



STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



TO: Sponsors of School Child Nutrition Programs

FROM: John Frassinelli, Chief
Bureau of Health/Nutrition, Family Services and Adult Education

DATE: April 21, 2014

SUBJECT: Operational Memorandum #27-14
Consolidated Appropriations Act Report Language on Waivers for School Breakfast and Smart Snacks

The Food and Nutrition Service (FNS) recently notified the Connecticut State Department of Education’s Child Nutrition Programs that the United States Department of Agriculture (USDA) will not be providing waivers for School Breakfast (SBP) and Smart Snacks requirements that go into effect on July 1, 2014.

As you may know, the Consolidated Appropriations Act, 2014 (P.L. 113-76) included report language that directed the USDA to establish a process, within 90 days of enactment, for states to grant waivers for the 2014-15 School Year to any local educational agencies (LEAs) unable to operate their program without incurring increased costs if required to comply with the forthcoming Smart Snacks interim final rule and/or SBP requirements. The USDA was further directed to provide such LEAs with technical assistance to help with implementation of the new nutrition standards in future years.

The USDA’s Office of the General Counsel has confirmed that the USDA is prohibited by Federal law from waiving these regulations and is prohibited from authorizing State agencies to do so. The Richard B. Russell National School Lunch Act limits waivers under section 12(1), and specifically prohibits granting a waiver that relates to the nutritional content of program meals served or the sale of competitive foods (42 U.S.C. 1760(1)(4)(A) and (J)). Since report language is non-binding in nature, and statutory prohibitions are binding, the USDA is unable to comply with the directive to establish a waiver process.

Therefore, school food authorities should continue preparing for a timely implementation of both the breakfast changes and Smart Snacks requirements.

Questions may be directed to:

| Consultants for School Nutrition Programs | |
|---|--|
| County | Consultant |
| <ul style="list-style-type: none"> • Fairfield County | Fionnuala Brown fionnuala.brown@ct.gov 860-807-2129 |
| <ul style="list-style-type: none"> • Hartford County (towns/cities beginning with A-R) | Teri Dandeneau teri.dandeneau@ct.gov 860-807-2079 |
| <ul style="list-style-type: none"> • Hartford County (towns/cities beginning with S-W) • Windham County | Susan Alston susan.alston@ct.gov 860-807-2081 |
| <ul style="list-style-type: none"> • Litchfield County | Allison Calhoun-White allison.calhoun-white@ct.gov 860-807-2008 |
| <ul style="list-style-type: none"> • Middlesex County • Tolland County | Andy Paul andrew.paul@ct.gov 860-807-2048 |
| <ul style="list-style-type: none"> • New Haven County | Jackie Schipke jackie.schipke@ct.gov 860-807-2123 |
| <ul style="list-style-type: none"> • New London County | Monica Pacheco monica.pacheco@ct.gov 860-807-2073 |

JF:tdd