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HANNA SKANDERA  
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GOVERNOR

February 26, 2014

**MEMORANDUM**

**TO:** Superintendents  
Charter School Administrators  
Bureau of Indian Education Administrators

**FROM:** Michael Chavez, Assistant Director, Student Nutrition Bureau 

**RE:** **All Food Sold in Schools/Competitive Food Sales – Effective July 1, 2014**

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In 2010, President Barack Obama signed the “Healthy Hunger-Free Kids Act”. The law provided new meal pattern standards for the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). In addition, the law required the United States Department of Agriculture (USDA) to develop regulations regarding all foods sold in schools.

The USDA developed the regulations which can be viewed at <http://www.gpo.gov/fdsys/pkg/FR-2013-06-28/pdf/2013-15249.pdf>, and go into effect on July 1, 2014. The regulations provide standards for competitive food service and restrict the types of foods and beverages sold during the school day for the purposes of fundraising, including snack bars, a la carte items and vending machines. The nutrition standards for competitive foods apply to all foods and beverages sold:

- outside the school (breakfast, lunch, snacks and supper) meals;
- on the school campus; and
- at any time during the school day.

The attached letter from Thomas J. Vilsack, Secretary of Agriculture and Arne Duncan, Secretary of Education provide suggestions for schools and school districts on how to begin the implementation of the All Foods Sold in School regulations. USDA has also developed technical assistance materials to assist with the implementation of the Smart Snacks in Schools Standards. The technical assistance and guidance materials can be accessed at <http://www.fns.usda.gov/school-meals/smart-snacks-schools>.

School districts and schools must comply with all USDA regulations in order to participate in the NSLP and SBP. This includes the Smart Snacks in Schools Standards. In order for the State to be in compliance with the USDA regulations and standards, the State will be updating its Competitive Food Sales Rule at 6.12.5 of the New Mexico Administrative Code.

The United States Congress recently issued the USDA a directive to establish a waiver process that will provide local schools an option to delay implementing the new nutrition standards contained in the school breakfast and/or the competitive foods regulations, if these regulations are proving too costly. When completed by the USDA, the waiver process will allow State agencies to grant a waiver to any school seeking such waiver from complying with the school breakfast and/or competitive food regulations. Additional information about the waiver process, if approved by USDA, will be forthcoming.

If you have any questions, please feel free to contact the Student Nutrition Bureau at (505) 827-1821.

Enclosure

cc: Hanna Skandera, Secretary of Education  
Hipolito "Paul" Aguilar, Deputy Secretary, Finance and Operations  
Denise Koscielniak, Director, Federal Programs Division  
Jennie Lusk, Assistant General Counsel  
Student Nutrition Bureau Staff  
School Food Authorities Directors



U.S. Department  
of Agriculture



U.S. Department  
of Education

October 2013

Dear Colleague,

As the school year gets under way, we would like to thank you for all of the efforts that you and your staff are making to ensure a healthy nutrition environment in schools. Your ongoing efforts to implement the new school meals nutrition standards are enhancing the health and nutrition of our nation's children in schools across the country.

We would also like to take this opportunity to brief you on another critical element of our joint efforts to promote a healthy school environment and to request your support. In order to implement additional mandates by the Healthy, Hunger-Free Kids Act of 2010, the Department of Agriculture (USDA) recently published the "Smart Snacks in School" standards for all foods sold in school outside the school meals programs. These are practical, science-based standards for foods sold in vending machines and à la carte lines — standards that make the healthy choice the easy choice for students.

Highlights of the "Smart Snacks in School" nutrition standards include:

- *More of the foods we should encourage.* Like the new school meals, the standards require healthier foods, including more whole grains; low-fat dairy products; fruits and vegetables; and leaner protein.
- *Less of the foods we should avoid.* The standards require food items that are lower in fat, sugar, and sodium and provide more of the nutrients children need.
- *Targeted standards.* The standards allow variation by age group for factors such as portion size and caffeine content.
- *Flexibility for important traditions.* Parents may still send their children to school with homemade lunches, or treats for activities such as birthday parties, holidays, and other celebrations, and schools can continue traditions such as fund-raisers and bake sales.
- *Reasonable limitations on when and where the standards apply.* Standards affect only foods that are sold on the school campus during the school day. Foods sold at after-school sports events or other activities will not be subject to these requirements.
- *Flexibility for State and local communities.* The standards allow for significant local and regional autonomy by establishing only minimum requirements for schools. States and schools that have stronger standards will be able to maintain their own policies.

Since the new standards become effective in the 2014-15 school year, schools have ample time to make any changes that the standards require. A team approach will be very important, as

successful implementation will require support not only from school nutrition personnel but also school administrators, sports teams, clubs, and others involved in food sales. USDA will support your efforts with training and technical assistance.

More specifically, we suggest that you:

- *Reach out to your school district leadership* to discuss the new standards and ensure that the leadership team understands that the standards will affect all venues in which foods are sold in your schools, including the cafeteria, vending machines, school stores, etc. (but not including food related to the school lunch program). Compliance with the new standards is not limited to foods sold by school food service and so is likely to impact other members of the school community, potentially including school administrators, sports teams, clubs, and parent organizations.
- *Plan procurement activities accordingly.* In many cases, food purchasing activities for the next school year begin this year. Please ensure that purchasing plans reflect the new standards and that any needed revisions in light of product specifications and other procurement procedures are addressed. In addition, school districts should consult with their State education agencies regarding State guidance on food fund-raiser policies.
- *Develop a plan for ensuring compliance in the coming year.* The plan should include all those involved in food sales and should identify appropriate roles and responsibilities for implementing the new standards.
- *Communicate widely about the new standards.* This is an opportune time to develop a communications plan for conveying the upcoming changes to students, parents, school organizations, and school staff. A key component of such a plan will be communicating to your school leadership and the community at large the many ways in which these changes will positively benefit our schoolchildren. Your messaging can publicize that the revised meal pattern changes coupled with new snack standards will support students in developing a lifelong habit of healthier food choices. Recent research indicates that a large majority of parents support nutrition standards for snacks sold in schools.

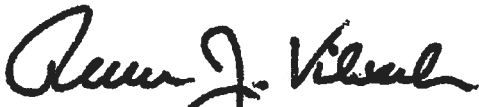
As a result of the Healthy, Hunger-Free Kids Act of 2010, America's students now have healthier and more nutritious school meals. With the addition of "Smart Snacks in School," students will have healthier choices available wherever food is sold to them at school. The Act supports healthier students and staff through stronger local school wellness policies as well as the development of strong professional standards and training resources for school nutrition personnel. These policies must address nutrition education, physical activity, and other school-based activities to promote student wellness. Specific information on USDA's local school wellness policies, including implementation guidelines, examples of model policy language, and links to related resources, can be found on the [USDA Web site](#). This will also be the future site for USDA's proposed school wellness policy regulation.

We also encourage you to learn about and share information on related federal activities. The Department of Education's Carol M. White Physical Education Program (PEP) grants promote innovative educational approaches to nutrition education and helping more students meet their State standards for physical education with the ultimate goal of teaching children about the value of lifelong physical activity and healthy eating. PEP grant activities must support and

complement USDA-required local wellness policies. The Green Ribbon Schools recognition award honors schools and districts that, among other activities, are exemplary in improving the health and wellness of students and staff. Finally, *Let's Move!* is a comprehensive federal initiative dedicated to solving the problem of obesity within a generation, so that children born today will grow up healthier. As well as promoting increased physical activity, the initiative offers parents and educators tools, support, and information they need to instill healthy eating habits in children that will last a lifetime.

We appreciate your continuing dedication to creating a healthy school environment and improving children's health. Thank you for your attention to this critically important issue.

Sincerely,



Thomas J. Vilsack  
Secretary of Agriculture



Arne Duncan  
Secretary of Education