

Mapping School Food: *A Policy Guide*

PUBLIC HEALTH ADVOCACY INSTITUTE

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Quick Map to Improving School Food

This flowchart provides a general overview to help orient you to school food. It is meant to be flexible.

I WANT TO IMPROVE
SCHOOL FOOD

YES

Is the food served in
the cafeteria?



Speak to Food Service Director

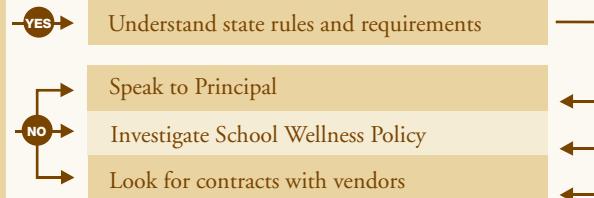
Investigate state regulations, if any, contact Department of Education

NO

Is the food in a
vending machine?



Are there state
regulations of
school food?



Understand state rules and requirements

Speak to Principal

Investigate School Wellness Policy

Look for contracts with vendors

NO

Is the food in a
school store?



Speak to Principal

Investigate School Wellness Policy

NO

Is the food part of a
fundraiser?



Speak to Principal

Speak to Organizer

Investigate School Wellness Policy

Speak to Parents

NO

Start with the Food
Service Director

Introduction

This policy guide examines situations faced by key decision-makers who draft and/or enforce school food policy. The legal context of school food is an interplay of federal and state laws combined with local rules or policies. These laws must be examined in a real-world context that considers the effects of the social environment, politics, economics, and practical constraints. Further, they affect a diverse class of decision-makers, each with different roles and goals such as school administrators, food services, teachers, health care practitioners, students, parents, the food industry, and vendors.

The school food environment includes all food and beverages that can be found on a school's campus including items from the cafeteria, vending machines, fundraising events, and the students themselves.

The Potter Box is a four-part square that can help you make informed decisions. Traditionally, the Potter Box illuminates the many elements that factor into the ethical decision-making process. It has been used to evaluate ethical situations in fields like journalism and business. See, for a general overview, *Appendix: An Introduction to Potter Boxes*.

The Potter Box can be a useful tool to help you navigate through the legal complexities of the school food environment. We have adapted the Potter Box to help you clarify the interactions between the many factors that affect school food decisions and critique the different factors that effect your own decision-making. This modified version of the Potter Box can be an extremely useful tool to help you understand the law and to identify key decision-makers. It also demonstrates how the law plays out in real-world situations and the assumptions and concerns that various decision-makers bring to bear on school food policy.

Our adapted Potter Box can be utilized in a variety of settings to map out specific school food dilemmas and related key players in order to clarify the options. This tool lays out the facts, legal and personal constraints, priorities, resources, loyalties, and interests involved in a way that allows you to make explicit connections among these many factors. In turn, you can find ways to help reconcile conflicting interests or even find complements among the seeming conflicts.

In this way, the Potter Box brings multiple perspectives together in a comprehensible way which can open up discourse on seemingly intractable policy problems. This contextualization is especially useful when, for example, you have policy discussions with school food decision-makers who come from many different directions and levels such as state education employees, superintendents, and food service personnel. The Potter Box is a simple and clear way to create policy briefs for politicians and other policy-makers. The Potter Box model can be used collectively in committee meetings to help come to a consensus on decisions. It can also be used individually as a persuasive tool. For example, you can use it to prepare for negotiations. Applying the Potter Box to the negotiation subject and the other parties involved can help you prepare more compelling arguments and negotiation tactics.

In this guide, we describe, based on case studies and interviews, how the law affects individuals in the school food environment and how they are often constrained in their work. After describing how to adapt the Potter Box to map your school food-related situation, we have provided forms and instructions to help you apply the same tool in your state, city or local school district. To assist you in this process, you will find in this guide the school food environment described from the perspective of various key individuals such as the superintendent, the food service director, and the school principal.

We chose four states—Arkansas, California, Massachusetts, and Mississippi—as the focus of our

field research that represent an array of school food nutrition policy systems and related legislative activity. After researching each state's school organizational structures, nutrition initiatives, menu planning, and wellness policies, interviews were conducted with key stakeholders. A team of fourteen students from the Northeastern University School of Law's Legal Skills in Social Context Program were divided into four subcommittees to conduct interviews after researching federal and state-specific statutes, pending legislation, and public documents. Subcommittees interviewed by phone a variety of stakeholders at each school food organizational level such as state administrators, superintendents, food service directors, nutritionists, nurses, and principals. Notes from the interviews were then synthesized using the Potter Box method to provide a more comprehensive structure to aid analysis. Once completed, we circulated this policy guide among advocates, food service directors, lawyers, and legislative aids for review.

Key stakeholder interviews provided us an overall perspective on the trends and obstacles for improving school nutrition throughout each state. However, this qualitative research naturally does not encompass the entire range of views and experiences in each state.

The law is more than statutes, regulations, and cases. Individuals create the law and the systems needed to implement it, and the law is closely tied to social expectations and norms. It relies on individuals to implement it and to make the systems it creates work. The school food environment, to the extent that it is created by the law, is complex. Schools operate under many different laws from the federal level to the local level. These laws vary in structure and often are enforced by different school personnel.

Just as the law is complex, it is dynamic. When communities began to understand the scope and complexity of the childhood obesity epidemic, policy-makers took action. Rules and regulations were put into place on the federal level, on the state level, and at the local level. Each state and district approached the problem differently. This dynamic approach has led to remarkable changes. In 2004, Congress required schools

participating in the National School Lunch Program (NSLP) to adopt wellness policies and implement them for the 2006–2007 academic school year. Many states have restricted or eliminated the sale of sodas and junk food in schools. Other states have implemented community programs to improve school food. As the 2007–2008 school year begins, and as additional legal changes are made, it is time to reassess and to develop new policies for school food.

To assist school administrators, legislators, and others working in this area, we have developed this policy guide. This guide provides a framework for you to use when thinking through changes in the school food environment. This guide is not designed to "find the answer" to a problem. It is designed to help you understand the basics of the school food system and the legal environment. It is also designed to help you clarify situations that are often complicated and dynamic. No matter what legal changes occur in the school food environment, this policy guide and the resources provided should supply you with basic information to understand and to change the school food environment to improve school health.

To this end, we have provided additional sections that describe the primary legal systems that are involved in school food or that point you toward excellent resources on those topics. We cannot describe the legal systems in full detail, because each state and school system has variations in its laws and policies. However the specific information you require can be found in other places. We hope this guide will help you quickly find the resources you need for your state and school.

Understanding Decision-Making in the School Food Environment

The Potter Box is a useful framework to evaluate the many correlating and conflicting issues surrounding school food. In this guide, we have used the Potter Box format to create a general overview of the legal school food environment for you to use, and we have further adapted the Potter Box to the decision-making processes of some key figures in school food policy.

While the Potter Box cannot make a decision for you, it can help clarify your options and why you would choose one option over another.

→ DECISION-MAKING TOOL: THE ADAPTED POTTER BOX

It can be difficult to make changes to the school food environment. We have adapted the Potter Box to help you flag and organize the elements that you might consider when developing and implementing school food policy. For instance, we have integrated “tools” as an important consideration in the Potter Box formula. While the Potter Box cannot make a decision for you, it can help clarify your options and why you would choose one option over another.

A Potter Box is divided into four sections:

Box 1: Facts

List all the facts known about the situation or problem.

Box 2: Values and Tools

List the factors that drive your school food decisions. What are the elements that you need to consider when making decisions? What tools do you typically use? How are solutions to the problem evaluated?

Box 3: Rules

List the legal elements that shape the big picture. These would include laws, regulations, key court decisions, and political considerations related to school food.

Box 4: Loyalties and Interests

List all your loyalties and interests. For each potential decision, to whom or what are you being loyal? Also, consider all the other parties affected by the decision and evaluate where their loyalties lie.

POTTER BOX: The School Food Environment

BOX 1 Facts

Childhood obesity is a growing problem
 School food plays a critical role in obesity
 Schools need funding
 School food offers ways to obtain funding

BOX 2 Values and Tools

Financial management / budgeting
 Public health
 Education policy
 Public relations
 Economic factors (free market principles, economic needs of public schools)
 Social factors (personal responsibility rhetoric, perceived role of schools in promoting health, cultural norms)

BOX 3 Rules

National School Lunch Program (NSLP)
 Child Nutrition and WIC Reauthorization Act of 2004 (WIC Reauthorization Act)
 State laws
 Local rules and regulations

BOX 4 Loyalties and Interests

Student education
 Student health
 School funding
 Public knowledge and support

For more information about the federal school food-related laws listed in the Rules section of the Potter Box, see *Appendix: Federal School Meal Programs* and *Appendix: Wellness Policies*.

THE ADAPTED POTTER BOX: A SHORT EXAMPLE

The Potter Box, as we have adapted it, can be applied to any school food dilemma, and you can control its level of depth and complexity. The content of your Potter Box is just as important as the connections you make from it. You could make one large, comprehensive Potter Box that attempts to encapsulate the entire situation and all the key players. Or, you can make multiple Potter Boxes where each one spins off from a potential outcome or spotlights a certain key player or administrative level. How you utilize this tool depends on your focus and goals.

The Potter Box below analyzes whether to contract to install vending machines in a high school. This is a simple example of the general vending issues a school could face, because the variables can change depending on the unique situation of each high school and on any governing rules related to the school entering into a vending contract. The Potter Box would also look slightly different depending on factors such as whether you are planning to use it to negotiate with a certain party or which decision-maker role you play. Even so, we can examine this basic scenario as a broad example of how to use this tool.

Should vending machines be introduced into our high school?

BOX 1 Facts

- Schools play a critical role in the growing problem of childhood obesity
- Vending items such as sweetened beverages can significantly contribute to teenage overweight and obesity
- High school students already bring to school vending-type snacks and beverages from home or purchased from local businesses
- High school students often have disposable income
- The school needs to increase revenue
- Vending offers income potential through cash advances, commissions, and incentives such as school equipment and scholarships
- Revenue from vending can be often be spent at the school's discretion (flexible, not tied to anything)
- Vending often triggers related junk food advertising concerns
- Vending machines can add significant energy consumption costs
- Most of the money from vending machines go to the vendors and not the school
- There are other, non-food-related fundraising efforts available like book fairs, auctions, and selling school pride items

BOX 3 Rules

- National School Lunch Program
- Related state regulation, if applicable
- Related district or city regulation, if applicable
- The school's policies such as its wellness policy
- Private agreements

BOX 2 Values and Tools

- Impact on the students' health? Studies?
- Financial considerations
- Meeting customer (student) demands
- Marketing concerns
- School wellness policy
- Negotiation of potential vending contract (terms)
- Outside resources for more information (research on other schools' revenue and commission rates from vending, non-monetary impact, etc.)

BOX 4 Loyalties and Interests

- Educational achievement
- Nutrition education
- School funding
- Food service funding
- Students (education, health, demands)
- Principal or school administration
- School district
- Staff concerns
- Parent concerns
- Local businesses
- Vendors and suppliers (incentives)
- Self-interest

By laying out these factors in the Potter Box, it is easier to see what gets taken into consideration, the loyalties followed, and connections made when the answer is “yes” versus “no.” For example, to decide “yes” would activate disposable income (fact), financial considerations (values), wellness policy (potential tool to guide the vending contract terms), related regulations (rules), and school funding (loyalties), among other factors. At the same time, you can see the other considerations not given as much priority such as other fundraising options and staff concerns. The format allows you to further explicate connections by color-coding factors or drawing circles and connections among factors.

Let us consider some of the other factors. Often, the rules control the answer. It is important to see whether you can make the choices you are deciding among—and, if possible, whether these rules pose any limitations on your choices. If this school participates in the National School Lunch Program, then that triggers certain federal regulations. For example, “foods of minimal nutritional value” cannot be sold during lunch in the cafeteria, which can factor into the vending equation. Both state regulations and your school wellness policy can regulate vending and the types of food and beverage products sold. For example, school districts in Boston, New York, Chicago, Miami, Los Angeles, and other cities ban the sale of soft drinks in schools. Also states can regulate the bidding process for contract procurement. If applicable, you should integrate your specific wellness policy terms or any state-regulated process into your Potter Box to see if it triggers any advantages or disadvantages. Private

agreements such as the soft drink industry agreeing to stop selling non-diet soft drinks in schools should also be monitored and taken into consideration if necessary.

Some factors can be in multiple boxes. In this scenario, the school wellness policy is both a rule and a tool. It is a rule, because its terms could govern or affect your decision. It is a tool, because you can seek to amend the wellness policy to specifically address the vending issues you are concerned about.

Some factors, like marketing concerns, may be given more detailed analysis. Food and beverage companies often negotiate for exclusivity in schools to cultivate brand loyalty at a young age—does the school want to be complicit? How does this affect you, the person making the Potter Box, and your decisions? How does it affect the other decision-makers listed? Can this be used as part of a compelling argument? If so, then the other listed tool of consulting resources for more information becomes important and will help further inform your Potter Box.

The answer is not always a straight “yes” or “no.” This Potter Box can be just the beginning of your analysis, and you can either deepen your Potter Box or even create offshoot Potter Boxes. Or, if you make a decision, you can keep using this tool as you continue in the process. For example, if you decide “no,” then you can use the Potter Box to explore the other options to achieve some of the same goals. If you decide “yes,” then you can use the Potter Box to plan negotiating the contract terms. Also, an important consideration is reflected in the “Rules” section. At what level does the contracting happen if the answer is “yes”?

BOX 1 Facts

Vending items... can significantly contribute to teenage overweight and obesity

Vending offers income potential...

Revenue from vending can be often be spent at the school's discretion...

Vending machines can add significant energy consumption costs

BOX 2 Values and Tools

Impact on the students' health? Studies?

Financial considerations

Meeting customer (student) demands

School wellness policy

Should this vending contract be negotiated at the school level, the district level, or another level? Can you form a collective with other schools for more bargaining power? Preparing Potter Boxes focused on each level can help you decide at which level to most effectively target your policy goals.

Another example of a dilemma could be whether to hold a closed or open campus for lunch. Values such as student safety and loyalties such as to local business who donate money to the school would be laid out. A further example is whether high school food services should sell coffee. Rules such as school policies and the National School Breakfast Program would have to be analyzed and related to loyalties and interests such as nutrition education and values such as financial considerations and customer demand. Financial considerations are especially important in this example, because school food services are self-funded and therefore must be self-reliant.

As you can see, our adapted Potter Box not only helps you form a comprehensive view of all the factors and their interplay involved. It also acts as a trigger and pushes you to continue questioning and drawing out your school food dilemma, often revealing potential considerations, leverage, and solutions.

For more on vending, see *Appendix: Vending and Contracts* and its recommended resources.

PREPARING FOR CHANGE

When deciding how to change school food policy, it is important to decide at what level to make that change. For example, states have great latitude over the regulation and organization of school food. Through regulatory and statutory changes, state government can improve the foods available to children in schools and can improve the diets of school children. However incremental change through your school cafeteria's operation policies can be easier to implement and creates accessible, gradual improvements. Please refer to *Appendix: School Organization* for more information regarding a school's governance structure and the

different levels of policy access. This guide's section, *Key School Food Decision-Makers: Applying the Potter Box*, examines some of the important policy makers in each school governance level. We have also provided a selected list of references.

There are a few good tips to remember:

1. In addition to food, consider other factors that affect childhood obesity such as marketing, physical activity, and nutrition education.
2. Understand how your state government and your school system work. Spend time to understand the bureaucracy.
3. A new state or federal legislative statute is not always necessary. Can you achieve your goal through a regulatory change? Regulations, orders, and rules are promulgated by administrative agencies or departments, and they implement or interpret statutes. Can you achieve your goal through procurement? Usually, the lowest level of policy change is the simplest to implement.
4. Keep it *simple*. The best intended reforms can often be ineffective if they are not simple, enforceable, and clear. Minimize bureaucracy. Administrative structures should be clear and easily understandable.
5. If you use nutrient guidelines, remember they can be difficult to implement, enforce and monitor. Keep it as simple as possible. In its *Nutrition Standards for Foods in Schools* publication, the Institute of Medicine has a 2-tier system that provides a good example of an easy system to use. See our *Selected Reference List* for more information.
6. Make sure there is a way to *enforce* the change. Try to create a dynamic system that keeps the momentum and the process going once it is set up.
7. Make sure the person/institution responsible for implementing the change has the *authority* to do so.

KEY PRINCIPLES ARE EASY TO REMEMBER:
S – Simplicity
E – Enforceability
A – Authority

PREPARING YOUR OWN POTTER BOXES

Here are some things you can do ahead of time:

- ▶ look at your calendar and see with whom you meet regularly
- ▶ identify superiors, subordinates, and “customers”
- ▶ keep a log for a week, jotting down frustrations, interactions and related thoughts
- ▶ brainstorm with a trusted colleague

Here are some general considerations to keep in mind:

- ▶ budget constraints: funding
- ▶ time constraints
- ▶ speed of change: gradual versus quick
- ▶ type of change: local versus wider-reaching
- ▶ scope of decision/policy: targeted versus holistic
- ▶ makeup of the student body
- ▶ health disparities
- ▶ challenges related to the surrounding school area: for example, rural versus urban settings, if applicable
- ▶ attractiveness to “customers”
- ▶ general support and improving feasibility:
 - public opinion and media
 - access to a forum, way to communicate and get feedback
 - community involvement
 - diverse cultural perceptions
 - regional or ethnic culinary traditions

For more information regarding the school's governance structure and a sample of generally applicable laws such as the National School Lunch Program, please refer to *Appendix: School Organization* and *Appendix: Federal School Meal Programs*, respectively.

Legal Practitioner's Point

Contracts

When preparing a Potter Box, it can be useful to review pertinent contracts such as employment or school food-related contracts. A contract creates its own agreed-upon terms, and it may specify laws that are pertinent to or govern the contract. Contracts can help identify the parties involved, potential or recognized third party beneficiaries, other loyalties, and legal guidelines or constraints.

WHERE TO GO FROM HERE

By using the tools in this policy guide, you will be able to make your own Potter Box analyses for yourself or any other decision-maker who plays a role in the school food environment. A blank and a model Potter Box template are included for this purpose. Describing the facts, examining the underlying values, analyzing the relevant law, and considering competing loyalties can bring clarity to an otherwise complex situation and allow you to make informed decisions that promote healthy eating and ultimately student well-being.

DECISION-MAKER POTTER BOX:

BOX 1 Facts

BOX 2 Values and Tools

BOX 3 Rules

BOX 4 Loyalties and Interests

MODEL DECISION-MAKER POTTER BOX:*Cross out the factors that do not apply and add in more specific factors.***BOX 1** Facts

Childhood obesity is a growing problem
 School food plays a critical role in obesity
 Schools need money and soda / food contracts are an easy way to obtain funding
 National School Lunch Program reimbursements are often inadequate to fund food program
 Parents have limited control over the school food environment
 Must balance many competing interests
 Pressure to prioritize academics / testing

BOX 2 Values and Tools

Financial management / budgeting / grants
 Public health
 Education policy
 Public relations
 Economic factors (free market principles, economic needs of public schools)
 Social factors (personal responsibility rhetoric, perceived role of schools in promoting health, cultural and community norms)
 District guidelines and policies
 Human resources (a diverse group: faculty, principal, state, district, school board, parents, etc.)
 Parental communication / family involvement
 Medical science
 Menu planning
 Political priorities
 Food fairs
 Providing or seeking grants / funding
 Providing or seeking training and education courses
 Student interaction and feedback
 Principal / teachers / staff acting as student role models
 Cafeteria operation (procedural measures)

BOX 3 Rules

National School Lunch Program (NSLP)
 Child Nutrition and WIC Reauthorization Act of 2004 (WIC Reauthorization Act)
 State laws
 Local rules and regulations
 District and school policies
 Function-specific laws

BOX 4 Loyalties and Interests

Student education
 Student health
 Student preferences
 School funding
 Public / parental knowledge and support
 District
 Preferences of competing groups (teachers, parents, students, superintendent, board)
 Self-interest
 Federal and state regulations
 Commodity food providers
 Vendors

Key School Food Decision-Makers: Applying the Potter Box

DECISION-MAKER: DEPARTMENT OF EDUCATION

Employees of state education departments have a bird's-eye perspective on school food issues and thus have the potential to effect real reform of school food. State employees set goals, provide model policies, and monitor NSLP nutritional guideline compliance.

State-level requirements are an efficient way to address school food issues, because they can coordinate efforts across many districts. Further, state employees are key players because they can design policies tailored to the specific needs of their state's population. However, their role as state overseers also means that school food is typically only one small aspect of their job responsibilities and is often a low priority compared to many other issues. Even when they are focused on nutritional issues, they must consider issues ranging from food safety and food allergies to eating disorders.

State employees need to mediate between federal guidelines and the needs of their state, face numerous bureaucratic hurdles, and report that they are frequently overwhelmed by administrative paperwork. Further, they face the same financial limitations as many other decision-makers and frequently cite budget constraints as a major impediment to their work. Due to the political realities of state government, many education department employees are reluctant to challenge the status quo and thus implement large-scale changes only when they are initiated by the legislature. Several state employees have mentioned to us the need to communicate the connection between health and academic success to educators, who often do not appreciate the link between healthier students and higher test scores.

DECISION-MAKER POTTER BOX: STATE DEPARTMENT OF EDUCATION

BOX 1 | Facts

- Childhood obesity is a growing problem
- School food plays a critical role in obesity
- Department must balance health needs with political constraints
- Have many other priorities even within nutrition context

BOX 2 | Values and Tools

- Financial management / budgeting
- Political priorities
- Public relations
- Perceived role of schools in promoting health
- Community norms

BOX 3 | Rules

- NSLP
- WIC Reauthorization Act
- State laws

BOX 4 | Loyalties and Interests

- Federal regulations
- State government / governor
- School districts
- Student health
- Self-interest

Conclusions and Recommendations: Department of Education Employees

- ▶ Must deal with many competing issues, including other nutrition concerns, so obesity is not always a top priority
- ▶ Face budget constraints
- ▶ Often have a work culture resistant to innovation
- ▶ Have power and perspective to effect high-level, efficient changes



DECISION-MAKER: SUPERINTENDENT

School superintendents can facilitate top-down approaches. Their authority allows them to make the most change across a district. They also function as a liaison between a school district and the state. Superintendents have been identified as being in the best position to effect change. Some are dedicated to fighting childhood obesity, while others think the problem extends well beyond the scope of the school and is too burdensome a responsibility for districts to handle. Also, some superintendents believe their districts to be dependent on revenue from vending machines and may therefore be reluctant to restrict student access to popular snacks and beverages. Superintendents tend to focus on academics because of pressure from federal mandates and a sense that this should be the primary mission of a school. They are strongly influenced by public opinion and the media and say they need community support to be effective.

DECISION-MAKER POTTER BOX: SUPERINTENDENT

BOX 1 Facts

- Childhood obesity is a growing problem
- School food plays a critical role in obesity
- Liaison between district and state
- Set tone for district
- Must balance many competing interests
- Pressure to prioritize academics / testing

BOX 2 Values and Tools

- Financial management / budgeting
- District guidelines and policies
- Human resources (managing a diverse group: faculty, principals, school board, etc.)
- Public relations
- Perceived role of schools in promoting health
- Community norms

BOX 3 Rules

- NSLP
- WIC Reauthorization Act
- State laws
- Local rules and regulations

BOX 4 Loyalties and Interests

- Teachers
- Parents
- Staff
- School committee
- Food service directors
- Self-interest

Conclusions and Recommendations: Superintendents

- ▶ Liaison between district and state
- ▶ Have power to effect district-wide change
- ▶ Face pressure to focus on academics so that obesity is not always a top priority
- ▶ Face budget constraints
- ▶ Need support from the community



DECISION-MAKER: SCHOOL PRINCIPAL

A school principal is one of the decision-makers who must navigate the legal complexities of the school food environment. Principals can make an impact on school food because they have the ability to set and enforce policies at the school level. Bound by district guidelines, principals also must have the support of the local community and school board. Principals feel that it is hard for them to address obesity, because they must deal with so many other aspects of school management such as test scores, educational quality, curriculum, and staff development. They must balance competing groups of goals that include students' education and health, school funding, and public approval. Following the No Child Left Behind Act's requirements, principals often report a great amount of pressure to focus on test scores and academic performance at the expense of all other issues. The level of commitment to dealing with childhood obesity tends to vary widely among principals. When a food service director oversees a large district, the support of the principal is particularly critical. Also, principals cannot control every aspect of the school: some students bring junk food to campus on their own.

Further, school budgets constrain their options. Some principals are concerned about the financial effects of policies that improve the nutritional quality of school

food; while food service directors focus on the food budget, the principal must consider all of the school's financial needs. For example, local businesses often make donations to schools, and these donations may be jeopardized if students are no longer permitted to eat lunch off campus. Further, the food sold in school stores and as fund raisers can be a critical source of extra money to schools. In some cases, the removal of vending machines has meant loss of funds for cafeteria equipment, library supplies, and other valuable resources. Principals often must consider the needs of a diverse range of groups, and attempts to improve school food can run afoul of athletic directors who need funds for their teams or parents who want to sell baked goods for the PTA.

Like all decision-makers, principals may be motivated by self-interest. This does not always involve financial compensation; it can also mean seeking power or promoting one's own ideas or programs. There is evidence that wellness policies may play a key role in engaging principals by changing their sense of their role in student health. Because principals set the tone of a school, they are primary decision-makers and must be engaged in the fight against childhood obesity.

DECISION-MAKER POTTER BOX: SCHOOL PRINCIPAL**BOX 1** Facts

Childhood obesity is a growing problem
 School food plays a critical role in obesity
 Schools need money and soda / food contracts are an easy way to obtain funding
 Principals must balance many competing interests
 Pressure to prioritize academics / testing

BOX 2 Values and Tools

Financial management / budgeting / grants
 District guidelines and policies
 Human resources (managing a diverse group: faculty, school board, parents, etc.)
 Public relations
 Perceived role of schools in promoting health
 Community norms

BOX 3 Rules

NSLP
 WIC Reauthorization Act
 State laws
 Local rules and regulations

BOX 4 Loyalties and Interests

Student education
 Student health
 School funding
 Public acceptance
 District
 Preferences of competing groups (teachers, parents, students, superintendent, board)
 Self-interest

Conclusions and Recommendations: School Principals

- ▶ Must deal with many competing issues, especially academics, so obesity is not always a top priority
- ▶ Balance the concerns and demands of competing interest groups
- ▶ Face budget constraints
- ▶ Need support from both their district and community
- ▶ Could improve awareness and involvement through the design and implementation of wellness policies

POINTS OF ACCESS: WELLNESS POLICIES

The design and implementation of wellness policies can be a useful tool for school food policy change. This tool can be accessed at different points in the education system from your state's Department of Education to your local principal and food service director. For more information, see *Appendix: Wellness Policies*.

Wellness policies address nutrition and physical activity issues in each school district. Schools participating in a federally-reimbursed meal program must establish a wellness policy. They have become a requirement under the Child Nutrition and WIC Reauthorization Act of 2004 and must have been executed by the start of the 2006–2007 academic year. However there are no requirements as to the content of the wellness policies or who must formulate them. States can implement their own wellness-related policies; for example, Arkansas has a “Wellness Priority” which has state-mandated requirements in addition to the federal requirements.

DECISION-MAKER: FOOD SERVICE DIRECTOR

Food service directors (FSDs), who often work at the district level, have a variety of job responsibilities: food purchasing, menu planning, staff hiring, free and reduced lunch applications, contracting with outside vendors, managing the central kitchen if there is one, implementing the NSLP, and helping to write wellness policies. Because they are so directly involved with school lunch, food service directors have a great deal of influence over the quality of school food.

Some have embraced this opportunity to improve students' health and have taken positive action, such as applying for fresh fruit and vegetable grants and partnering with community-based programs. Others have spearheaded innovative solutions like food fairs, where students and their parents are introduced to new foods in a fun setting. This allows FSDs to expose students to new menu items in advance, which generates interest and excitement and reduces resistance. It also allows for student and family feedback so that the most popular healthy foods can be identified and emphasized.

FSDs often feel that they lack support and funds. They believe that their power is limited—if they want to serve healthy food, regulations or their bosses can prevent it. That is why they express a need for support from principals. FSDs are financially separate from the rest of the school, funded solely through reimbursements and paid lunches. Because they

cannot depend on being funded by other parts of the school budget, they face a great amount of financial pressure to run a profitable cafeteria. Some FSDs cut down on waste by using a nutrient- rather than food-based meal planning system, which allows more flexibility. For supplementary information about menu planning, see *Appendix: Federal School Meal Programs*. Some districts have found that having a central kitchen can reduce costs, while others contract with private companies to provide school lunches that meet NSLP requirements. FSDs tend to enjoy good relationships with food vendors, who have been known to change items in response to school requests. FSDs also attend their own “food fairs” to try out products before making purchasing decisions.

Although FSDs say the quality of school food has improved greatly over past 3–5 years, strict federal regulations can limit their ability to offer the healthiest lunch. For example, the NSLP has certain calorie and nutrient requirements. In practice, these requirements can produce bizarre results like adding more food to an already balanced meal to meet caloric requirements. One FSD says it is hard to satisfy NSLP caloric requirements with healthy foods, but it is easy if she adds a cupcake or fried food (several schools reported that removing fryers from the kitchen can make it hard to meet NSLP calorie requirements). Further, some foods that are healthier fail to meet NSLP standards—for example, whole grain bars do not fulfill the “bread” requirement.

“Due to the complexities of the federal program guidelines, and often the lack of understanding from those outside of the program, we face challenges by trying to communicate why certain policies are in place. Sometimes the rigidity of the federal nutritional guidelines might not be ‘in-step’ with public opinion. Therefore, making ‘sweeping changes’ cannot be made easily without risking the district’s federal reimbursement dollars.”

→ MASSACHUSETTS FOOD SERVICE DIRECTOR

FSDs are torn among the competing demands of state and federal regulations, superintendents, principals, parents, vendors, and students. The makeup of the student population can pose additional challenges; preferences for certain tastes make it difficult to please everyone, and parents sometimes complain when school food is unfamiliar to their child. FSDs have learned that gradual change works best and phasing in changes over time will reduce student and parent resistance. However, FSDs say the rest of the school environment needs to catch up with them and that they need support from parents to reinforce healthy eating behaviors at home.

DECISION-MAKER POTTER BOX: FOOD SERVICE DIRECTOR

BOX 1 Facts

- Childhood obesity is a growing problem
- School food plays a critical role in obesity
- FSDs make key decisions about the food served in school lunches
- FSDs must work within a limited budget
- Can implement innovative programs like food fairs

BOX 2 Values and Tools

- Financial management / budgeting / grants
- District guidelines and policies
- Menu planning / related software
- Food fairs
- Grant applications
- Some private contracting
- Public relations
- Perceived role of schools in promoting health
- Community norms

BOX 3 Rules

- NSLP
- WIC Reauthorization Act
- State laws
- Local rules and regulations

BOX 4 Loyalties and Interests

- Federal and state regulations
- Commodity food providers
- Superintendent / principal
- Health education
- Student preferences
- Student health
- Vendors
- Self-interest

Conclusions and Recommendations: Food Service Directors

- ▶ Have large amount of control over the quality of food
- ▶ Are limited to food-specific budgets that NSLP funds often do not cover
- ▶ Must phase in changes gradually
- ▶ Are challenged to meet federal regulations
- ▶ Can be a great source of innovative approaches like food fairs
- ▶ Often don't have a lot of power in the school administrative system

ONE FOOD SERVICE DIRECTOR'S STORY

A Director of Child Nutrition in Mississippi has found grant application to be an effective tool, using a fruit and vegetable grant to purchase fresh produce and provide related classroom education. In order to get parent participation and feedback, he invited parents to come in to the classroom. He also did a follow-up survey with the parents. This FSD noticed changes in the students, who began to eat dried fruits rather than cheese puffs for snacks and who positively influenced their parents' buying habits at home. The fruit and vegetable grant had been applied for and received for several years.

DECISION-MAKER: SCHOOL NURSE

We found based on interviews that the school nurse has a unique role to play in shaping the school food environment because he or she often has more knowledge about chronic health conditions but less power than most other decision-makers. Nurses have fewer inherent conflicts than other decision-makers do: their job is foremost to protect and promote student health, and they are not directly involved with administering school food or dealing with balancing the school budget.

Nurses function as a critical liaison between school and home on health issues and serve as ambassadors of health education between schools and families. The job of a school nurse used to be straightforward (taking care of sick students and administering routine health screenings), but it has become more complex as the rates of obesity-related diseases like Type II Diabetes skyrocket. One school nurse said she felt like she and her colleagues were running “mini intensive care units.” School nurses are on the front lines of trying to get students and parents engaged in the problems. They have a good sense of how aware the community is, and some nurses struggle with parents who are accustomed to heavier children and insulted by information that suggests that their children face health risks. Nurses try to get parents to acknowledge the problem and take the necessary preventive or corrective steps.

Although nurses are bound by laws such as those governing licensing requirements and dispensing medication to children, few school food laws directly impact nurses. However, because nurses do not set school policies and rarely influence the choice of food served at school, these laws indirectly affect them through their work environment and its effect on their patients. In Arkansas, the role of community nurse was expanded after the state passed a childhood obesity prevention act, but nurses were still not involved in any aspect of the school food program. The fact that they are rarely consulted about nutrition decisions, either in theory or in practice, is frustrating to many nurses. One summarized the general feeling with this protest: “I have no input whatsoever.”

DECISION-MAKER POTTER BOX: SCHOOL NURSE**BOX 1** Facts

Childhood obesity is a growing problem
 School food plays a critical role in obesity
 Must safeguard health of schoolchildren
 Deals with ramifications of poor diet and obesity (e.g., diabetes)
 Specialized knowledge but limited power

BOX 2 Values and Tools

Values and Tools
 Nursing profession / medical science
 Parental communication / family involvement
 Public relations
 Perceived role of schools in promoting health
 Community norms
 Cultural differences

BOX 3 Rules

Function-specific laws
 District and school policies
 Indirect effects of NSLP, wellness policies, and related state laws

BOX 4 Loyalties and Interests

Student health
 Student education
 Parental acceptance
 Principal support
 Self-interest

Conclusions and Recommendations: School Nurses

- Work directly with children and families addressing the consequences of the obesity epidemic
- Have fewer conflicts of interest than other decision-makers
- Should have increased involvement in decisions surrounding school food to take advantage of their expertise

OTHER DECISION-MAKERS

This policy guide has provided an analysis for several different key decision-makers, but there are many other decision-makers, a few of whom we have included here.

School staff can be key decision-makers. Teachers can impact the school food environment in several ways. For example, many teachers' lounges have the type of vending machine products forbidden in student machines, so students who see teachers consuming soda or junk food may view these products as appealing "forbidden fruits." This teacher behavior also undermines the concept of healthy eating as a feasible, desirable lifelong goal. Correspondingly, teachers can have a positive impact on their students' food practices by acting as role models. Another way that

teachers can influence the school food environment is by de-emphasizing junk food in the classroom. Although some school personnel complain that teachers have seen the rules restricting junk food as a reward as punitive, many other teachers have been supportive of these rules and have been giving alternate prizes such as stickers and books. Teachers can also incorporate lessons about health, nutrition, and food marketing into the curriculum. **Cafeteria staff** commonly agreed that their personal interaction with students was a great tool to improve student health and student awareness in the lunchroom. **Maintenance personnel** are essential to the implementation of school food policy particularly regarding procurement, vending, and equipment.

Parents and families are other key decision-makers.

Healthy eating habits learned in school must be reinforced at home and vice-versa. Parents and PTAs often take the lead in demanding healthy school food. One parent in California teamed up with a principal to develop healthy school food offerings, and parents can provide the needed pressure to force a school to address student nutrition. Unfortunately decision-makers reported that parental resistance is common. Parents have protested school bans on serving sweets and on candy or bake sales to raise funds.

Finally, **students** themselves are decision-makers.

Unfortunately, school personnel report that healthy meals do not sell. Students want the best tasting, least expensive food. They also can be very brand conscious and seek out familiar foods and familiar chain names. In some schools it is not considered “cool” to eat the school lunch, which is sometimes associated with lower socio-economic status. However, there is also evidence that education affects students’ choices and some schools have seen students making better choices on their own and even educating their parents by asking for healthier meals and snacks. Students given a gradual, low-key introduction to healthy eating will

“Well, each year a new set of children comes into the school and they need to get used to the fact that there isn’t any junk food in the school. This is difficult, because a lot of them have picked up habits from their parents.”

→ CALIFORNIA MIDDLE SCHOOL PRINCIPAL

Appendix: School Organization

often respond very positively.

THE FEDERAL LEVEL

Direct regulation of education is considered to be the province of the states. The U.S. Constitution does not grant Congress the power to directly regulate education. However, there are several ways in which the federal government exercises control over schools. The two most potent of these are Congress's spending power and the federal courts' decisions on civil rights.

Congressional spending power is derived from the U.S. Constitution, which vests Congress with the power to tax and spend for the "general welfare of the United States." By virtue of this power, a substantial and increasingly large percentage of all U.S. education funding comes from the federal government. Congress usually mandates exactly how these funds are to be spent and sets strict requirements for participating schools. Because federal funding is an essential part of every state's education budget, it acts as a very powerful

"Spending with strings attached"

incentive for states to comply with federal policies.

Congress has broad spending power not limited to conducting its duties. The United States Supreme Court has held that Congress may spend as it sees fit so long as the spending does not violate the Constitution. Although the federal government cannot directly regulate certain areas such as education, it can attach requirements to the funding it provides in these same areas. This is often referred to as "spending with strings attached." The requirements must be explicit and connected to the purpose of funding the matter. This is a "carrot" approach where the federal government provides an inducement which affects policy outside its domain. One example is the funding conditions for the National School Lunch Program.

Federal judicial decisions can exert great influence over American schools. In particular, United States Supreme Court cases interpreting the Fourteenth Amendment, such as *Brown v. Board of Education of Topeka* and *Swann v. Charlotte-Mecklenburg Board of Education*, gave federal courts broad discretion to combat segregation in schools. Federal courts continue to influence public schools in other areas of civil rights, such as prayer in schools, freedom of expression, and book banning. Regarding school food, in *National Soft Drink Association v. Block*, an appellate court ruled that while the Secretary of Agriculture could regulate soda and junk food sales in schools with federally subsidized meals, Congress intended "to confine th[is] control of junk food sales to the food service areas during the period of actual meals service."

THE STATE LEVEL

Most school policy decisions are made at the state level, and every state has established a complex administrative bureaucracy to facilitate education. While each state's approach differs, most states utilize a similar model: the state legislature, which has plenary power over education, delegates power to two bodies—the state board of education and the state department of education.

Key Access Point

The state legislature, as the ultimate state authority, is a key access point for policy change.

The state legislature controls each state's educational system. Almost every state constitution contains a clause mandating a system of public education. Courts throughout the country have routinely held that plenary power over a state's educational resources resides solely in the state legislature. In other words, the state legislature has the power to command, create, dismantle, or reorganize any part of a state's educational system. The state legislature is also charged with administering both state and federal educational funding.

State boards of education have been established by state legislatures in every state except Minnesota and Wisconsin to develop and implement education policy. In twenty-two states, board members are appointed by the governor; in the remaining states, board members are either appointed by other government officials or chosen by popular election. Most state boards of education are composed of lay citizens, rather than professional educators, who generally meet at least once every three months. State boards of education are usually vested by the legislature with general control over elementary and secondary education, and they exercise this authority by handing down directives to state department of education officials, district superintendents, and other administrators.

State departments of education operate in every state as the “professional arm” of state-level educational governance. The department of education is staffed by hundreds of full-time professionals—usually working in subdivisions such as Teacher Certification, Finance, and Libraries—which cater to specific aspects of school governance. Every state has a Chief State School Officer (CSSO), who has different titles in different states. The CSSO presides over the state department of education and usually also sits, in some capacity, on the state board of education. The CSSO is considered the state’s highest ranking educational officer, exerting great influence over the entire education system. In the majority of states, the CSSO is chosen by the state board of education; in the remaining states, the CSSO is either appointed by the governor or elected.

Ask, “Where does the funding come from?”

INTERMEDIATE UNITS

Educational Service Agencies (ESAs) exist in most states. Although created by state statute, they are independent of both state- and local-level educational bodies. ESAs are known by different names throughout the states, such as “Education Service Cooperatives” in Arkansas, “County Offices of Education” in California, “Educational Collaboratives” in Massachusetts, and “Education Consortia” in Mississippi. ESAs are funded in four different ways: local property tax levies, state allocations, contract fees for services provided, and federal or state grants and awards. In general, when trying to understand how programs and agencies function, it is often useful to ask, “Where does the funding come from?”

Each state uses ESAs differently, although their primary role in recent years has been to provide needed educational services to districts and schools too small or too poor to provide them. In many states, ESAs provide specially trained professionals to teach and assist students with disabilities or at-risk youth. ESAs also provide training and certification to local instructors and administrators in subjects such as management, curriculum planning, and educational technologies. Some ESAs operate collaborative purchasing programs, through which districts and schools receive favorable prices on services and supplies by bargaining as a larger unit.

Legal Practitioner's Point

THE DISTRICT LEVEL

School districts are considered to be “the basic governmental unit through which the exercise of local control of schools is effectuated.” A common misconception is that school districts are operated by the municipalities they serve. In fact, the school district could be considered more an extension of state government than local government, considering that the typical pattern is that its authority, and most of its funding, derives from the state legislature.

While most American public school students—72 percent in 2002—attend unified districts where elementary and secondary schools are combined, in many parts of the country separate elementary and secondary districts serve the same geographical area. Districts are also classified by geographical characteristics. Many of these districts are named after a county, city, or town they serve, but it should be noted that approximately 80 percent of all school districts have areas differing from other units of local government; sharing the name of a municipality does not necessarily mean that a district is coterminous with it.

School boards are the local governing body of every school district. They have the foremost local authority over education. The powers and duties of local school board members, as well as their term length, frequency of meetings, and the size of the board, are all specified by state statute and thus differ from state to state, but many common traits exist. The legislature usually gives the school board a broad grant of power and an even broader mandate to provide an education for all the children of the district; the exact methods are generally left up to the board. Like state boards of education, most local school boards are made up of laypersons, rather than professional educators, who receive little or no compensation for their service.

Corporate Status

Courts differ as to the extent of control they grant to local government over the school district.

The degree of control cities and towns can exercise over school districts is a subject of controversy, and the courts of different states have come out differently on the issue. Usually such litigation hinges on the corporate status of the school district; if a district is deemed to be a quasi-corporation, the municipality it serves will have more power over it than if the district is deemed a municipal corporation unto itself.

Superintendents are employed by most local school boards as the chief executive of the school district. Rarely do state statutes confer duties or powers on superintendents. Instead, the superintendent’s authority often derives from the powers ascribed to the board of education, school committees, or other entities, and the board frequently retains the power to fire or overrule the superintendent. Considering that the average local school board meets only twenty-three times a year, it stands to reason that most administrative tasks in a school district are performed by the superintendent and his or her staff. In most districts, the superintendent exerts considerable influence on board policy, in addition to his or her role in executing the school board’s mandates. However, courts in some states have held that the board cannot formally delegate certain powers, such as that of hiring and firing teachers, to the superintendent.

“**Superintendents often set the policies they are charged to enforce.**”

Superintendents are supported by numerous staff members, whose numbers differ depending on the size of the district. In districts with only one school, the superintendent may also serve as the principal.

Superintendents often set the policies they are charged to enforce. While the superintendent's job has been typically described as merely implementing the policies developed by the school board, a nationwide survey of superintendents in 2000 reported that school boards adopted superintendents' policy recommendations almost all of the time.

School staff support the principal. In addition to teachers, many schools employ vice and assistant principals, instructional coordinators and supervisors (such as high school department chairs and curriculum specialists), library media specialists and librarians, school counselors, and professional student support service providers (such as nurses, social workers, psychologists, and speech therapists). Depending on the size and organization of a district, such staff members may be assigned to one particular school or may circulate throughout the district. The staff members may work either directly for the school superintendent or report to an assistant superintendent or principal.

Key Access Point

The district superintendent, as both the chief executive and de facto chief policymaker of the district, is a key access point for policy change.

WHERE DO YOU FIT IN?

Food directors often operate at the district level, while nurses often are employed by a single school.

THE SCHOOL LEVEL

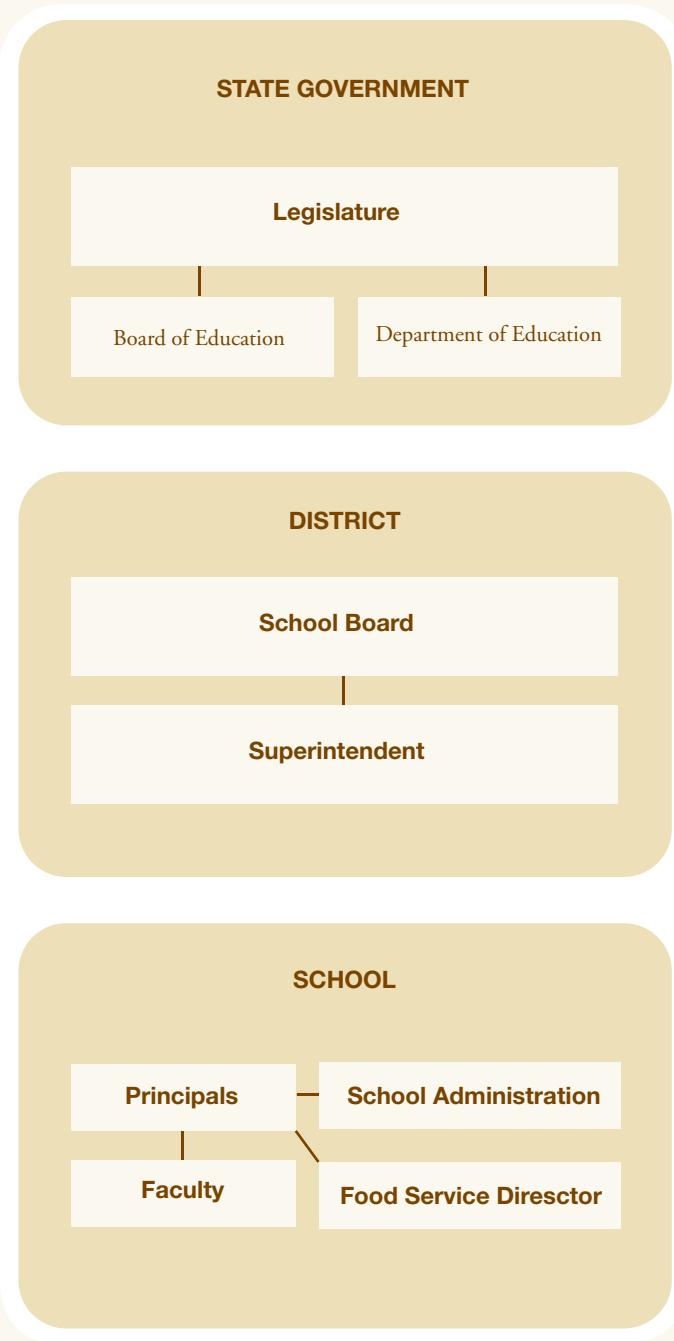
Principals are responsible for a single school within a district. They are the highest ranking administrators at the school level, usually reporting directly to the superintendent or, in larger schools, to a member of the superintendent's staff. A "middle manager" within the district, the principal acts as a conduit between district-level administrators and school-level faculty members, communicating and implementing the policies of his or her superiors and delivering the feedback of his or her subordinates. In addition to dealing with district administrators and faculty members, principals spend a substantial amount of time interacting directly with students (an average of 22.8 hours per week, according to a 2003–2004 study). More than a quarter of public school principals teach classes in addition to their other duties.

Typical Legal and Administrative Structure of Public Schools

FEDERAL GOVERNMENT

Spending Power

Judicial Decisions



INTERMEDIATE UNITS

Educational Service Agencies

Appendix: Federal School Meal Programs

The school lunch and the cafeteria are often seen as the anchors of school food. However students also have access to foods and beverages from a variety of sources on and off campus. The school lunchroom is only one part of a very large school food environment.

Even though the school lunch isn't the anchor of school food, it influences the way we think about school food. The *National School Lunch Program* (NSLP), which governs most of the food served by the school cafeteria, is the legal starting point for thinking about improving school food. The *School Breakfast Program*, which provides reimbursement for breakfasts in schools, and the *Special Milk Program*, which provides milk to schools and institutions that do not participate in the NSLP, are administered in a similar way but are not addressed in this guide.

The National School Lunch Program began in 1946 to combat hunger and to provide a consumer for excess agricultural products in the United States.

How Does it Work?

The NSLP is a federal program. Today's NSLP was created by the National School Lunch Act (42 U.S.C. § 1751 *et seq.*) and the Child Nutrition Act of 1966 (42 U.S.C. § 1771 *et seq.*). The federal government makes an agreement with a state agency—usually the Department of Education—that runs the program in each state.

Schools that want to participate follow the regulations of the state agency and are given cash reimbursements for meals sold to qualifying students. The states also participate in a system to distribute commodity foods to schools. Each state is different in how it regulates its programs. Check with your food service director or department of education to learn more about the details of your state's regulation.

Meals served through the program must meet nutrition standards set by the U.S. Department of Agriculture. These standards are very technical. Your food service director uses software and other resources to plan menus that meet federal standards. The food service director often either uses food-based menu planning, where the menu is based on servings of food, or uses nutrient-based menu planning, where the menu is based on the nutrient analysis of the served food.

Why is it important?

The National School Lunch Program is important to the school food environment because it defines the types of available foods. Defining the types of foods creates the framework that schools operate in and that controls school food. The NSLP divides foods into two types: Program and Competitive.

Program Foods – These are foods that the school provides and that are reimbursed. These foods must comply with the nutrition regulations in the National School Lunch Program. These foods are usually under the control of the school food services. States and school districts don't have as much control over these foods.

Competitive Foods – These are foods that are in competition with the federal program foods. This can include a la carte foods served in the cafeteria during lunch, beverages, vending machines, foods in school stores, and fundraisers. There is only one restriction: *Food of Minimal Nutrition Value* may not be sold in food service areas during lunch periods. Competitive foods may be under the control of many different

Legal Practitioner's Point

Competitive foods and their regulation are described in detail at 7 C.F.R. § 210.11 (2006). Note that the regulatory definition and common usage definition of “competitive foods” differ slightly but materially.

actors in the school, e.g., the principal, the athletic director, or the student association. Competitive foods may be regulated at the state level and in the schools through wellness policies.

Conversely, the NSLP is also important because changes in the school food environment impact federal meal reimbursements. Cafeteria meal practices are affected by all school food decisions either directly or indirectly.

Regulating School Foods at the State Level

States have great latitude over the regulation and organization of school food. Through regulatory and statutory changes, state government can improve the foods available to and the diets of children in schools. Because these regulations vary with each state, check with your school's food service director, local groups, or national groups like Action for Healthy Kids to learn more about regulation in your state. See *Selected Reference List* for some resources.

Appendix: Vending and Contracts

The school's vending contract can be an effective tool to control the type of food and beverage sold, how they are sold, and how they are advertised on campus. Vending includes soda and snack machines, school stores, and other sources of food outside the lunch room. It is often a key source of unhealthy foods and beverages in the school food environment. As a competitive food, vending is usually under the control of the principal or school administration. Vending is best regulated at the state level or through a local wellness policy. There are many resources available to help improve food available through vending.

IMPROVING SCHOOL FOOD THROUGH CONTRACTING

The School Health Law Project, a project of the Public Health Law Program, has a number of key resources:

Maximize Your School Vending Contracts: Best Practices — This fact sheet presents basic practices to help you get the best contract to improve school nutrition. This is a must-read with tips for negotiating contracts.

Soliciting a Beverage Contract Bid: Two Options — This fact sheet focuses on California law but provides a good overview of some of the factors involved in using a formal procurement process. Check to see if your school/state uses such a process.

Soliciting A Beverage Contract Bid: What to Include — This is a fact sheet with a California example. This sheet includes useful terms to include in contracts and provides good tips and objectives for a healthy procurement.

Using School Wellness Policies to Improve Vending Contracts — This fact sheet provides a model wellness policy that covers school vending. This is a great resource for working with your school's wellness policy.

School Beverages: Time to Pop Open Your Soda Contract — This overview of soda contracts provides eight key recommendations for contracts.

These resources are all available at www.schoolhealthlaw.org which is continually updated. Check back often, or check our project site at: www.phaionline.org/schoolfood.

In addition to those resources, you may also find the following helpful:

Raw Deal: School Beverage Contracts Less Lucrative Than They Seem — This is an analysis of school vending contracts. It provides useful background information and context to school soda contracting and is available at: www.phaionline.org/rawdeal.

Nutrition Standards for Foods in Schools — This resource published by the Institute of Medicine has an easily applied set of nutritional standards for school foods and is a good resource for guiding vending policy. It is available at: <http://www.iom.edu/CMS/3788/30181/42502.aspx>.

Legal Practitioner's Point

Contracts can be a powerful tool to change school environments and policies. They can also be useful to identify key actors in the school environment.

Appendix: Wellness Policies

In the Child Nutrition and WIC Reauthorization Act of 2004, Congress created new requirements for schools participating in the National School Lunch Program. The Act requires schools to have a wellness policy in place by the 2006–2007 academic year.

The law requires the wellness policies to:

1. Include goals for nutrition education, physical activity and other school-based activities that are designed to promote student wellness...;
2. Include nutrition guidelines selected by the local educational agency for all foods available on each school campus under the local educational agency during the school day with the objectives of promoting student health and reducing childhood obesity;
- ...
4. Establish a plan for measuring implementation of the local wellness policy, including designation of 1 or more persons within the local educational agency or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and
5. Involve parents, students, and representatives of the school food authority, the school board, school administrators, and the public in the development of the school wellness policy.

Child Nutrition and WIC Reauthorization Act of 2004, Pub.L. No. 108-265, 204(a), 118 Stat. 729, 780-81.

Check with your school for information about your local wellness policy and to find out who is responsible for it in your school.

More information is available from:

Food and Nutrition Service, United States

Department of Agriculture,

<http://www.fns.usda.gov/tn/Healthy/wellnesspolicy.html>

— USDA has a good set of resources on wellness policy development.

Action for Healthy Kids,

http://www.actionforhealthykids.org/resources_wp.php –

AFHK provides a comprehensive set of tools for creating wellness policies.

School Nutrition Association,

www.schoolnutrition.org and the **US Centers for**

Disease Control and Prevention, www.cdc.gov also provide resources.

Appendix: An Introduction to Potter Boxes

Ralph Potter, Jr., professor emeritus at Harvard Divinity School, developed Potter Boxes in the 1960s in order to clarify a religious response to the nuclear arms race. Sorting his written notes on the subject, Potter found that they could be divided into four piles: facts, social responsibility, moral philosophy/ethics, and the underlying perspective that colored all of the other factors. Building on the work of sociologist Talcott Parsons, he further refined his theory into a four-part model based on his original note piles. He applied this analysis to the ethics of the Vietnam War in his 1969 book *War and Moral Discourse*.

The Potter Box is a four-part visual representation of the ethical decision-making process. It does not lead the user to a certain outcome or decision. Instead, it allows the user to consider all angles of a situation. Previously hidden assumptions and consequences of a particular course of action are clarified, which makes it easier to compare each course of action. For example, when a particular decision has clear benefits for some, the Potter Box would have the user ask if it harms others. Further, the Potter Box method asks the user to examine and evaluate his or her loyalties and to consider how they might affect other areas of analysis.

“The Potter Box does not require a particular conclusion, but it does facilitate the careful consideration of multiple perspectives. It can be particularly useful in real-world professional dilemmas, because it helps the user consider the views and needs of all affected parties.”

→ ORGANIZATION OF THE POTTER BOX

Facts (“empirical definition of the situation”): An objective description of the ethical problem or situation.

Values (“mode of ethical reasoning”): Many values—some competing—influence and shape the reasoning and decision-making process. Therefore it is helpful to identify as many values as possible.

Principles (“theological ground of meaning”): The broader principles of justice reflected by the values.

For example, a principle might be to find the middle ground between two extreme positions, to create the most happiness for the most people, or to enforce the idea that society should be arranged to treat everyone equally without categorization. Compare these principles to each other and to any other relevant principles. This process might suggest additional values to list.

Loyalties (“cathectic loyalties” or “affirmation of loyalty”): Consider to whom, what or where loyalties might lie.

For example, if one decides on a course of action that will benefit the majority of those affected, to whom is one being loyal? Then ask if there are other parties and identify the loyalties of and to those parties. It is helpful to look at each principle listed to figure this out. Ask why there is or isn’t a feeling of loyalty to each affected party.

BOX 1 Facts

List the factual circumstances of the situation

Clarify any underlying assumptions

BOX 2 Values

List the values implicated by the situation

Compare the relative merits of these values

BOX 3 Principles

Identify the principle on which the values are based (e.g., create the most happiness for the most people)

Compare the relative merits of these principles

BOX 4 Loyalties

Identify the parties or concepts to which one is being loyal for each value/principle

Are there any other parties to whom loyalty should be considered?

After considering all of the sets of values, principles, and loyalties raised by the last three boxes, the user can better choose a course of action that fits the ideal set and examine the effect of this decision.

SAMPLE POTTER BOX EXAMINATION

Scenario:

Three people have been poisoned, and Jones has the only available supply of antidote. The more a person weighs, the more antidote is required to counteract the poison. Two of the poisoned individuals are lightweight enough to share Jones's supply of antidote, which would save them both. Jones does not know either of these individuals. The third individual weighs more and would require all of the antidote to survive. This third person is Jones's father. To whom should Jones give the antidote: to his father or to the other two people?

Analysis:

There is no inherent "correct" answer to this dilemma, and the Potter Box is not designed to lead to a specific result. However, what it can do is allow the user to make an aware decision that not only affirms the set of values, principles and loyalties on which it is based but also acknowledges and considers others. It ensures that multiple perspectives are "on the table" so that all factor into the ultimate decision.

Box One, Facts, helps clarify the factual situation: For example, would the analysis change if Jones's father is a doctor who, if saved, could in turn save many more lives?

Box Two, Values, encourages consideration of competing values: Does the argument in favor of saving Jones's father weaken if Jones might otherwise save not two people but four? What about one hundred? Does this reveal anything useful about the values that support saving the father?

Box Three, Principles, facilitates an examination of the underlying principles: For example, if one rationale for saving two people instead of one is the public good, the box would prompt consideration of the notion that private alliances such as families might themselves also contribute to the public good.

Box Four, Loyalties, helps to list possibly conflicting loyalties: Jones has a special loyalty to his father. However the other three boxes may flag competing loyalties based on different facts, values, and principles.

In the Jones example, a set of values, principles and loyalties focusing on self-sacrifice, utilitarianism and the greater good must be weighed against a set concerning familial love, cohesion and loyalty. But the Potter Box is not limited to this type of direct conflict of ideals and facilitates a more complete and nuanced examination.

PRACTICAL APPLICATIONS

The Potter Box has been adapted to apply in practical situations that extend beyond traditional theological or philosophical questions. For example, it has been used to evaluate everyday professional ethical dilemmas in the fields of journalism, public relations, and business.

In *Photojournalism: An Ethical Approach*, Paul Martin Lester applies a Potter Box analysis to John Hartley's hypothetical scenario "Klan Rally." The situation involves a photojournalist who arrives at an anti-Ku Klux Klan demonstration to take pictures. At the scene, a police officer asks the press to leave because the Klan is planning a counter demonstration and the police fear that media presence might incite violence.

A Potter Box analysis of the situation could be as follows:

Facts: The photojournalist must decide whether to stay and photograph the event so that the public will have information about what occurred or whether to honor the police officer's request and potentially reduce the possibility of violence. Beyond Lester's analysis, further facts to evaluate might be whether the police prefer not to have media present for the reason stated or for another reason. If it is for the reason stated, are the police correct that media presence could increase the possibility of violence?

Values: Lester mentions public knowledge and understanding of the issues raised by the demonstration and public monitoring of police action. He describes the situation as "truth telling versus law and order," but it is perhaps more complicated. Values include both the media's responsibility to tell the truth and whether the media has a responsibility to cover every public event. Further, the scenario implicates not just law and order but also the value of public safety, especially when weighed against public access to information.

Principles: Lester mentions the principle of fair and objective truth. Another underlying principle is to choose the option that the user would want to become the universal law. If the media honor law enforcement's request to leave in this situation, they should be willing to do so in every situation. An additional possible principle is to find the middle ground between two extreme positions, which would suggest that the decision whether to leave should be made on a case-by-case basis. A further principle is to view everyone as equal with no categorization, which suggests that the photographer should consider the perspectives of all parties—including those not present who might desire information about the event, the police, and the potential victims of violence.

Loyalties: Loyalties that Lester suggests are to the subjects of the pictures, to news readers, to society, to the news organization that requested the pictures, to the profession, and to oneself. Interestingly, he points out that in this situation one's loyalties will not always make it obvious which course of action one would follow. For example, if one's loyalty is to the subjects of the photographs, one might decide either to stay and record the events on their behalf or to leave to reduce the chances that they will become victims of violence.

This analysis can be summarized in a Potter box as follows:



The Potter Box does not require a particular conclusion, but it does facilitate the careful consideration of multiple perspectives. It can be particularly useful in real-world professional dilemmas, because it helps the user consider the views and needs of all affected parties.

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