STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MOLLY M. SPEARMAN
STATE SUPERINTENDENT OF EDUCATION

TO: District Superintendents

FROM: Molly M. Spearman, State Superintendent of Education

RE: "Smart Snacks" and Exempt Fundraisers

DATE: January 22, 2015

This memorandum sets policy for the State of South Carolina on the number of fundraisers exempt from the "Smart Snacks" requirements. Under the Healthy, Hunger-Free Kids Act of 2010 and the Child Nutrition Act of 1966, the United States Department of Agriculture (USDA) has set guidelines for "State education agencies" to grant exemptions to the "Smart Snacks" rules for "infrequent school-sponsored fundraisers" so long as the frequency of exemptions "on school grounds during the school day does not reach a level which would impair the effectiveness of the Smart Snacks requirements."[1] The Child Nutrition Act defines "State educational agency" to mean the "State superintendent."[2] The State Superintendent has authority for general supervision and management of state and federal public school funds[3] and is charged with administering the USDA's school food programs in this State.[4]

At the outset, I recognize that in South Carolina and the nation childhood obesity and children's health are serious problems. All of us—schools, parents, businesses, and others in our communities—bear responsibility for ensuring the health and wellness of our children. Meanwhile, fundraisers provide vital income for extracurricular activities that are also essential for our children's development, such as band, sports, and field trips. We need a reasonable balance that does not prohibit school districts from exercising their discretion to permit infrequent fundraisers that include foods that do not meet the "Smart Snacks" requirements, such as bake sales or special treats sold by student organizations. Nevertheless, districts are encouraged to promote fundraisers that do not require exemptions and to create incentives and awards for healthy lifestyles.

[1] USDA Memo SP 36-2014.
[2] 42 U.S.C. § 1760(d)(9)(A).
[3] S.C. Code Ann. § 59-3-30(2).
[4] 42 U.S.C. § 1760(d)(9)(A); *see generally* 42 U.S.C. §§ 1753-1760; S.C. Code of Reg. § 43-168.

Policy

Effective today and subject to district policies that may require lower limits, for the remainder of SY 2014–15 school districts are approved to have up to 13 "Smart Snacks"–exempted fundraisers per school, not to exceed 3 days in length. For SY 2015–16, districts are approved to have up to 30 "Smart Snacks"–exempted fundraisers per school, not to exceed 3 days in length. In SY 2016–17, the days per exemption will be reduced to 2 days (up to 30, not exceeding 2 days each), and in SY 2017–18 and thereafter, the days per exemption will be reduced to 1 day (up to 30 of 1 day each).

The S.C. Department of Education (SCDE) will consider applications for additional exemptions above this limit on a case-by-case basis provided that the exemption would meet the district's policies. Applications may be addressed to Seandra Kelly, skelly@ed.sc.gov. The application should include details of the request, the school principal's signature, and certification by the school district superintendent and board chair that the additional exemptions would not violate board policy, including the district's wellness policy required by S.C. Code § 59-10-330. Applications should be emailed at least 15 business days before the anticipated fundraising event to allow sufficient time for the SCDE's review and notification of its decision.

The "Smart Snacks" regulations and this policy do not apply to the following fundraisers and situations, which may therefore also occur subject to district policy:

- sale of food or beverages ("foods") that meet the "Smart Snacks" guidelines,
- sale of foods outside of school hours (e.g., after-hours concessions at athletic events, school concerts, or on weekends),
- sale of foods not intended for on-site consumption (e.g., cookie dough or frozen pizza sales),
- sale of foods exclusively to adults who are not students,
- foods given to students at no charge and without suggesting a donation,
- foods brought from home by students for personal consumption,
- foods donated for classroom celebrations, or
- emergency medical situations.

The Office of Nutrition Programs at the SCDE will be sending an information package to districts in the near future with more details, resources, and points of contact for assistance.

This memorandum and all future memoranda sent to district superintendents will be available for online viewing from the home page of the SCDE website: http://ed.sc.gov/.