



January 24, 2018

School Programs Branch  
Policy and Program Development Division  
Food and Nutrition Service  
3101 Park Center Drive  
Alexandria, Virginia 22302

**Re: Docket No. FNS-2017-0021; Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements**

As a legal research center focused on public health law, we (the Public Health Advocacy Institute) respectfully submit these comments in response to the U.S. Department of Agriculture's (USDA) "Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements" interim final rule (IFR) (82 FR 56703).

We oppose weakening school nutrition standards established by the Healthy, Hunger-Free Kids Act of 2012.

Virtually all schools (99 percent) participating in the National School Lunch and Breakfast Programs are making great progress toward serving healthier meals for low-income children with less sodium; more whole grains, fruits, and vegetables; and no trans-fat; and are removing sugar drinks and unhealthy snack foods.<sup>1</sup>

The public overwhelmingly (86%) supports healthier school meals,<sup>2</sup> and the majority of state policymakers and school meal administrators favor the nutrition guidelines established by the Healthy, Hunger-Free Kids Act in 2012. State and local governments have already taken significant policy steps to implement the mandated guidelines of the federal law, and have done so successfully. Indeed, in our 2016 analysis of policy proposals and related legislative documents from 11 selected states, we found that two-thirds of relevant documents containing at least one policy argument (n=91) argued in favor of the new guidelines.<sup>3</sup> More than half of the arguments in favor of the guidelines argued that the guidelines will allow food service directors to provide healthier options or that the guidelines will benefit children's health. In every state except Oklahoma and Texas, there were more pro-guidelines arguments than anti-guidelines arguments presented.

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<sup>1</sup> U.S. Department of Agriculture. *School Meal Certification Data* (as of September 2016). Washington, DC: USDA; 2017.

<sup>2</sup> Nixon R. *Poll Finds Most Back Healthy School Meals*, NY TIMES, Aug 19, 2015 at A18.

<sup>3</sup> Nixon L, Gardin K, Seklir L, Gottlieb M, Dorfman L. Examining the public debate on school food nutrition guidelines: Findings and lessons learned from an analysis of news coverage and legislative debates. Berkeley Media Studies Group and Public Health Advocacy Institute, Health Eating Research 2016.

The 2012 updates to school nutrition standards reflect sound science, support children’s health, and are consistent with the *2015-2020 Dietary Guidelines for Americans* (DGA)<sup>4</sup> and the National Academies of Science, Engineering, and Medicine (formerly, Institute of Medicine) 2009 report *School Meals: Building Blocks for Healthy Children*.<sup>5</sup> Improved school nutrition is critical given that one out of three children and adolescents aged 2 to 19 years is overweight or obese<sup>6,7</sup> and children consume one-third to one-half of daily calories during the school day.<sup>8</sup> Contrary to supporting schools and children’s health, the proposed changes in the IFR, by making school food less healthy, are likely to negatively affect the health of school children and their health risks as adults.<sup>9</sup>

***The three-year delay in the sodium reduction levels would harm children’s health:***

We oppose the proposed three-year delay of the sodium reduction targets (Target 2) for school meals, because the delay would allow meals to needlessly extend exposure of school children to unsafe levels of sodium. Unfortunately, nine out of ten children consume too much sodium,<sup>10</sup> increasing their risk for hypertension, heart disease, and stroke.<sup>11</sup> Many schools and food service companies are working toward or already providing healthy and appealing meals and products with less sodium. USDA should address remaining implementation challenges through training and technical assistance to schools. Delaying the second phase of sodium reduction puts children’s health at risk and would result in children consuming an extra 84 to 98 teaspoons of salt (over the course of the three-year delay).<sup>12</sup> Further, and for similar reasons, we are opposed to any delay of the third and final phase of sodium reduction for school meals (Target 3, which is supposed to go into effect for School Year 2022-2023).

***Continuing the whole-grains waiver is unnecessary and undermines child nutrition:***

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<sup>4</sup> U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans*, 8th Edition. Washington, DC: U.S. Government Printing Office, 2015.

<sup>5</sup> Institute of Medicine. *School Meals: Building Blocks for Healthy Children*. Washington, DC: The National Academies Press; 2010.

<sup>6</sup> Ogden CL, Carroll MD, Fryar CD, Flegal KM. Prevalence of Obesity Among Adults and Youth: United States, 2011-2014. *NCHS Data Brief*. 2015;219:1-8.

<sup>7</sup> Ogden CL, Carroll MD, Kit BK, Flegal KM. Prevalence of Childhood and Adult Obesity in the United States, 2011-2012. *JAMA*. 2014;311:806-14.

<sup>8</sup> U.S. Department of Agriculture. *School Nutrition Dietary Assessment Study-III*. Washington, DC: USDA; 2007.

<sup>9</sup> Llewellyn, A, Simmonds, M, Owen, CG, and Woolacott, N. (2016) Childhood obesity as a predictor of morbidity in adulthood: a systematic review and meta-analysis. *Obes Rev*, 17: 56-67.

<sup>10</sup> Jackson SL, King SM, Zhao L, Cogswell ME. Prevalence of Excess Sodium Intake in the United States—NHANES, 2009-2012. *MMWR Morb Mortal Wkly Rep*. 2016;64:1393-7. doi:10.15585/mmwr.mm6452a1.

<sup>11</sup> Appel LJ, Lichtenstein AH, Callahan EA, Sinaiko A, Van Horn L, Whitsel L. Reducing Sodium Intake in Children: A Public Health Investment. *J Clin Hypertens*. 2015;17:657-62. doi:10.1111/jch.12615.

<sup>12</sup> Difference between Target 1 and Target 2 sodium levels: grades k-5: 350 mg/day; grades 6-8: 390 mg/day; grades 9-12: 410 mg/day. Three-year delay is equivalent to mg/day x 185 school days x 3 school years (1 teaspoon = 2,325 mg): grades k-5: 194,250 mg (84 teaspoons); grades 6-8: 216,450 mg (93 teaspoons); grades 9-12: 227,550 mg (98 teaspoons).

There is no need based on concerns related to children’s health to continue the whole-grain waivers. USDA concedes in the IFR that 85 percent of schools have not even requested waivers and are providing children with appealing whole-grain options. If all schools in Alabama, Idaho, and Montana, for example, can serve whole grains to their students, schools in the rest of the states should be able to as well.<sup>13</sup> Whole grains provide micronutrients and are a healthful source of fiber, and eating more whole grains is associated with reduced risk of heart disease, stroke, and diabetes.<sup>14</sup> Children, on average, consume too few whole grains and too many refined grains.<sup>15</sup>

***Allowing flavored low-fat milk is inconsistent with dietary advice:***

We oppose allowing flavored low-fat (1 percent) milk to be served with school meals or as a competitive food. Flavored low-fat milk has higher fat content than flavored fat-free milk, and it is a source of added sugar, unlike plain low-fat milk. The current standards that allow plain or flavored fat-free milk and plain low-fat milk are based on expert recommendations from the National Academy of Medicine’s 2009 report.<sup>16</sup> The recommendations disallowed flavored low-fat milk because it would provide more calories (as compared to flavored fat-free milk) and would likely cause the overall meal to exceed the calorie maximum. The 2015 DGA similarly recommended “increasing the proportion of dairy intake that is fat-free or low-fat milk” and “reducing the intake of added sugars” such as those in flavored milk.<sup>17</sup> Similarly, the Robert Wood Johnson Foundation’s *Healthier Beverage Guidelines* recommend only plain fat-free and low-fat milk for children and adolescents.<sup>18</sup>

**Conclusion**

We oppose further delay of the sodium reduction targets (both Target 2 and Target 3), the continuation of the whole-grains waiver, and allowing flavored low-fat milk. Rather than weakening school nutrition standards, we urge the FNS and USDA to support efforts to continue the progress to improve school food.

Sincerely,  
/s/ *Mark A. Gottlieb*, Executive Director  
On behalf of the Public Health Advocacy Institute  
at Northeastern University School of Law

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<sup>13</sup> U.S. Department of Agriculture (unpublished). Whole Grain-Rich Exemption Take-Up by States: October 2016.

<sup>14</sup> Harvard University T.H. Chan School of Public Health. The Nutrition Source: Whole Grains. <https://www.hsph.harvard.edu/nutritionsource/whole-grains/>. Accessed January 2018. *Provides a literature review on the health benefits of whole grains.*

<sup>15</sup> *Id.*, U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans.*

<sup>16</sup> *Id.* Institute of Medicine. *School Meals: Building Blocks for Healthy Children.*

<sup>17</sup> *Id.*, U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans.*

<sup>18</sup> Healthy Eating Research. *Recommendations for Healthier Beverages.* Durham, NC: Robert Wood Johnson Foundation, 2013. <http://healthyeatingresearch.org/wp-content/uploads/2013/12/HER-Healthier-Bev-Rec-FINAL-3-25-13.pdf>.