



Healthy school snacks

How ‘smart snacks’ rule changes affect districts

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We have witnessed an increase in the number of healthy food and beverage options available to students at school over the years. Ohio Senate Bill (SB) 210, also known as the Healthy Choices for Healthy Children Act, was passed in 2010. The legislation required Ohio school boards to adopt nutritional standards governing the types of beverages and foods sold on school premises, as well as the time and place they may be sold.

Ohio’s beverage and food standards can be found in Ohio Revised Code (RC) 3313.814, 3313.816 and 3313.817.

In addition to these state standards, the Healthy Hunger-Free Kids Act of 2010 (HHFKA) set national nutrition standards for schools. The purpose of HHFKA also was to promote healthier options for students.

As part of HHFKA, the U.S. Department of Agriculture (USDA) was required to create nutrition standards for beverages and foods sold to students during the regular school day. USDA set those standards in an interim federal rule (referred to as the Smart Snacks in School rule) that became effective on July 1 (7 Code of Federal Register Parts 210 and 220). The rule defines what beverages and food items may be sold in a school store; vending machines; culinary education programs that sell food and beverages to students; and school-sponsored fundraisers. However, the rule does not include items sold during after-school programs, events and activities, nor does it include beverages and food sold outside the “regular school day” or food and beverages provided to students at no cost

or for no medium of exchange.

Ohio schools under the National School Lunch Program must follow the more restrictive standards when comparing the USDA’s Smart Snacks in School rule and the standards established by Ohio law. Additionally, beverages and foods sold to students during the regular school day, excluding breakfast and school lunch meals, are required to meet the nutrition standards.

Let’s take a look at the changes made to beverages sold to students during the regular school day.

Purpose of Smart Snacks in School

The purpose of the USDA’s Smart Snacks in School rule is to have a national focus on the beverages and foods sold on school property during the regular school day for schools participating in the National School Lunch Program. The rule uses science-based nutrition guidelines with practical and flexible solutions to promote healthier eating on school campuses.

The food and beverage standards in the rule represent the minimum standards that must be met by local educational agencies, school food authorities and schools. State agencies and/or local school districts have the discretion to establish their own nutrition standards for non-program foods that are sold to students as long as they are consistent with federal standards.

Changes to definitions and descriptions

The Smart Snacks in School rule amended several key definitions related to schools and nutrition. RC 3313.814

currently defines the regular school day as “the period during each school day between arrival time for students and the end of the final instructional period.” USDA defines the regular school day as “the period from midnight before to the 30 minutes after the end of the official school day.” However, as a result of the USDA’s Smart Snacks in School rule, schools will follow USDA’s definition.

Additionally, Ohio law refers to the school campus as the premises of schools. The Smart Snacks in School rule defines school campus as property under the jurisdiction of the school accessible to students during the school day, for purposes of competitive food standards implementation. Competitive foods refers to “beverages and foods other than the meals reimbursed under programs covered by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 that are available for sale to students during the school day on the school campus.” Effective July 1, school districts must follow the USDA’s smart snacks requirement when referring to the school campus.

The Smart Snacks in School rule also describes fundraisers during the regular school day. It allows the state of Ohio to set the number of exempt fundraisers that occur during the school day. However, exempt fundraisers must be infrequent. Previously, SB 210 provided an exemption for interscholastic sporting event fundraisers occurring during the school day. As of July 1, Ohio has not determined whether any exempt fundraisers will be permitted during what is considered the regular school day.

Allowable beverages

When comparing Ohio SB 210 and USDA's Smart Snacks in School rule, the nutritional standards are similar. Under the federal rule, the portion size for beverages varies based on age group, which is consistent with Ohio law. Additionally, when comparing the two, a majority of the changes from the Smart Snacks in School rule consisted of the milk beverages that may be consumed for all grade levels and other beverages sold to students in high school. Following is a list of beverages that may be sold in Ohio schools as of July 1 for schools participating in the National School Lunch Program.

For elementary school students, the following beverages are allowed:

- plain water with no size limitation;
- low-fat (1%) or flavored/unflavored fat-free milk that is no more than eight ounces;
- 100% fruit juice or a 100% fruit juice and water blend with no added sweeteners that is eight ounces or fewer containing no more than 160 calories per eight ounces.

For middle school students, the following beverages are allowed:

- plain water with no size limitation;
- low-fat (1%) or flavored/unflavored fat-free milk that is no more than 12 ounces;
- 100% fruit juice or a 100% fruit juice and water blend with no added sweeteners that is 10 ounces or

fewer containing no more than 160 calories per eight ounces.

For high school students, the following beverages are allowed:

- plain water with no size limitation;
- low-fat (1%) or flavored/unflavored fat-free milk that is no more than 12 ounces;
- 100% fruit juice or 100% fruit juice and water blend with no added sweeteners that is 12 ounces or fewer containing no more than 160 calories per eight ounces;
- any beverage that is 12 ounces or fewer containing no more than 40 calories per eight ounces (or 60 calories per 12 ounces);
- calorie-free flavored water with or without carbonation that is 20 ounces or fewer;
- a beverage that is 20 ounces or fewer containing no more than five calories per eight ounces (or 10 calories per 20 ounces), which may include caffeinated beverages and beverages with sweeteners, carbonation or artificial flavoring.

In addition, schools are required to follow the more restrictive rule if there is a mixture of grades at the schools.

Also, for all grade levels, if a school offers non-dairy beverages instead of milk, then the non-dairy beverages must meet the USDA's Fluid Milk Substitution Rule nutrition requirements along with the milk portion size limit.

Resources for further guidance

The Ohio Department of Education has issued a guidance document on the changes to nutritional standards for food and beverages as a result of the USDA's Smart Snacks in School rule. This document is available at <http://links.ohioschoolboards.org/42317>. This document details the requirements in the Ohio Revised Code and the Smart Snacks in School standards. More information on the Smart Snacks in School rule may be found on the USDA's website at <http://links.ohioschoolboards.org/64911>. OSBA Policy EFF, Food Sale Standards, outlines the nutritional standards set by Ohio law.

Having a healthy diet and applying moderation allows children to have improved eating habits and the proper nutrition needed to sustain a healthy lifestyle. Although it may be difficult for students to maintain a healthy diet when they are away from school, the regulations help ensure they will be provided nutritious meals and beverages during the regular school day.

If you have general questions about the information discussed in this article, contact OSBA's legal services division. ■

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