



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
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STATE SUPERINTENDENT

FOOD SERVICE

**ADMINISTRATIVE MEMO NO. 4
SCHOOL YEAR 2022-2023**

SUBJECT: Non-Compliant Food Fundraiser Guidance

DATE: November 30, 2022 (Re-issue of June 24, 2015, Administrative Policy No. 21)

The United States Department of Agriculture (USDA) requires School Food Authorities (SFAs) participating in the National School Lunch Program (NSLP) to follow nutrition standards for all foods sold to students during the school day outside of federal meal programs intended for immediate consumption, also called "competitive foods." Competitive foods include food and beverage items sold:

- as a la carte in the School Nutrition Programs
- in school stores, snack shops or vending machines and
- as fundraisers for school related organizations.

The USDA issued *Smart Snacks in Schools* standards for all competitive food sales. The *Smart Snacks in Schools* standards also permit each state to set a fixed number of *exemptions* for non-compliant food fundraisers.

As a result, the State of Michigan enacted Public Act 42 (PA 42) which states, "the department shall ensure that this upper limit is not less than two fundraising activities per week. For the purposes of this upper limit, an ongoing fundraising activity that is scheduled to take place at more than one time during a school day or throughout the school day shall be considered to be a single fundraising activity."

This memo is intended to provide clarification and guidance for *Smart Snacks in Schools* exempt fundraisers.

What do I need to know about exempt fundraising?

The Michigan Department of Education (MDE) will allow up to two food or beverage-based fundraising activities per week that do not meet the USDA *Smart Snacks in Schools* standards. The two exempt fundraisers are optional and chosen at the local level by each school building.

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Are there restrictions on non-food fundraisers or food items that meet Smart Snacks in School standards?

There are no restrictions on the number of fundraisers that include the sale of food items that meet Smart Snack standards as well as the sale of non-food items. For ideas on non-food fundraisers go to [Best Practices for Healthy School Meals](#).

What is the definition of a week in the Smart Snack regulations?

A week is defined as a calendar week during the regular school year, during which a school is participating in the NSLP.

What is considered a *Single Fundraising Activity*?

According to PA 42, “an ongoing fundraising activity that is scheduled to take place at more than one time during a school day or throughout the school day shall be considered to be a single fundraising activity.” This means that each exempt food fundraiser may last only one day in duration (more than one sale time during a single school day is allowed).

Can the school store sell non-compliant/exempt foods and beverages?

A school store cannot sell non-compliant food or beverage items more than two days in a single week. If a school store sells non-compliant food items on two separate days in a single week, then no other exempt food fundraisers may take place in that same school building that same week.

Where can we sell our exempted fundraiser foods and beverages?

It is important to note that according to the Smart Snacks Interim Final Rule (7 CFR Parts 210 and 220), “no specially exempted fundraiser foods or beverages may be sold in competition with school meals in the food service area during meal service.” Therefore, these exemptions are not allowed to directly compete with federally reimbursable meals, such as those provided by NSLP or the Child and Adult Care Food Program (CACFP). For example, an exempted food or beverage fundraiser that does not meet *Smart Snacks in Schools* standards cannot be sold in the cafeteria during breakfast or lunch time. This includes school stores located in food service areas.

Why are there regulations around fundraising with food?

USDA and MDE support a healthy school environment where students can learn, grow, and make good choices. In recent years, school meals have become healthier. *Smart Snacks in Schools* standards support better health for our kids by making the healthy choice, the easy choice. School meals are the first priority and students should be encouraged to spend money (and calories) there first. Non-compliant fundraisers during school hours can result in loss of sales for school meals and students miss out on the good nutrition provided in those meals. Non-food fundraisers have no restrictions from USDA.

How does the Local Wellness Policy fit into Smart Snacks and fundraising?

The USDA requires each SFA to maintain an up-to-date Local Wellness Policy (LWP). It is acceptable to have LWP restrictions that are stricter than the minimum standards set forth by the state or federal government. Therefore, districts not

wishing to allow exempt food fundraising activities in their buildings, or at least not as often, have the option of implementing this within their own LWP. MDE recommends that the LWP team work closely with building administrators to ensure compliance and proper tracking of the food fundraiser exemptions.

What documentation is required for tracking exempt fundraising?

MDE requires each school building to track its own exemption approvals and ensure that only the allowable number of exemptions are granted. These entities are also required to ensure that all other competitive foods and beverages sold to students during the school day meet the Smart Snacks standards.

How does MDE monitor compliance with Smart Snacks in Schools standards?

Compliance with *Smart Snacks in Schools* standards, including compliance with Michigan PA 42, will be monitored during Administrative Reviews of School Nutrition Programs. Based on these reviews, technical assistance will be provided to districts and/or schools and corrective action will be prescribed, as appropriate, in relation to compliance with *Smart Snacks in Schools* standards and the allowable Michigan exemptions. Noncompliance found during an Administrative Review of School Nutrition Programs will result in required corrective action and possibly may result in fiscal action, if approved by USDA.

More information on *Smart Snacks in Schools* standards is available from the Michigan Smart Snacks website at [Smart Snacks in Schools](#) and the USDA Smart Snacks website at [USDA Smart Snacks](#).

More information on LWP requirements is available on the [Michigan LWP Website](#) and the USDA LWP website at [USDA LWP Website](#).

Questions regarding this Administrative Memo may be directed to the School Nutrition Programs unit by e-mail to MDE-SchoolNutrition@michigan.gov.

Links Used in This Document:

https://fnsprod.azureedge.us/sites/default/files/resourcefiles/bestpractices_fundraisers.pdf

<https://www.michigan.gov/mde/Services/food/sntp/program-info/smart-snacks-in-schools>

<https://www.fns.usda.gov/cn/smart-snacks-school>

<https://www.michigan.gov/mde/Services/food/sntp/resources/local-school-wellness-policy>

<https://www.fns.usda.gov/tn/local-school-wellness-policy>