

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 state and federal requirements apply to different sources of foods and beverages in private schools and RCCIs, refer to the Connecticut State Department of Education’s (CSDE) resources, *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*. The CSDE’s *Guide to Competitive Foods in Private Schools and Residential Child Care Institutions* provides detailed guidance on the requirements for competitive foods in non-HFC public schools. For more information, visit the CSDE’s [Competitive Foods in Schools](#) webpage.

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

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

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 tickets 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 foods and beverages that can be obtained with tickets 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 school governing authority.

When the Requirements Apply

When the federal and state requirements differ, the stricter 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 (CNPs) 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 from midnight to 3:30 p.m. A summer school program operated by the 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.

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

Table 1 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.

Table 1. 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 foods and beverages available for sale to students from vending machines on school premises during the school day, separately from reimbursable meals and snacks through the CNPs (refer to “Allowable Foods and Beverages” in this document).	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 (refer to “Section 10-215b-1” in this document).	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 (refer to “Section 10-215b-23” in this document).	From 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day.	Yes	No

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

**Table 1. Summary of requirements for vending machines
in private schools and RCCIs, *continued***

Requirement	Applies to	When applies	Restricts	
			Selling	Giving
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 (refer to “ USDA School Wellness Policy Requirements ” in this document). ¹	During the school day.	Yes	Yes
USDA’s regulation for revenue from nonprogram foods (7 CFR 210.14 (f))	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 (refer to “ USDA Regulation for Revenue from Nonprogram Foods ” in this document). Note: This regulation does not apply to vending machines unless the foods and beverages are purchased using funds from the nonprofit school food service account.	At all times.	Yes	No
<p>¹ The LEA’s school wellness policy must include locally determined standards and nutrition guidelines for all foods and beverages and beverages available for sale to students, and provided to students free of any charge, on school premises during the school day (refer to “USDA School Wellness Policy” in this document).</p>				

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

Allowable Foods and Beverages

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

Smart Snacks applies to the amount of the food **as served**, including any added accompaniments such as butter, margarine, cream cheese, jelly, mayonnaise, ketchup, mustard, relish, salad dressing, sauce, and gravy. When a food includes an accompaniment (such as a bagel with cream cheese or pancakes with butter and syrup), the nutrition information for the **food and accompaniments** must be added together to review the serving for Smart Snacks compliance.

This requirement also applies to the two additional categories of “flavored and/or carbonated beverages” allowed only for **high school students**. Beverages in these categories must meet specific calorie limits for the amount **as served**. When a beverage includes an accompaniment (such as coffee with milk and sugar, or tea with milk and honey), the nutrition information for the **beverage and accompaniments** must be added together to refer to the serving for compliance with the Smart Snacks calorie limits. For example, if a serving of coffee includes 2 tablespoons of milk and 2 teaspoons of sugar, the vending machine operator must calculate the calories per serving for the coffee, milk, and sugar; then compare the total calories with the applicable Smart Snacks category for “flavored and/or carbonated beverages.”

Commercial products

The serving of a commercial product (including any added accompaniments) must meet each nutrition standard for the applicable Smart Snacks food category. The CSDE's [List of Acceptable Foods and Beverages webpage](#) identifies commercial food and beverage products that comply with Smart Snacks. Vending machine operators may also use the Alliance for a Healthier Generation's [Smart Snacks Product Calculator](#) to assess food products for compliance with Smart Snacks.



Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

Foods made from scratch

The serving of a recipe (including any added accompaniments) must meet each nutrition standard for the applicable Smart Snacks food category. Recipes with nutrition information are required for two categories of foods: 1) foods prepared from scratch; and 2) foods with other ingredients added after purchasing, e.g., popping popcorn kernels in oil; assembling a sandwich; making muffins from a mix and adding butter and eggs; and adding sprinkles to commercial frozen sugar cookie dough.



Vending machine operators must document each recipe's Smart Snacks compliance **before** selling these foods to students. Documentation requires two steps: 1) obtaining or developing a standardized recipe that indicates the required nutrition information per serving (calories, fat, saturated fat, trans fat, sodium, and sugars); and 2) comparing the recipe's nutrition information per serving (including any added accompaniments) with the required nutrition standards for the applicable Smart Snacks food category. Private schools and RCCIs must maintain this information on file for the Administrative Review of the school nutrition programs. For more information on evaluating recipes for Smart Snacks compliance, review section 1 of the CSDE's *Guide to Competitive Foods in Private Schools and Residential Child Care Institutions*.

Allowable Sales of Noncompliant Foods and Beverages

Vending machines on school premises may sell noncompliant foods and beverages to adults at any time. Vending machines on school premises may sell noncompliant foods and beverages to students **after** the school day. For example, if school ends at 3:00 p.m., vending machines on school premise could sell noncompliant foods and beverages anytime from 3:31 p.m. through 11:59 p.m. However, if the sales occur while any CNPs are operating, Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies require additional restrictions (refer to "[State Competitive Foods Regulations](#)" in this document).

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

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:

- tickets, coupons, tokens, and similar items that students can exchange for foods and beverages in vending machines (including tickets 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.

Sections 10-215b-1 and 10-215b-23 apply regardless of when students will consume the foods and beverages.

Section 10-215b-1: Restrictions for candy, coffee, tea, and soft drinks

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, nonnutritive sweeteners, and sugar alcohols) and may also contain other ingredients such as edible acids, natural or artificial flavors and colors, and added nutrients. Examples 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.



Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

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 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. They must be turned off during these times.
- **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. They must be turned off during these times.
- **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 beverage 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. They must be turned off during these times.

Note: Vending machine operators must evaluate beverages for compliance with the Smart Snacks beverage category of “flavored and/or carbonated beverages” based on the amount **as 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 information on the category of “flavored and/or carbonated beverages” for high schools, refer to the CSDE’s resource, *Summary of Smart Snacks Nutrition Standards*.

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

- **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 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 tokens and similar items for candy, coffee, tea, and soft drinks.

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

Section 10-215b-23: Accrual of income

Section 10-215b-23 of the state competitive foods regulations requires that the gross 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, i.e., the restricted revenue account used only for the operation or improvement of the nonprofit school food service. All vending machine sales of foods and beverages to students during this time must comply with this regulation, including:

- sales of foods and beverages that comply with Smart Snacks;
- student orders for foods and beverages from vending machines; and
- sales of tokens and similar items that students can exchange for foods and beverages in vending machines.



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

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

account. The example below shows how Section 10-215b-23 applies to a vending machine contract.

- **Example:** A vending machine contract specifies that the school food service department will receive 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.

Private schools and RCCIs 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, refer to the CSDE's resources, [Overview of Connecticut's Competitive Foods Regulations](#) and [Operational Memorandum No. 1-18: Accrual of Income from Sales of Competitive Foods in Schools](#).

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.

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

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 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 (SFAs), cafeteria a la carte sales account for the majority of nonprogram foods. This regulation also applies to vending machines operated by the SFA.

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, refer to [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](#).

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

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>

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>

Guidance on Evaluating Recipes for Compliance with the Connecticut Nutrition Standards (CSDE):

https://portal.ct.gov/-/media/SDE/Nutrition/HFC/Evaluating_Recipes_CNS_Compliance.pdf

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

https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/Competitive_Foods_Guide_Private_RCCI.pdf

List of Acceptable Foods and Beverages (CSDE webpage):

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

Overview of Connecticut's Competitive Foods Regulations (CSDE):

https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/Overview_CT_Competitive_Foods_Regulations.pdf

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

https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/Overview_Federal_State_Laws_Competitive_Foods.pdf

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

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

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs

Requirements for Foods and Beverages in Vending Machines in Private Schools and Residential Child Care Institutions (CSDE):

https://portal.ct.gov/-/media/SDE/Nutrition/HFC/Vending_Machine_Requirements_Private_RCCI.pdf

Resources for Meeting the Federal and State Requirements for Competitive Foods in Schools (CSDE):

https://portal.ct.gov/-/media/SDE/Nutrition/HFC/Resources_Federal_State_Requirements_Competitive_Foods.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 Snacks Product Calculator (Alliance for a Healthier Generation):

<https://foodplanner.healthiergeneration.org/>

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/Summary_Chart_Requirements_Competitive_Foods_Private_RCCI.pdf

Summary of Smart Snacks Nutrition Standards (CSDE):

https://portal.ct.gov/-/media/SDE/Nutrition/CompFoods/Summary_Smart_Snacks_Nutrition_Standards.pdf

Requirements for Foods and Beverages in Vending Machines in Private Schools and RCCIs



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, School Health, Nutrition and Family Services, 450 Columbus Boulevard, Suite 504, Hartford, CT 06103-1841.

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

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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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