

Requirements for Foods and Beverages in Vending Machines in Private Schools and Residential Child Care Institutions

This document summarizes the federal and state requirements for selling and giving foods and beverages to students from vending machines in Connecticut private schools and residential child care institutions (RCCIs) that participate in the U.S. Department of Agriculture’s (USDA) National School Lunch Program (NSLP) and School Breakfast Program (SBP). For guidance on how the federal and state requirements apply to different sources of foods and beverages in private schools and RCCIs, see the Connecticut State Department of Education’s (CSDE) handouts, *Requirements for Competitive Foods in Private Schools and Residential Child Care Institutions* and *Summary Chart: Federal and State Requirements for Competitive Foods in Private Schools and Residential Child Care Institutions*. For detailed guidance on the requirements for competitive foods in private schools and RCCIs, see the CSDE’s guide, *Guide to Competitive Foods in Private Schools and Residential Child Care Institutions*.

Overview of Federal and State Requirements

All foods and beverages available for sale to students from vending machines on school premises in private schools and RCCIs must comply with the USDA’s Smart Snacks nutrition standards (81 FR 50131). In addition to these nutrition standards, vending machines must also comply with the following federal and state requirements:

- Connecticut’s state competitive foods regulations (Sections 10-215b-1 and 10-215b-23 of Regulations of Connecticut State Agencies);
- the local educational agency’s (LEA) school wellness policy, as required by the USDA’s school wellness policy legislation (Section 4 of Public Law 108-265 and the Healthy, Hunger-Free Kids Act of 2010); and
- the USDA’s regulation for revenue from nonprogram foods (7 CFR 210.14 (f)).



These federal and state requirements determine what and when foods and beverages can be sold or given to students from vending machines in private schools and RCCIs. They also address the accrual of income from sales of foods and beverages.

- “Sales” means the exchange of a determined amount of money (including the purchase of coupons, tickets, tokens, and similar items) for foods and beverages. Sales also include programs and activities that charge a fee that includes the cost of foods and beverages provided to students; and activities that suggest a student donation in exchange for foods and beverages. Under Connecticut’s statutes and regulations for competitive foods, sales include coupons and similar items that are given to students (such as food rewards), and can be exchanged for certain foods and beverages. However, Smart Snacks does not apply to

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foods and beverages that can be obtained with coupons and similar items that are given to students.

- “Giving” means that foods and beverages are provided free of any charge, contribution, or suggested donations; and without the exchange of tickets, coupons, tokens, and similar items to obtain foods and beverages.
- “School premises” include all areas of the property under the jurisdiction of the local or regional board of education or the governing authority district or school.

When the Requirements Apply

Some of the federal requirements are stricter than the state requirements, and some of the state requirements are stricter than the federal requirements. Some requirements apply during the school day, while others apply at all times or while Child Nutrition Programs (CNP) are operating.

- The “school day” is the period from the midnight before to 30 minutes after the end of the official school day. For example, if school ends at 3:00 p.m., the school day is midnight to 3:30 p.m. A summer school program operated by the board of education or school governing authority is part of the regular school day.
- The CNPs include the [NSLP](#), [School Breakfast Program \(SBP\)](#), [Afterschool Snack Program \(ASP\)](#) of the NSLP, [Seamless Summer Option \(SSO\)](#) of the NSLP, [Special Milk Program \(SMP\)](#), [Fresh Fruit and Vegetable Program \(FFVP\)](#), [Child and Adult Care Food Program \(CACFP\)](#) [At-risk Afterschool Meals](#) operated in schools, and [Summer Food Service Program \(SFSP\)](#) operated in schools.

Note: RCCIs may be eligible to participate in the ASP if they operate an afterschool care program with enrichment or education activities that meet the criteria for ASP participation. RCCIs may be eligible to serve At-risk Afterschool Meals if they have non-residential care programs and these programs offer afterschool education and enrichment programs for nonresidential children.

The table on page 3 summarizes when the federal and state requirements apply to vending machines in private schools and RCCIs, which foods and beverages they regulate, and whether they apply to selling or giving foods and beverages to students.



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Summary of requirements for vending machines in private schools and RCCIs				
Requirement	Applies to	When applies	Restricts	
			Selling	Giving
Smart Snacks (81 FR 50131)	All sales of foods and beverages to students from vending machines on school premises (see “Allowable Foods and Beverages” on page 4).	During the school day.	Yes	No
Section 10-215b-1 of the state competitive foods regulations	Selling and giving candy, coffee, tea, and soft drinks to students from vending machines on school premises while any CNPs are operating (see “Section 10-215b-1” on page 5).	From 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day.	Yes	Yes
Section 10-215b-23 of the state competitive foods regulations	Accrual of income from all sales of foods and beverages to students from vending machines on school premises while any CNPs are operating (see “Section 10-215b-23” on page 7).	From 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day.	Yes	No
School Wellness Policy (Section 4 of Public Law 108-265 and the Healthy, Hunger-Free Kids Act (HHFKA) of 2010)	Selling and giving foods and beverages to students from vending machines on school premises (see “USDA School Wellness Policy Requirements” on page 8).	During the school day.	Yes	Yes

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Summary of requirements for vending machines in private schools and RCCIs, <i>continued</i>				
Requirement	Applies to	When applies	Restricts	
			Selling	Giving
USDA’s regulation for revenue from nonprogram foods (7 CFR 210.14 (f))	<p>All foods and beverages purchased using funds from the nonprofit school food service account, and sold to students and adults from vending machines on school premises (see “USDA Regulation for Revenue from Nonprogram Foods” on page 8).</p> <p>Note: This regulation does not apply to vending machines unless foods and beverages are purchased using funds from the nonprofit school food service account. This is not common.</p>	At all times.	Yes	No

Allowable Foods and Beverages

All foods and beverages available for sale to students from vending machines on school premises during the school day must comply with Smart Snacks, including commercial products and foods made from scratch. For information on the specific Smart Snacks requirements, see the CSDE’s handout, [Summary of Smart Snacks Nutrition Standards](#), and visit the CSDE’s [Smart Snacks Nutrition Standards](#) webpage.

The CSDE’s [List of Acceptable Foods and Beverages webpage](#) identifies commercial food and beverage products that comply with Smart Snacks. Vending operators may also use the Alliance for a Healthier Generation’s [Smart Snacks Product Calculator](#) to assess product compliance with Smart Snacks. For foods made from scratch, vending operators must review the recipe’s nutrition information per serving (included added accompaniments such as butter, cream cheese, syrup, ketchup, mustard, and salad dressing) to determine if the serving complies with Smart Snacks. If the recipe does not include nutrition information, vending operators must conduct a nutrient analysis; the CSDE’s [CNS worksheet 9: Nutrient Analysis](#) can be used to calculate this information. For more information, see the CSDE’s handout, [Guidance on Evaluating Recipes for Compliance with the CNS](#), and visit the “[How To](#)” section of the CSDE’s CNS webpage.

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Foods and beverages that do not comply with Smart Snacks could be sold to students from vending machines on school premises after the school day. For example, if school ends at 3:00 p.m., vending machines could sell noncompliant foods and beverages to students anytime from 3:31 p.m. through 11:59 p.m. However, if any CNPs are operating, Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies require additional restrictions.

State Competitive Foods Regulations

Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies restrict candy, coffee, tea, and soft drinks; and they address the accrual of income from all foods and beverages sold to students anywhere on school premises. In addition to selling and giving foods and beverage to students from vending machines, these restrictions apply to coupons, tickets, tokens, and similar items that students can exchange for foods and beverages in vending machines (including coupons and similar items that are sold or given to students); student orders for foods and beverages from vending machines; and distribution of foods and beverages to students from vending machines.

Section 10-215b-1

Section 10-215b-1 of the state competitive foods regulations prohibits selling and giving candy, coffee, tea, and soft drinks to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs.

- “Candy” includes all types of regular and sugar-free varieties, such as chocolates, chocolate-covered nuts and fruits, hard candies, jelly candies (e.g., gumdrops and gummies), and breath mints.
- “Coffee” and “tea” include all types, e.g., regular, decaffeinated, herbal and iced.
- “Soft drinks” include all beverages (with or without carbonation) that contain water and/or juice and added sweeteners (including nutritive sweeteners and artificial or natural nonnutritive sweeteners), and may also contain other ingredients such as edible acids, natural or artificial flavors and colors, and added nutrients. Examples of soft drinks include soda (regular and diet), sports drinks (regular, low-calorie, and zero calorie), sweetened beverages (with or without carbonation) that are not 100 percent juice (such as lemonade and fruit punch drinks), and flavored water with added sweeteners.

Depending on when CNPs operate, Smart Snacks may supersede Section 10-215b-1, or Section 10-215b-1 may supersede Smart Snacks. These requirements are summarized below.

- **Selling candy to all grades:** Smart Snacks prohibits selling candy to students on school premises during the school day. In addition, Section 10-215b-1 prohibits selling candy to

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students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day. For example, if the ASP operates from 3:30 p.m. to 4:30 p.m., vending machines cannot sell candy to students anywhere on school premises from 3:00 p.m. to 5:00 p.m.

- **Selling coffee, tea, and soft drinks in elementary and middle schools:** Smart Snacks prohibits sales of coffee, tea, and soft drinks to elementary and middle school students on school premises during the school day. In addition, Section 10-215b-1 prohibits selling coffee, tea, and soft drinks to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day. For example, if the ASP operates from 3:30 p.m. to 4:30 p.m., vending machines cannot sell coffee, tea, and soft drinks to students anywhere on school premises from 3:00 p.m. to 5:00 p.m.
- **Selling coffee, tea, and soft drinks in high schools:** Smart Snacks allows sales of coffee, tea, and soft drinks to high school students during the school day, if these beverages comply with the calorie limits for the Smart Snacks category of “other flavored and/or carbonated beverages” and the portion size does not exceed 12 fluid ounces. However, Section 10-215b-1 prohibits selling coffee, tea, and soft drinks to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day. For example, if the SBP operates from 7:00 a.m. to 7:30 a.m. and the NSLP operates from 11:30 a.m. to 1:00 p.m., vending machines cannot sell coffee, tea, and soft drinks to high school students anywhere on school premises from 6:30 a.m. to 8:00 a.m. or 11:00 a.m. to 1:30 p.m.

Note: Vending operators must evaluate beverages for compliance with the Smart Snacks category of “flavored and/or carbonated beverages” based on the amount served, including any added accompaniments such as milk, cream, sugar, and honey. Examples include coffee with milk and sugar, and tea with milk and honey. For example, the calories for milk, cream, and sugar must be included when determining if a serving of coffee meets the Smart Snacks calorie limits. For information on the category of “flavored and/or carbonated beverages” for high schools, see the CSDE’s handout, [Summary of Smart Snacks Nutrition Standards](#).

- **Giving candy, coffee, tea, and soft drinks to all grades:** Smart Snacks does not apply when foods and beverages are given to students. However, Section 10-215b-1 prohibits giving candy, coffee, tea, and soft drinks to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day. For example, if the SBP operates from 7:00 a.m. to 8:00 a.m., the NSLP operates from 11:30 a.m. to 1:00 p.m., and the ASP operates from 3:30 p.m. to 4:30 p.m., vending machines cannot give candy, coffee, tea, and soft drinks to students on school

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premises from 6:30 a.m. to 8:30 a.m., 11:00 a.m. to 1:30 p.m., and 3:00 p.m. to 5:00 p.m. Examples include vending machines that dispense candy, coffee, tea, and soft drinks to students; and vending machines where students can exchange coupons, tickets, tokens and similar items for candy, coffee, tea, and soft drinks.

The CSDE strongly encourages schools to promote consistent health messages to students by eliminating candy, coffee, tea, and soft drinks on school premises. For more information, see the CSDE's handouts, [Healthy Fundraising](#), [Healthy Celebrations](#), and [Alternatives to Food Rewards](#).

Section 10-215b-23

Section 10-215b-23 of the state competitive foods regulations requires that the income from all foods and beverages sold to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs must accrue to the nonprofit food service account. This includes vending machine income from sales of foods and beverages that comply with Smart Snacks; and the income from sales of coupons, tickets, tokens, and similar items that students can use to obtain foods and beverages in vending machines. "Income" means gross income.

If any vending machines operate during this time, the gross income (not just the percentage of the income specified in the vending machine contract) must accrue to the nonprofit food service account. For example, a vending machine contract specifies that the school food service department receives 20 percent of the total vending sales. If the vending machine operates from 30 minutes before up through 30 minutes after the operation of any CNPs, the school food service department must receive 100 percent of the total vending sales (gross income) during this time. For example, if the SBP operates from 7:00 a.m. to 8:00 a.m., the NSLP operates from 11:30 a.m. to 1:00 p.m., and the ASP operates from 3:30 p.m. to 4:30 p.m., the nonprofit food service account must receive the vending machine's income from all foods and beverages sold to students on school premises from 6:30 a.m. to 8:30 a.m., 11:00 a.m. to 1:30 p.m., and 3:00 p.m. to 5:00 p.m.

Schools must ensure that all vending machine contracts comply with Section 10-215b-23. Unless 100 percent of the gross vending income accrues to the nonprofit food service account, all vending machines must be turned off from 30 minutes before up through 30 minutes after the operation of any CNPs. For more information, see the CSDE's handout, [Connecticut Competitive Foods Regulations](#), and [CSDE Operational Memorandum No. 1-18: Accrual of Income from Sales of Competitive Foods in Schools](#).

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USDA School Wellness Policy Requirements

The LEA's school wellness policy may have additional local requirements for selling and giving foods and beverages to students. The Child Nutrition and WIC Reauthorization Act of 2004 ([Section 4 of Public Law 108-265](#)) required all schools and institutions participating in the NSLP and SBP to develop a school wellness policy by the first day of school year 2006-07. The [Healthy, Hunger-Free Kids Act of 2010](#) strengthened the SWP law by adding requirements for public participation, transparency, and implementation. Among other requirements, the school wellness policy must include nutrition guidelines for all foods and beverages that are sold or given to students on school premises during the school day. At a minimum, the LEA's school wellness policy for foods and beverages must meet all applicable federal and state nutrition standards and requirements. For more information on school wellness policies, visit the CSDE's [School Wellness Policies](#) webpage.



USDA Regulations for Revenue from Nonprogram Foods

Section [7 CFR 210.14 \(f\)](#) of the NSLP regulations requires that all revenue from the sale of nonprogram foods must accrue to the nonprofit school food service account. "Nonprogram foods" are foods and beverages purchased using funds from the nonprofit school food service account and sold to students or adults at any time or location on school premises, other than reimbursable meals and snacks served through the CNPs. Nonprogram foods include all foods and beverages sold in schools, adult meals, outside-of-school hours, and catering or vending activities. They also include competitive foods purchased using funds from the nonprofit school food service account, such as cafeteria a la carte sales or foods and beverages for vending machines operated by the food service department. For most school food authorities (SFA), cafeteria a la carte sales account for the majority of nonprogram foods.

This regulation also requires that when school food service labor is used to prepare foods for an outside entity (such as catering), the SFA must ensure that all costs, including labor and any other costs incurred, are covered by the entity being served by the school food service program. For more information, see [USDA Memo SP 13-2014: School Food Service Account Revenue from the Sale of Nonprogram Foods](#) and [USDA Memo SP 20-2016: Nonprofit School Food Service Account Nonprogram Food Revenue Requirements](#).

Note: Nonprogram foods are different from competitive foods. Competitive foods are all foods and beverages available for sale to students on school premises, separately from reimbursable meals and snacks served through the CNPs. Some competitive foods are purchased using funds from the nonprofit school food service account, but many are not. For example, funds from the nonprofit school food service account might be used to purchase competitive foods that are sold from

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vending machines in the cafeteria, but they are not typically used to purchase competitive foods that are sold from school stores and fundraisers.

Resources

A Guide to Smart Snacks in School (USDA):

https://fns-prod.azureedge.net/sites/default/files/tn/508_USDASmartSnacks_508_82218.pdf

Beverage Requirements (CSDE webpage):

<https://portal.ct.gov/SDE/Nutrition/Beverage-Requirements>

Competitive Foods in Schools (CSDE webpage)

<https://portal.ct.gov/SDE/Nutrition/Competitive-Foods>

Connecticut Competitive Foods Regulations (CSDE):

<https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/CTCompFoodRegulation.pdf>

CSDE Operational Memorandum No. 1-18: Accrual of Income from Sales of Competitive Foods in Schools: <https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/Memos/OM2018/OM01-18.pdf>

Final Rule: National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the HHFKA of 2010 (81 FR 50131).

<https://www.fns.usda.gov/school-meals/fr-072916d>

Fundraisers and Smart Snacks: Foods Not Intended for Consumption at School (USDA):

<https://fns-prod.azureedge.net/sites/default/files/cn/fundraisersfactsheet.pdf>

Guide to Competitive Foods in Private Schools and Residential Child Care Institutions (CSDE):

<https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/CompetitiveFoodsGuidePrivateRCCI.pdf>

List of Acceptable Foods and Beverages (CSDE webpage):

<https://portal.ct.gov/SDE/Nutrition/List-of-Acceptable-Foods-and-Beverages>

Overview of Federal and State Laws for Competitive Foods in Connecticut Public Schools, Private Schools, and Residential Child Care Institutions:

<https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/OverviewFederalStateLaws.pdf>

Questions and Answers on Smart Snacks (CSDE):

<https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/SmartSnacksQA.pdf>

Requirements for Competitive Foods in Private Schools and Residential Child Care Institutions (CSDE):

<https://portal.ct.gov/-/media/SDE/Nutrition/HFC/RequirementsPrivate.pdf>

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Requirements for Food and Beverage for Fundraisers in Private Schools and RCCIs (CSDE):
<https://portal.ct.gov/-/media/SDE/Nutrition/HFC/FundraisersPrivate.pdf>

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs (CSDE):
<https://portal.ct.gov/-/media/SDE/Nutrition/HFC/VendingPrivate.pdf>

Resources for Healthy Foods and Beverages in Schools (CSDE):
<https://portal.ct.gov/-/media/SDE/Nutrition/HFC/ResourcesHealthyFB.pdf>

Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies:
https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_10Subtitle_10-215b/

Smart Foods Planner (Alliance for a Healthier Generation):
<https://foodplanner.healthiergeneration.org/>

Smart Snacks Calculator (Alliance for a Healthier Generation):
<https://foodplanner.healthiergeneration.org/calculator/>

Smart Snacks Nutrition Standards (CSDE webpage):
<https://portal.ct.gov/SDE/Nutrition/Smart-Snacks-Nutrition-Standards>

Summary Chart: Federal and State Requirements for Competitive Foods in Private Schools and Residential Child Care Institutions (CSDE):
<https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/SummaryChartprivateRCCI.pdf>

Summary of Smart Snacks Nutrition Standards (CSDE):
<https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/SmartSnacks.pdf>

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For more information, visit the CSDE's [Competitive Foods in Schools](#) and [Smart Snacks Nutrition Standards](#) webpages or contact the [school nutrition programs staff](#) at the Connecticut State Department of Education, Bureau of Health/Nutrition, Family Services and Adult Education, 450 Columbus Boulevard, Suite 504, Hartford, CT 06103-1841.

This document is available at <https://portal.ct.gov/-/media/SDE/Nutrition/HFC/VendingPrivate.pdf>.

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- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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