
SMART SNACKS FUNDRAISER EXEMPTION STATE POLICIES

Quarterly Report

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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.¹ 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 both the interim and now final rule,² 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 Association³ (last updated March 27, 2015) and Pew’s State Data Tables (compiled January 2015).⁴

The information listed here is current with laws available on LexisNexis and Westlaw as of September 1, 2018 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—includes codified statutes and administrative regulations
- 2) Policy—includes state-level memos and board policies
- 3) Guidance Document—includes PowerPoint presentations, handouts, newsletters, and other forms of technical assistance
- 4) Website—includes 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. **Since the last quarterly report, there were no substantive changes.** Four states have not established a policy on exempt fundraisers, 21 states have a policy allowing 0 exemptions, 19 states have a policy that regulates the number of exempt fundraisers, 6 states have a policy that regulates the number of exempt fundraising days, and 1 state regulates the number of school events at which any food or beverages can be sold.⁵

¹ US Dept. of Agriculture, Food and Nutrition Service. National School Lunch Program and School Breakfast Program: Nutrition standards for all foods sold in school as required by the Healthy, Hunger-Free Kids Act of 2010: Interim final rule. Fed Regist 2013; 78:39068—39120. Available at www.gpo.gov/fdsys/pkg/FR-2013-06-28/pdf/2013-15249.pdf Last accessed Sept. 15, 2018.

² US Dept. of Agriculture, Food and Nutrition Service. National School Lunch Program and School Breakfast Program: Nutrition standards for all foods sold in school as required by the Healthy, Hunger-Free Kids Act of 2010: Final rule. Fed Regist 2016; 81:50132—50151. Available at <https://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17227.pdf> Last accessed Sept. 15, 2018.

³ School Nutrition Association. Smart snacks: State agency fundraising exemption. 2015. Available at https://schoolnutrition.org/uploadedFiles/Legislation_and_Policy/State_and_Local_Legislation_and_Regulations/SmartSnacksFundraisingExemption.pdf Last accessed Sept. 15, 2018.

⁴ The Pew Charitable Trusts. State and national school snack policies: how they compare. Available at <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2015/01/state-and-national-school-snack-policies> Last accessed Sept. 15, 2018.

⁵ 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.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

Smart Snacks Fundraiser Exemptions in each State as of September 1, 2018

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
AK	NS ⁷	Elementary and Middle School: 10 days High School: 25 days	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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; Guidance Document	Policy: July 1, 2015 Guidance Document: September 2, 2015

⁶ Per school year unless otherwise stated.

⁷ NS=not specified.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
AR	9 “events” ⁸	1 day ⁹	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. 008 ¹⁰	September 17, 2005
AZ	ALL exemption requests for fundraisers by LEAs will be approved by the Arizona Department of Education ¹¹	1 week	NS	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	Law: Ariz. Rev. Stat. § 15-242; Policy	Law: July 1, 2015 Policy: March 30, 2015

⁸ Events are defined as field day, holiday, school recognition activity, end of school event, festival, fundraiser, or other event. Arkansas Department of Education. Smart Snacks and Arkansas nutrition standards/maximum portion size list for school year 2015-16. 2015. Available at <http://adecm.arkansas.gov/ViewApprovedMemo.aspx?Id=1522>. The newest memo continues the allowance for nine special event days. Arkansas Department of Education. Smart Snacks in Arkansas Schools: Providing, Selling, and “9 Special Event Days. 2016. Available at <http://adecm.arkansas.gov/ViewApprovedMemo.aspx?Id=1957> Last accessed September 15, 2018.

⁹ The allowed length of each event is provided in a [Questions and Answers document](#) posted by the Arkansas Department of Education, Child Nutrition Unit.

¹⁰ 005 01 Code Ark. Rules & Regs. 008 instituted the allowance for 9 “events” prior to the adoption of the Smart Snacks interim final rule. In May 2016, a new version of the regulation was passed that included updated Smart Snacks requirements and kept this exemption for 9 events intact.

¹¹ 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.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
CA	0 ¹²	NA ¹³	NA	NS	Law: 5 Cal. Code Regs. 15575; ¹⁴ Policy ; Website	Law: September 3, 2008 Policy: August 2014 Website: Not dated
CO	3	To be determined by LEAs	May not be sold during meal service, and for a period beginning ½ hour prior to and until ½ hour after each meal service ¹⁵	NS	Policy	June 5, 2014
CT	0	NA	NA	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 ¹⁶	Policy ¹⁷	July 1, 2014

¹² 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.

¹³ NA=not applicable.

¹⁴ 5 Cal. Code Regs. 15575 was in place prior to the adoption of the Smart Snacks interim final rule.

¹⁵ This additional restriction was added when the fundraiser exemption policy was restated in an April 2015 [policy statement](#). Colorado Department of Education. Colorado Policy on Exempt Fundraisers. 2015. Available at <https://www.cde.state.co.us/nutrition/smartsnackscolopolicyexemptfundraisers> Last accessed September 15, 2018.

¹⁶ Connecticut State Department of Education. Guide to competitive foods in schools. 2015. Revised 2018 Available at <http://portal.ct.gov/SDE/Nutrition/Connecticut-Nutrition-Standards/-/media/SDE/Nutrition/CompFoods/CompetitiveFoodsGuide.pdf> Last accessed September 15, 2018.

¹⁷ 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.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
DC	0	NA	NA	NS	Law: DC Stat. § 38-822.06; Policy ¹⁸	Law: July 23, 2010 Policy: December 2014
DE	0	NA	NA	NS	Guidance Document	July 1, 2014
FL	NS	Elementary School: 5 days of fundraisers Middle School: 10 days of fundraisers High School: 15 days of fundraisers Combination School: 10 days of fundraisers	Not allowed until 30 minutes after the conclusion of the last designated meal service period	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	Law: 5P-2002 FL Admin. Code	September 24, 2014
GA	30 (board will consider applications for additional exemptions on a case by case basis)	3 days	•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	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	Policy Guidance Document ; Website	September 10, 2014 ¹⁹

¹⁸ 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.”

¹⁹ An August 2016 [guidance document](#) restates these same requirements.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
HI	0	NA	NA	NS	Website	Not dated
IA	0	NA	NA	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 stores ²⁰	Guidance Document; Website	Not dated
ID	10 (LEAs can request approval for additional fundraisers)	4 consecutive days	May not be sold in competition with school meals in the food service area during meal service	NS	Policy	Not dated
IL	NS	Grades 8 and below: 0 days of fundraisers Grades 9-12: 9 days of fundraisers	<ul style="list-style-type: none"> •School must adopt a policy on exemptions •Must include exemption policy in wellness policy •Must maintain records 	NS	Law: 23 Ill. Admin. Code 305.15 ²¹	June 25, 2014
IN	2	1 day	NS	NS	Policy	March 13, 2014

²⁰ Definitions. 281 Iowa Admin. Code 58.9 (effective July 1, 2010).

²¹ 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.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
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 activities ²²	Policy	Tracking begins end of 2014-2015 school year
KY	0	NA	NA	NS	Guidance Document	April 2014 ²³
LA	0	NA	NA	NS	Guidance Document	Not dated
MA	NO POLICY*					
MD	0	NA	NA	NS	Policy ²⁴	July 1, 2014
ME	NO POLICY*					
MI	2 per week	1 day	Not allowed to directly compete with federally reimbursable meals	NS	Law: MI Comp. Laws Serv. § 380.1272b Policy ; Website	Law: September 1, 2015 Policy: July 1, 2015 Website: Not dated

²² This definition was added in a 2015 frequently asked questions document. Kansas State Department of Education. Smart Snacks FAQs. March 2015. Available at http://www.kn-eat.org/snp/SNP_Docs/SNP_Guidance/Smart_Snacks/SmartSnacksFAQs_Oct_2016.pdf Last accessed September 15, 2018.

²³ Same requirement restated for school year 2015-2016. Kentucky Department of Education. Smart Snacks. 2015. Available at <http://education.ky.gov/federal/SCN/Documents/Smart%20Snacks-Waiver%2015-16.pptx> Last accessed September 15, 2018. And again for school year 2016-17. Kentucky Department of Education. Smart Snacks. 2016. Available at http://education.ky.gov/federal/SCN/Documents/Smart%20Snacks_SY16-17.pptx Last accessed September 15, 2018. And for school year 2017-18. Kentucky Department of Education. The National School Lunch Program: Smart Snacks Compliance and the Updated Kentucky Regulation 702 KAR 6:090. 2017. Available at <https://education.ky.gov/federal/SCN/Documents/Smart%20Snacks%20Compliance%20and%20the%20Updated%20Kentucky%20Regulation%20702KAR6090.pdf> Last accessed September 15, 2018. A [memo](#) from the Kentucky Child Nutrition Program restates this requirement for the 2018-19 school year.

²⁴ July 21, 2014 [memo](#) confirmed that the adoption of the Maryland Nutrition Standards included a policy of zero exempt fundraisers.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
MN	0	NA	NA	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	Website	School year 2015-2016
MO	5	1 day	May not be sold in competition with school meals in the food service area during meal service	NS	Guidance Document	Not dated
MS	0	NA	NA	NS	Guidance Document	July 2014
MT	0	NA	NA	NS	Guidance Document	Not dated
NC	0	NA	NA	Activities in which students or others sell products to raise money for the school ²⁵	Policy Guidance Document	Policy: June 30, 2014 Guidance Document: August 2014
ND	3	1 day	NS	NS	Policy; Guidance Document	Policy: July 1, 2014 Guidance Document: Not dated
NE	0	NA	NA	NS	Website	School Year 2016-2017

²⁵ Eat Smart Move More North Carolina. Eat Smart: North Carolina's recommended standards for all foods available in school. 2004. Available at <http://www.eatsmartmovemorenc.com/EatSmartSchoolStds/Texts/SchoolFoodsStandards.pdf> Last accessed September 15, 2018.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
NH	9	1 day	May not be sold in competition with school meals in the food service area during meal service	NS	Guidance Document	SY 2017-18 ²⁶
NJ	0	NA	NA	NS	Law: NJ Admin. Code 2:36-1.11 Policy	Law: June 19, 2017 Policy: August 15, 2014
NM	2 per semester or trimester	1 day	May not be conducted in competition with school meals in the food service area during meal service	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	Law: NM Admin. Code 6.12.5.8	December 30, 2014
NV	0	NA	NA	The sale of items for monetary gain intended for consumption during the school day	Policy; Website	Policy: September 5, 2014 Website: School Year 2015-16
NY	0	NA	NA	Any activity where currency/tokens/tickets, etc., are exchanged for a product in support of the school or school-related activity	Policy	September 16, 2014
OH	NO POLICY*					

²⁶ Previously, this [Guidance Document](#) provided for 3 exempt fundraisers, each lasting up to 3 days. The change for school year 2017-18 was determined by the Fundraiser Stakeholder Group to be an equitable regulation. New Hampshire Department of Education. Technical Advisory. 2017. Available at: <https://www.education.nh.gov/program/nutrition/documents/technical-advisory-on-fundraisers.pdf> Last accessed September 15, 2018.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
OK	30 per semester	14 days	<ul style="list-style-type: none"> • 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
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 ²⁷
RI	0 (career and technical schools with culinary arts may request exemptions) ²⁸	NA	NA	NS	Guidance Document	July 1, 2014
SC	30 (school may request waivers for additional exemptions)	1 day	NS	NS	Policy	January 22, 2015 ²⁹

²⁷ August 10, 2015 [memo](#) restates the same requirements for school year 2015-2016.

²⁸ R.I. Gen. Laws. § 16-21-7 created this special exemption effective August 11, 2016 if the non-compliant items have been prepared by the students as part of their curriculum and are not sold in competition with school meals during the meal service.

²⁹ South Carolina's policy on exempt fundraisers was implemented with decreasing lengths for fundraisers during each consecutive school year. The current policy allowing fundraisers to last 1 day when into effect for school year 2017-18; however, the original policy statement was effective in January 2015.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
SD	1 per school-sponsored group	1 day	Groups cannot share fundraisers	NS	Policy	July 1, 2014
TN	NS	20 days per semester (LEAs may request approval to exceed 20 day limit)	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	June 29, 2016
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
VA	NS	30	May not be conducted during school meal service times	One or more fundraising activities that last one school day ³⁰	Law: VA Code Ann. § 22.1-207.4; 8 VAC 20-740-35	July 1, 2015
VT	0	NA	NA	NS	Guidance Document	February 9, 2015 ³¹
WA	0	NA	NA	NS	Guidance Document	April 2014 ³²

³⁰ This definition was added by a regulation that went into effect in October 2017. “If multiple school-sponsored organizations conduct fundraisers on the same day, the combined activities shall be counted as one fundraiser. If a fundraising activity lasts more than one school day, each subsequent day’s activity shall be considered as one fundraiser and shall count towards the 30 exempt fundraisers total per year.” Exemption to the nutrition standards for school-sponsored fundraisers. 8 VA. Admin. Code 20-740-35 (2017).

³¹ This policy was restated in the 2015 Vermont School Wellness Policy Guidelines, which were updated again in [2016](#).

³² This same requirement was restated in a reminder newsletter sent to child nutrition sponsors for school year 2016-17. Child Nutrition Services. CNS FYI: Smart Snacks Standards Reminders for SY 16-17. 2016. Available at <http://www.k12.wa.us/ChildNutrition/Programs/NSLBP/pubdocs/SmartSnacksStandardsRemindersforSY16-17.pdf> Last accessed September 15, 2018.

*Under Smart Snacks, if no policy is adopted the state defaults to zero exemptions allowed.

State	Number of Exemptions Allowed ⁶	Length of Each Exempt Fundraiser or Number of Fundraiser Days Allowed	Additional Restrictions	Definition of Fundraiser	Source	Effective Date or Document Date
WI	2 per student organization	2 weeks	May not compete directly with the sale of reimbursable meals ³³	NS	Policy; Guidance Document	Policy: May 28, 2014 Guidance Document: September 2014 ³⁴
WV	NO POLICY*					
WY	5 (may request additional exemptions at state agency discretion)	2 weeks (10 school days)	Prohibited during school meal service	NS	Policy; Guidance Document	Policy: July 1, 2014 Guidance Document: 2014

³³ Wisconsin Department of Public Instruction. In a “Nutshell” Nutrition Standards for All Foods Sold in Schools School Year 2015-2016. 2015. Available at <https://dpi.wi.gov/sites/default/files/imce/school-nutrition/pdf/in-a-nutshell-smart-snacks.pdf> Last accessed September 15, 2018.

³⁴ This same requirement has been restated each successive school year in the WI “In a ‘Nutshell’” document. The SY18-19 version is available [here](#).

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