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GOVERNOR

November 19, 2015

MEMORANDUM

TO: District Superintendents, Charter School Head Administrators, and School Food Authority (SFA) Directors

FR: Michael Chavez, Deputy Director of Wellness

RE: **Smart Snack Guidance and Competitive Food Sales**

The purpose of this memorandum is to provide further clarification on the “Smart Snacks” interim final rule (IFR) regarding the nutrition standards for all foods sold in schools (7CFR 210.11 (c)(1)).

Smart Snacks

The Smart Snack standards apply to all foods sold to students during the school day on school campus. The school day is defined as 12 am through 30 minutes after the end of the instructional day. Smart Snack compliant foods may be sold at anytime and anywhere during the school day. Culinary Arts Education Programs or any other organizations, e.g., Distributive Education Clubs of America (DECA), who are directly affiliated with or approved by each school selling foods to students, must comply with the Smart Snack nutrition standards.

Fundraisers

State law allows **two exempt fundraisers** per semester or trimester term where foods served are not required to meet the Smart Snack standards (NMAC 6.12.5.8(B)). Organizations, clubs, or culinary arts programs offering food for sale at district approved exempt fundraisers may function only at times outside of the school food authority established meal service operation times. (7CFR 210.11 (a)(b)).

Local School Wellness Policy (LSWP)

School Food Authorities (SFA) have the option to impose additional restrictions on the sale of and income from all foods sold at any time throughout the school day. Also, SFAs shall address fundraisers and the sale of foods in school through their local wellness policy per NMAC 6.12.6.8. and the contents of this document are reviewed during the Administrative Review process. The minimum requirements per the proposed rule were published in the Federal Register, on April 28, 2014 titled, "Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010".

Enclosed is the USDA Memo SP 23-2014 (V. 3) Questions and Answers related to the IFR titled, "National School Lunch and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010," USDA Memo SP 40-2014 "Smart Snacks Nutrition Standards and Culinary Education Programs," and NMPED Smart Snacks Fact Sheet. Additional information on Smart Snacks is available on the Food and Nutrition Service (FNS) website available at <http://www.fns.usda.gov/healthierschoolday/tools-schools-smart-snacks> and the New Mexico Public Education Department Student Nutrition website available at <http://www.ped.state.nm.us/Nutrition/index.html>.

Local education agencies and school food authorities should contact **Danielle Biss, Dietitian** (505)827-1465 or **Michelle Wright, Staff Manager** (505)827-1829 with any questions regarding Smart Snack Guidance.

Enc. (3): USDA Memo SP 23-2014 (v.3)
Smart Snack Fact Sheet
USDA Memo SP 40-2014

cc: Hipolito "Paul" Aguilar, Deputy Secretary, Finance and Operations
Denise Koscielniak, Director, Federal Programs Division
Dean Hopper, Director, Coordinated School Health and Wellness Bureau
School Food Authority Directors