not be sold in competition with school meals in the food service area during meal service</td>
<td>NS</td>
<td>Guidance Document</td>
<td>July 1, 2014</td>
</tr>
<tr>
<td>NJ</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>Policy</td>
<td>August 15, 2014</td>
<td></td>
</tr>
</tbody>
</table>

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</thead>
<tbody>
<tr>
<td>NM</td>
<td>2 per semester or trimester</td>
<td>1 day</td>
<td>May not be conducted in competition with school meals in the food service area during meal service</td>
<td>A sale on a school campus to benefit a school or school organization of beverage or food products limited by a USDA school meal program for use, consumption or sale during the school day</td>
<td>Law: NM Admin. Code 6.12.5.8</td>
<td>December 30, 2014</td>
</tr>
<tr>
<td>NV</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>The sale of items for monetary gain intended for consumption during the school day</td>
<td>Policy</td>
<td>September 5, 2014</td>
</tr>
<tr>
<td>NY</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>Any activity where currency/tokens/tickets, etc., are exchanged for a product in support of the school or school-related activity</td>
<td>Policy</td>
<td>September 16, 2014</td>
</tr>
<tr>
<td>OH</td>
<td>NO POLICY</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| OK    | 30 per semester             | 14 days                                         | • Prohibited from taking place while meals are being served  
• School district must adopt written policy that provides for an exempt fundraiser contact person  
• Must keep documentation for each fundraiser on file | NS | Okla. Admin. Code 210:10-3-112 | August 27, 2015 |
| OR    | 0                           | NA                                              | NA                     | NS                      | Policy | September 8, 2014 |

22 Proposed legislation would establish a policy of 30 exempt fundraising days, so long as no sales are made during the time of meal service in the food service area. H.B. 25, 131st Gen. Assemb., (Ohio 2015).
<table>
<thead>
<tr>
<th>State</th>
<th>Number of Exemptions Allowed(^5)</th>
<th>Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed</th>
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</thead>
</table>
| PA    | Elementary/ Middle Schools: 5  
|       | High Schools: 10                | 1 school week or 5 consecutive days               | NS                      | An event that includes an activity which currency/token/tickets, etc. are exchanged for the sale/purchase of a product in support of the school or school-related activities | Policy | June 30, 2014\(^{23}\)        |
| RI    | 0                               | NA                                             | NA                      | NS                      | Guidance Document | July 1, 2014                  |
| SC    | 30 (school may request waivers for additional exemptions) | 3 days\(^{24}\)                                   | NS                      | NS                      | Policy | March 6, 2015                 |
| SD    | 1 per school-sponsored group    | 1 day                                           | Groups cannot share fundraisers | NS                      | Policy | July 1, 2014                  |
| TN    | NS                              | 30 days of fundraisers                         | May not be sold in competition with school meals in the food service area during meal service | NS                      | Tenn. Rules and Regs. 0520-01-06-.04 | August 24, 2015                |
| TX    | NS                              | 6 days of fundraisers                          | May not be sold in competition with school meals in the food service area during meal service | NS                      | Law: 4 TX Admin. Code 26.2 | June 28, 2015                  |
| UT    | 3 (additional fundraisers may be requested by the Career and Technical Education Programs) | 5 consecutive school days                       | NS                      | NS                      | Law: UT Admin. Code R277-719-5 | August 8, 2014                 |
| VT    | 0                               | NA                                             | NA                      | NS                      | Guidance Document | February 9, 2015               |
| WA    | 0                               | NA                                             | NA                      | NS                      | Guidance Document | April 2014                   |

\(^{23}\) August 10, 2015 memo restates the same requirements for school year 2015-2016.

\(^{24}\) During school year 2016-2017, fundraisers may last up to 2 days. During school year 2017-2018, fundraisers may last up to 1 day.
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>WI</td>
<td>2 per student organization</td>
<td>2 weeks</td>
<td>May not compete directly with the sale of reimbursable meals&lt;sup&gt;25&lt;/sup&gt;</td>
<td>NS</td>
<td>Website; Guidance Document; Policy</td>
<td>Website: June 2, 2014 Guidance Document: September 2014 Policy: May 28, 2014</td>
</tr>
<tr>
<td>WV</td>
<td>NO POLICY</td>
<td></td>
<td></td>
<td>NS</td>
<td>Policy</td>
<td>July 1, 2014</td>
</tr>
<tr>
<td>WY</td>
<td>5 (may request additional exemptions at state agency discretion)</td>
<td>2 weeks (10 school days)</td>
<td>NS</td>
<td>NS</td>
<td>Policy</td>
<td>July 1, 2014</td>
</tr>
</tbody>
</table>