

~~Regulation EEE-R(3): Wellness Program~~

Status: ADOPTED

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The Georgia Department of Education has published the following questions and answers regarding Smart Snack requirements:

General

~~1. What schools or entities need to comply with the Smart Snacks regulations?~~

a. Any school that participates in the National School Lunch and/or School Breakfast Program must comply with the Smart Snacks regulations. If the school does not participate in either program, this regulation does not pertain.

~~2. Under the Smart Snacks regulation, how is school campus defined?~~

a. The Smart Snacks rule defines school campus as “all areas of the property under the jurisdiction of the school that are accessible to students during the school day”. Once off campus the Smart Snacks standards no longer apply.

~~3. Under the Smart Snacks regulation, how is school day defined?~~

a. The school day is defined as midnight before, to 30 minutes after the end of the official school day. So if items are sold 30 minutes after the end of the official school day, the standards do not apply. Also, if the sales are to non-students (parents, faculty/staff), the standards do not apply.

~~4. Does the Smart Snacks regulation apply to foods or beverages brought from home?~~

a. No, the Smart Snacks regulation does not apply to foods brought from home by students for their own consumption, or to foods brought by parents to be given free of charge to students at birthday parties and special events.

~~5. Can Districts be more restrictive than the regulations on Smart Snacks and the State fundraiser allowance?~~

a. Yes, districts may be more restrictive than the Federal Smart Snacks standards and the State exempted fundraiser allowance. This should be specified in the Local School Wellness Policy or a separate Competitive Foods Policy.

~~6. What if food sold to parents on the school campus during the school day and the parent gives/shares it with their child?~~

a. The Smart Snacks regulations apply to foods sold to students only, we cannot control what a parent does. As long as the non-compliant foods are not accessible for the student to purchase, the district would be in compliance with the Smart Snack requirements.

~~7. Are incentives allowed (i.e. buy one get one free or buy a bag of chips and get a Gatorade free)?~~

a. Buy one get one free or a free item with the purchase of another item would be considered an accompaniment. The example described is considered selling the chips and drink or 2 of the same item (as a combined unit of sale) for a discounted price and would need to meet all Smart Snacks standards.

~~8. Can a principal of an elementary school serve regular drinks (cokes, Pepsi, mountain dew) and pizza to honor roll students as a reward during regular lunch time?~~

a. Smart Snacks do not apply to foods or beverages served to students free of charge/contribution.

~~9. If Smart Snacks does not cover foods “served or given” to students, can we give free foods away (ex. Condiments) as long as we do not charge?~~

a. If the condiment is given with a competitive food sold, then it would be considered an accompaniment, and must be included in the nutrient profile as part of the food item.

~~10. Is the afterschool snack program exempt from the Smart Snacks nutrition standards?~~

a. If a school operates an approved, federally assisted afterschool snack program, the snacks should follow the meal pattern for the afterschool snack program; the Smart Snacks standards would not apply to this program. However, if other foods are sold to students during the school day as defined in the regulation, the Smart Snacks standards would be applicable.

~~11. Can School Nutrition Programs (SNP) charge the general fund for costs related to maintaining Smart Snacks records for other entities within the district?~~

a. No, SNP cannot charge the general fund. However, SNP could form partnerships with other organizations as long as SNP recovers the full cost (food, labor, etc.) of the item or the products that are not purchased from the non-profit school food service account. Profits received from items purchased through the non-profit school food service account must accrue in the non-profit school food service account. See USDA policy memo SP13-2014 School Food Service Account Revenue from the Sale of Non-Program Foods for more information.

12. Can School Nutrition Programs share revenue with other school organizations?

a. No, per SP13-2014, revenue sharing is no longer allowed, however there are ways that School Nutrition can partner with school programs and student organizations.

i. School Nutrition can have a contract or agreement with an outside entity and allow other school organizations to partner with school nutrition as long as school nutrition recovers the full cost (food, labor, etc.) of the items.

ii. School Nutrition can partner with other school organizations who have contracts with outside entities. The other school organization could purchase the items and pay school nutrition for the service they provide (portion of the cafeteria or labor hours provided (full cost of labor hours would need to be recouped).

b. In addition, if School Nutrition chooses to enter into these partnerships they should keep in mind additional administrative and labor costs associated and maintain careful records to illustrate compliance.

13. Does GaDOE have a stance on FNS selling gum or diet soda now that the regulations allow it?

a. No, we do not have a stance on the school nutrition program selling gum or diet soda. Remember, diet soda may be sold a la carte at the High School level only.

14. Does an SFA have any leeway to use up existing a la carte inventory that does not meet the standards?

a. No, SFAs should no longer sell items that do not meet the Smart Snacks criteria, unless:

i. Sold 30 minutes after school or during an event outside of school hours

ii. Sold to parents, teachers or other adults

iii. Sold as part of an exempted fundraiser (not 30 minutes before until 30 minutes after meal service anywhere on the school campus)

15. If an item meets the Smart Snacks standards, can it be sold at any time during the school day even in the cafeteria?

a. Yes, any food or beverage that meets the criteria can be sold anywhere on the school campus during the school day.

16. Can “tickets” given to students for positive behavior be used as admission to breaks where snacks are given? Can students use tickets earned to get a free snack that is exempt?

a. If a ticket or a token is given to a student for good behavior or good grades—a behavioral or performance award—and no money is exchanged in order to acquire the ticket/token, the exchange of the reward ticket or token would not be considered a sale to the student.

Foods

1. Can an entrée at breakfast be sold a la carte at lunch the same day?

a. Yes, an entrée that is served as part of a reimbursable meal at breakfast or lunch may be sold a la carte on the day of service or the day after service in either meal program and is exempt from the nutrition standards.

2. Please define “small” amount of sugar in canned, frozen fruits and vegetables.

a. Refer to the USDA Memo SP-23-2014 (v.2), page 7, question 7

3. How do you determine if school made popcorn meets the requirements?

a. You would need a recipe that specifies the portion size that will be sold. The recipe could then be analyzed and the nutrition facts information plugged into the Smart Snacks product calculator to determine if the portion size meets the standards.

4. Does GaDOE have a recommended list of Smart Snacks?

a. GaDOE has not developed a list of approved smart snacks; however, the Alliance for a Healthier Generation has a “Product Navigator” which is a catalog of foods/beverages that meet the standards. Remember to double check items to ensure they meet the Smart Snacks standards.

5. Can an entrée be sold a la carte in a vending machine at the same time it is being served as part of a reimbursable meal in the cafeteria?

a. Yes, if it is an entrée item as part of the reimbursable meal, it is exempt from the standards, and may be sold a la

carte on the day of or day after service.

6. How would second meals that are sold to students be evaluated with regard to Smart Snacks? If sold as a "whole meal".

a. SFA's are no longer able to sell second 'whole meals' a la carte. The entrée would be considered exempt and the sides that go with the meal would need to meet Smart Snack standards to be sold a la carte.

7. Some vendors are advertising that products meet but do not really meet. What should we do about this?

a. All products should be checked for compliance before selling them as a Smart Snack. The responsibility is on the entity selling the item to ensure the products selected meet the requirements.

8. Do the nutrition standards apply to an entire meal or are they looked per item?

a. The nutrition standards are "per item as served". This means that if an item is sold with an accompaniment (ex. Bagel and cream cheese) that is considered one item.

9. How are leftovers handled with the new Smart Snacks rule?

a. Entrees served as part of the NSLP or NSBP are exempt when sold a la carte on the day of or the day after meal service. Side dishes are not exempt so if they are sold a la carte, they must meet all the standards.

Beverages

1. Which beverage standards would apply to a middle/high school combination?

a. If middle and high school are in the same building, and all students have access to all venues in the school, the items available for sale to the students (beverages) must meet the middle school standards. If, in the above situation, the middle school students do not have access to the high school area, separate middle school and high school beverage standards may be implemented by the school.

2. Can we sell sugar free/low calorie tea?

a. Yes, at the high school level only and as long as the beverage meets the beverage requirements. See the Summary of Standards for specific criteria.

b. Also, elementary and middle schools could sell tea as part of an exempted fundraiser.

3. Middle school gives tea as a reward, is this allowable?

a. The Smart Snacks rule does not apply to foods and beverages that are given to students without the exchange of currency/tokens/tickets. However giving food (or beverages) as a reward is not encouraged and should be addressed in your local school wellness policy.

4. Can flavored water be sold to elementary and middle school students?

a. No, only plain carbonated or un-carbonated water may be sold. Also, 100% juice diluted with carbonated or un-carbonated water may be sold. Note: minerals added to bottled water, like fluoride, are acceptable.

Exemptions

1. Do the exemptions for snacks apply for SNP as well as other entities?

a. Yes, any product that meets the standards or is exempted from specific standards and meets the other requirements could be sold a la carte in school nutrition.

2. What fruits and vegetables are exempt from the standard?

a. Fresh fruits and vegetables with no added ingredients except water, canned and frozen fruits with no added ingredients except water, or are packed in 100% juice, extra light syrup, or light syrup, canned vegetables with no added ingredients except water or that contain a small amount of sugar for processing purposes to maintain the quality and structure of the vegetable are exempt from all standards. For more information on exemptions, see the Summary of the Standards chart.

3. Are all gums exempt or does it have to be sugar free?

a. No, only sugar free gum is exempt from the nutrition standards.

4. Can we sell sugar free mints?

a. No, only items that meet the standards may be sold. However, there is a special exemption for sugar free chewing gum.

Fundraisers

1. What is the State law regarding exempted fundraisers?

a. ~~The Guidelines allow 30 fundraisers per school per school year to occur. Each fundraiser is allowed to operate no more than 3 school days in length and includes the sale of and delivery of the foods. The school days do not need to be consecutive. In addition, exempted fundraisers cannot be sold 30 minutes prior until 30 minutes after the end of meal service (breakfast or lunch) anywhere on the school campus. This means food could be sold between breakfast and lunch or 30 minutes after lunch.~~

2. Are the State fundraiser exemptions per school, per organization or per district?

a. ~~The State allowance for exempted fundraisers is per school, per school year. Programs and entities within schools could work together and profit share if they would like to host an exempted fundraiser.~~

3. If one club is selling food once a week for the entire school year is that considered one fundraiser because it is one club?

a. ~~No, each fundraiser is allowed to operate no more than 3 school days in length and includes the sale of and delivery of foods. The club could operate their fundraiser for 3 days (i.e. once a week for 3 weeks) and that would count as one event. If they operated more than 3 days it would be counted as two or more events depending on the total length of the fundraiser, not to exceed 30 events.~~

4. Are fundraisers that occur in vending machines, school stores, snack bars or a la carte sales be part of an exempted fundraiser?

a. ~~No, per the Interim Final Rule fundraisers that occur in vending machines, school stores, snack bars, or a la carte sales may not be exempted. All items sold in these venues must meet the Smart Snack Standards.~~

5. Can the SFA host an exempted fundraiser during meal service or directly after meal service?

a. ~~No, per the State guidelines exempted fundraisers cannot be sold 30 minutes prior until 30 minutes after the end of meal service (breakfast or lunch) anywhere on the school campus. This means food could be sold between breakfast and lunch or 30 minutes after lunch.~~

6. Can school nutrition participate in the exempted fundraisers?

a. ~~Yes, school nutrition can host exempted fundraisers within the guidelines set by the State if approved in their school. Also, if school nutrition purchases fundraising items through its account for other entities, they must receive full reimbursement for the items purchased to include cost of labor, contracting, handling, up-charge (if desired), etc. The SFA cannot simply buy the items and sell them to the fundraising organization for the cost of the items purchased. Also, all procurement requirements must be complied with to purchase any items with the non-profit school food service account.~~

7. What fundraisers meet the Smart Snacks standards and do not require an exemption?

a. ~~There are a variety of healthy fundraising alternatives to help schools raise money. Foods and beverages that meet the Smart Snacks standards can be sold for fundraising anytime and anywhere on the school campus. In addition, there are healthy fundraising options, such as selling non-food items (books, gift wrap, candles, plants/flowers/seeds); and activities/events such as a talent show, car wash, fun run, auction, etc.~~

8. If cookie dough is sold during an off-campus fundraiser, is it ok to deliver on campus?

a. ~~Yes, because the food will not be consumed on campus, however, delivery should occur near or at the end of the day.~~

9. Can a student buy an item that does not meet the standards online at 8 pm and then pick up the item at 10 am the next day on the school campus?

a. ~~No, the intent of the rule is that foods and beverages that do not meet the standards may not be sold and/or delivered on the school campus during the school day unless part of an exempted fundraiser.~~

10. How does an organization get approval to host an exempted fundraiser?

a. ~~Superintendents and Principals will spearhead or designate a person to spearhead approving exempted fundraisers in their schools. Clubs and other organizations wishing to host an exempted fundraiser will apply within their school. GaDOE has created an optional application form that may be used in schools and is located under the resources section on our Smart Snacks webpage.~~

11. The guidelines include language for districts to apply for additional exemptions above the number approved by the board. How does my district go about applying?

~~a. Requests for exemptions above the board approved number will be sent to the Department of Education School Nutrition Programs and should come from the Superintendent or School Food Authority. Requests above the number will contain the additional number of exemptions requested by the district and the reason. Requests will be reviewed on a case by case basis.~~

12. What does the time restriction on an exempted fundraiser actually mean?

~~a. Foods or beverages sold as part of an exempted fundraiser cannot be sold anywhere on the school campus 30 minutes prior to meal service until 30 minutes after the end of each meal service. For example, if a school serves breakfast from 7:00 am—8:00 am and lunch is served from 11:00am—1:00pm. Then an exempted fundraiser could operate prior to 6:30 am, from 8:30 am—10:30 am and after 1:30 pm. Fundraisers operated outside of those times must meet smart snacks requirements.~~

Culinary Programs

1. Our high school culinary team follows curriculum to create different foods throughout the year which are then sold to students. Can students sell these foods even if they don't meet Smart Snacks criteria?

~~a. It depends on who the food is sold to and when/where it is sold. All foods sold to students during the school day outside of the National School Lunch and School Breakfast Program must comply with the Smart Snacks criteria. If the food is sold to adults only (i.e. parents, teachers or other staff) or to students outside the school day the food does not need to meet Smart Snacks criteria. Also, culinary programs could participate in exempted fundraisers, if allowed; sell items during the school day that do not meet the standards. Refer to USDA Memo SP40-2014: Smart Snacks Nutrition Standards and Culinary Education Programs.~~

Monitoring/Compliance

1. How will the State monitor compliance with the Smart Snacks regulations?

~~a. USDA guidance will be forthcoming on this; however monitoring will occur during the School Nutrition Administrative Review that occurs once every 3 years. All foods sold to students on the school campus during the school day will be reviewed. If non-compliance is found technical assistance will be provided and corrective action will be required. If a repeat violation is found on a subsequent review by any organization fiscal action may be assessed.~~

2. Who will be penalized during an Administrative Review for school level non-compliance?

~~a. The entity that is selling the non-compliant foods/beverages will be required to provide corrective action.~~

3. If fiscal action for non-compliance is required, what entity will be assessed the charges?

~~a. We anticipate that if fiscal action is required the party responsible for the non-compliance would be charged.~~

4. Is School Nutrition responsible for products sold by other entities?

~~a. No, the entity that is selling the snack is responsible for ensuring that products sold meet the Smart Snacks standards. The district or school may also designate someone to ensure organizations selling foods meet the requirements.~~

5. What if a school does not comply with Smart Snack requirements, do we call the food police?

~~a. We are not expecting the SNP to be the food police. USDA is working on guidance that should address this email. If you have concerns you can contact your Area Consultant and let them know.~~

6. Will Smart Snack reviews be conducted at all schools or only the school being reviewing during AR?

~~a. USDA is working on guidance to address this.~~

Recordkeeping

1. What records are necessary to be retained in order to ensure compliance?

~~a. Nutrition fact labels and/or product specifications need to be maintained as well as purchasing receipts. The Alliance for a Healthier Generation has created a Smarts Snacks Food Inventory sheet that can help track product sales on the school campus. The entity that is selling the food or beverage is responsible for maintaining the necessary records or providing them to the school or district designee.~~

2. Is record keeping only required for the exempt fundraisers?

a. No, records must be kept for all foods or beverages sold throughout the day at all venues. All parts of the school that are involved with selling food/beverages to students will have a role and responsibility to meet these requirements. Records to be kept include receipts, nutrition labels and/or product specifications.

3. Is School Nutrition responsible for making sure the records are maintained by the school?

a. No, the SNP is responsible for maintaining records for the competitive foods and beverages sold by the program only (items purchased with nonprofit school food service funds). Districts are responsible for ensuring that all entities involved in food sales within a school comply with the requirements. Each entity is responsible for maintaining records, receipts, nutrition labels, etc. for the foods and beverages they are selling.

4. How long do records need to be maintained?

a. Records must be maintained to show that the snacks sold meet the requirements. As with any federal requirement, records must be maintained for 5 years plus the current year.

Resources

1. Are PR materials available to support systems on “Smart Snacks at Schools”?

a. Yes, USDA has issue briefs on their website that can be shared with stakeholders, and the Alliance for a Healthier Generation has developed resources to educate and engage stakeholders, such as a PowerPoint presentation, resources for communication, marketing tactics, etc. Additional resources are available on the GaDOE website.

2. Where can I find the list of exemptions and summary table?

a. The chart is located on the USDA Smart Snacks webpage and is titled “Summary of Standards”.
http://www.fns.usda.gov/sites/default/files/allfoods_summarychart.pdf
