

**R277. Education, Administration.**

**R277-719. Standards for Selling Foods Outside of the Reimbursable Meal in Schools.**

**R277-719-1. Authority and Purpose.**

- (1) This rule is authorized by
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
  - (c) Section 53E-3-510, which allows the Board to set standards relating to the use of school lunch revenues; and
  - (d) Subsection 53E-3-501(1)(e), which requires the Board to establish rules concerning school productivity and cost effectiveness measures and federal programs.
- (2) The purpose of this rule is to outline requirements for LEA policies regarding foods sold outside of the reimbursable meal service.

**R277-719-2. Definitions.**

- (1) "Competitive foods" as provided in 7 CFR 210, means all food and beverages, other than meals reimbursed under programs authorized by federal child nutrition laws available for sale to students on the school campus during the school day.
  - (2)(a) "Eating area" means the place where the reimbursable meal is served or eaten.
  - (b) In some schools, the "eating area" may include the entire campus.
- (3) "Federal child nutrition laws" means the Richard B. Russell National School Lunch Act, 79 P.L. 396, 60 Stat. 230, and the Child Nutrition Act of 1966, 89 P.L. 642, 80 Stat. 885.
- (4) "Nutrition Standards" has the same meaning as contained in 7 CFR 210.11.
- (5) "Reimbursable meal" means a meal which meets the requirements set forth in 7 CFR 210, 211, 215, 220 or 225 to be claimed for payment.
- (6) "School day" means the period from the midnight before, to 30 minutes after the end of a school's calendared class time.
- (7) "School campus" means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.
- (8) "Unit" means per container, package or amount served.

(9) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages.

**R277-719-3. LEA Policies Regarding Vending Machines.**

(1) Each LEA shall develop and implement a policy for schools that choose to provide vending machines.

(2) A policy implemented in accordance with Subsection (1) shall include:

(a) a requirement that all agreements for vending machines be in writing in a contract form approved by the local board of education or charter school governing board;

(b) accepted uses of vending machine income; and

(c) generally accepted accounting procedures, including periodic reports to the LEA of vending machine receipts and expenditures.

**R277-719-4. LEA Policies Regarding Competitive Food Sales on Campus.**

(1) Federal nutrition standards apply to the sale of competitive foods in all schools offering programs authorized by federal child nutrition laws on the school campus during the school day.

(2)(a) Profits from competitive foods shall accrue either to a non-profit school account or to the non-profit school food service account.

(b) Profits from competitive foods may not accrue to the benefit of a for-profit account or entity.

(3) If competitive foods were purchased using non-profit school food service funds, the reimbursement shall ensure revenue from the sale of non-program foods generates at least the same proportion of revenue as contributed to the non-profit school food service cost.

(4)(a) A competitive food item that is sold by an LEA or an employee or agent shall meet federal nutrition standards.

(b) An LEA may use a Smart Snacks calculator, available online at <https://foodplanner.healthiergeneration.org/calculator>, to verify that competitive foods sold meet nutrition standards.

**R277-719-5. Fundraising Using Food or Beverages.**

(1) An LEA shall comply with the standards set forth in this Section if the LEA has a school that offers programs under federal child nutrition laws on a school campus during the school day.

(2)(a) Competitive food and beverage items sold during the school day shall meet federal nutrition standards.

(b) Notwithstanding Subsection (2)(a), a school may sell food or beverages that do not meet the competitive food standards for the purpose of conducting infrequent school-sponsored fundraisers, subject to the following restrictions:

- (i) An LEA may not hold an exempt fundraiser more than three times per year per site;
- (ii) An exempt fundraiser may not last more than five consecutive days; and
- (iii) The principal of a school holding an exempt fundraiser shall designate an individual to maintain records for the fundraiser.

(3) The Superintendent may grant permission for exempt fundraisers in addition to those allowed under Subsection (2)(b) upon the written request of a career and technical education program.

#### **R277-719-6. LEA Local School Wellness Policies.**

Each LEA participating in programs under federal child nutrition laws shall establish a local school wellness policy for all schools under the LEA's jurisdiction, which shall, at a minimum, include all the elements required in 7 CFR 210.30.

#### **R277-719-7. Miscellaneous Provisions.**

(1) If a school does not participate in programs under federal child nutrition laws, the school shall adopt a written policy for the sale of all foods that are not part of the meal service, including vending, a la carte or other food sales.

(2) A policy required under Subsection (1):

(a) shall apply to all foods sold anywhere on the school campus during the school day ; and

(b) may use the definitions for competitive foods and wellness policies contained in 7 CFR 210.11 and 7 CFR 210.30.

(3) A local superintendent or school principal or director shall designate an individual who shall maintain documentation of compliance with this R277-719.

**KEY: schools, foods, nutrition, vending machines**

**Date of Enactment or Last Substantive Amendment: April 9, 2018**

**Notice of Continuation: February 26, 2018**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-19-201(1); 53A-1-402(1)(e)**