

# The Healthy, Hunger-Free Kids Act and School Fundraisers



The Healthy, Hunger-Free Kids Act, which provides strong nutrition standards for school meals and other foods sold to children on school campuses, also sets new rules on school fundraisers that sell food. This brief fact sheet summarizes the laws and associated regulations on fundraisers.



**ChangeLab  
Solutions**

Law & policy innovation  
for the common good.



NATIONAL POLICY & LEGAL ANALYSIS NETWORK  
TO PREVENT CHILDHOOD OBESITY



**American  
Heart  
Association**



Robert Wood Johnson  
Foundation

TAKING ACTION TO PREVENT OBESITY



**Voices**  
for **Healthy Kids**



## The Healthy, Hunger-Free Kids Act (HHFKA)

- Requires the US Department of Agriculture (USDA) to establish nutrition guidelines for all foods sold on the school campus at any time during the school day, including food sold outside the school meal programs.<sup>1</sup>
- Allows USDA to consider “special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are *infrequent* within the school.”<sup>2</sup> (The term “infrequent” is not defined in the law.)
- Does not require foods sold as part of fundraising activities that take place outside of school to comply with the nutrition standards if the foods will not be consumed on school property. (So, students may distribute order forms and foods not intended for consumption at school, such as frozen cookie dough, on campus.)<sup>3</sup> However, state agencies or school districts, through their wellness policies, can prohibit or limit fundraisers during which these types of foods are sold.
- Authorizes the state agency overseeing the school meals programs to allow exemptions from the nutrition standards for foods and beverages that are sold during “*infrequent* school-sponsored fundraisers.”<sup>4</sup>
- Requires the state agency to specify the number of exempt fundraisers or fundraising days (i.e. the frequency of fundraisers) that schools may have. The agency can set this number at zero. If the agency does not specify the allowable frequency, schools within the state may not hold *any* exempt school fundraisers.<sup>5</sup>
- Prohibits the sale of exempted fundraiser foods or beverages in the food service area during the meal service.<sup>6</sup>

### If the State allows schools to hold exempt fundraisers:

- Fundraisers must be approved by the school;
- Fundraisers cannot be held in the food service area during the meal service; and
- Foods and beverages sold from vending machines, school stores, snack bars, and a la carte sales cannot be exempt from the minimal nutrition standards, even if a school uses these venues to raise funds for the school.<sup>7</sup>

*ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.*

*Support for this document was provided by a grant from the Robert Wood Johnson Foundation.*

© 2015 ChangeLab Solutions

1. 42 U.S.C. § 1779(b)(1)(B). In interpreting the Act, the USDA has issued the following definitions:

*School campus* means, for the purpose of competitive food standards implementation, all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

*School day* means, for the purpose of competitive food standards implementation, the period from the midnight before, to 30 minutes after the end of the official school day.

2. 42 U.S.C. § 1779(b)(1)(C)(ii)(IV), emphasis added.

3. USDA, Smart Snacks in School Fundraisers Fact Sheet, available at: [www.fns.usda.gov/sites/default/files/allfoods\\_fundraisers.pdf](http://www.fns.usda.gov/sites/default/files/allfoods_fundraisers.pdf)

4. National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, 78 Fed. Reg. 39068, 39091 (June 28, 2013) (amending 7 C.F.R. Parts 210, 220), proposed § 210.11(b)(4), emphasis added.

5. *Id.* at 58.

6. *Id.* at 90; proposed § 210.11(b)(4).

7. 42 U.S.C. § 1779(b)(1)(C)(ii)(IV).

Photos courtesy of Flickr Creative Commons: USDA.