



To: School Food Service Directors, and Business Managers

From: Michael McKeon, Legal Director, Division of Legal and Governmental Affairs,
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Subject: Placement and Operation of Vending Machines in Schools Pursuant to
Connecticut General Statutes (C.G.S.) Section 10-303 and Section 10-215b-23 of
the Regulations of Connecticut State Agencies (R.C.S.A.)

[C.G.S. Section 10-303](#) provides ADS-BESB with a statutory right of first refusal with respect to the placement of vending machines in school buildings. C.G.S. Sections 10-215, 10-215a, and 10-215b provide for the operation of school breakfast, lunch, and other food service programs. [C.G.S. Section 10-215b](#) authorizes the State Board of Education to adopt regulations to implement these programs.

The CSDE and ADS-BESB are providing this joint communication to remind school districts of: (1) ADS-BESB's important statutory right of first refusal; and (2) the requirement to implement the Connecticut regulation, [R.C.S.A. Section 10-215b-23](#), which affects the operation of, and accrual of income from, vending machines during certain times of the day. These requirements are summarized below.

1. ADS-BESB has a statutory right of first refusal to operate vending machines in schools.

The first purpose of this communication is to remind school districts of ADS-BESB's rights regarding vending machines in schools. ADS-BESB has a long-standing statutory priority (right of first refusal) to operate vending machines in municipal buildings, including schools, if such vending machines are deemed desirable by the authority in charge of the building. C.G.S. Section 10-303(a) states, in pertinent part (emphasis added):

The authority in charge of any building or property owned, operated or leased by . . . any municipality . . . shall grant to the [ADS-BESB] a permit to operate in such building or on such property a food service facility, a *vending machine* or a stand for [such items] as such authority approves when, in the opinion of such authority, such facility, machine or stand is

desirable in such location. Any person operating such a stand in any such location on October 1, 1945, shall be permitted to continue such operation, but upon such person's ceasing such operation such authority shall grant a permit for continued operation to the [ADS-BESB]. . . .

This priority serves a beneficent purpose. All revenue accruing to the ADS-BESB under the vending machine program is used to support services for people who are blind or visually impaired. However, it should be noted that, in the case of school locations, ADS-BESB does waive its vending commission income and instead instructs the vending machine contractors to pay those commissions in full directly to the schools. This income must be used by the school system for the benefit of students [see C.G.S. Section 10-303(d)].

ADS-BESB has learned that some school districts have allowed other vending machine operators to place vending machines on their premises without first offering this opportunity to ADS-BESB. Allowing this to occur is contrary to the clear mandate of C.G.S. Section 10-303(a) that a school district **must** grant a permit to ADS-BESB to operate a vending machine if the school district has determined that a vending machine is desirable in the particular location. School districts cannot allow another organization to place a vending machine in a school building unless (1) the school district has first offered to grant a permit to ADS-BESB to operate the vending machine; and (2) ADS-BESB has declined the opportunity.

Attached to this joint communication is a separate letter from ADS-BESB to all school superintendents, business managers, and school food service directors in school districts which provides further information on ADS-BESB's vending machine program and requesting correction if the school district is currently out of compliance.

Note: C.G.S. Section 10-303(a) does not apply to vending machines that are owned and operated by the school district without outside assistance.

2. Vending machines in schools must be operated in accordance with State Board of Education Requirements.

The second purpose of this communication is to remind school districts of the requirement to operate vending machines in accordance with the State Board of Education requirements. [C.G.S. Section 10-215b\(c\)](#) authorizes the State Board to adopt regulations necessary to implement the school nutrition programs authorized by C.G.S. Sections 10-215 to 10-215b. Pursuant to this authority, the State Board adopted [R.C.S.A. Section 10-215b-23](#). This regulation states:

The income from the sale to students of food items, anywhere on the school premises from thirty minutes prior to the start of any state or federally subsidized milk or food service program until thirty minutes after any such program, shall accrue to the school food authority for the benefit of state or federally subsidized milk or food service programs.

The following definitions apply to this regulation.

- “Income” means gross income.
- “Food items” means all foods and beverages available for sale to students on school premises separately from reimbursable school meals. This includes vending machines and any other sources of food and beverage sales to students on school premises, such as fundraisers, school stores, and culinary programs.
- “Sale” means the exchange of foods and beverages for a determined amount of money or its equivalent, such as tickets, coupons, tokens, and similar items. Sales also include any activities that suggest a student donation in exchange for foods and beverages.

R.C.S.A. Section 10-215b-23 has an important role in promoting the financial viability of school district food service programs. It ensures that income is not diverted from these programs while they are in operation, or immediately before and after the time they are in operation.

Note: R.C.S.A. Section 10-215b-23 does not apply to vending machines that are not accessible to students, such as vending machines in a teachers’ lounge. For additional guidance on R.C.S.A. Section 10-215b-23, refer to the CSDE’s [Operational Memorandum No. 1-18: Accrual of Income from Sales of Competitive Foods in Schools](#).

School districts must work with ADS-BESB or its contractor to develop procedures to implement the requirements of R.C.S.A. Section 10-215b-23. This may include collecting income which accrues to vending machines for sales to students during the times specified in the regulation and forwarding that income to the school food authority. Alternatively, the school district or ADS-BESB and its contractor may decide to avoid the accrual of income by turning off vending machines during the times stated in the regulation. This may be accomplished by using timers on vending machines.

For questions regarding this information, please contact ADS-BESB or the school district’s nutrition consultant as follows:

- ADS-BESB – Tracy Morin, Vending Division Supervisor, at tracy.morin@ct.gov or at (860) 602-4211
- CSDE - [school nutrition consultant](#)