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3101 Park Center Drive, Room 640  
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Docket ID: FNS-2011-0021  
RIN 0584–AE11

Dear Ms. Brewer:

We appreciate the opportunity to comment on the information collection requirements associated with the U.S. Department of Agriculture’s (USDA) interim final rule regarding equity in school lunch pricing and revenue from nonprogram foods sold in schools.

We strongly support the requirement for school food authorities to report prices charged for paid lunches to the State agency and for State agencies to report those prices to USDA Food and Nutrition Service (FNS). We also support the requirement for school food authorities (SFAs) to maintain records to document compliance with the paid lunch and nonprogram foods revenues. These requirements are integral to the implementation this rule and are not overly burdensome on SFAs or State agencies.

We urge USDA to ensure that paid meal price information is published in a form that is most useful to school food administrators. We also urge USDA to collect two additional pieces of information that are necessary for effective implementation—prices charged for paid breakfasts and instances in which the formula to calculate nonprogram foods revenue does adequately reflect the full cost of providing those foods. We respectfully offer the following comments, which offer a more detailed explanation of these recommendations.

**Publishing Paid Meal Prices**

The Healthy, Hunger-Free Kids Act requires USDA to establish procedures for annually “collecting and publishing” paid meal prices. The rule does not address how USDA will publish price information; however this step is critically important.

The publication of price data will help encourage SFA compliance and provide information that school food administrators may use when setting paid meal prices.
For paid meal price information to be useful, it must be clear from the published information whether the SFA needed to increase non-federal revenues associated with paid meals and, if so, whether the revenue increase was accomplished by increasing prices or contributing other non-federal revenue. Therefore, we recommend that the published data include the following elements for the current school year and each prior year for which data were collected:

- Lunch prices (by school level, such as elementary, middle, and secondary);
- Average paid lunch price;
- Breakfast prices (discussed in the next section);
- Reporting of whether the SFA contributed non-federal revenue in lieu of raising prices; and
- Reporting of whether the SFA has a credit resulting from raising prices in a prior year or a credit resulting from a non-federal revenue contribution from a previous school year.

Additionally, paid meal price information must be searchable and sortable to help ensure effective and efficient use by school food administrators as they set meal prices.

**Paid Breakfast Prices**

We strongly urge USDA to collect and publish prices charged for paid breakfasts as well as lunches. The preamble to the rule notes that while the statutory provision that directs USDA to collect and publish paid meal prices refers to prices for “paid meals,” the interim rule requires SFAs to report only prices for paid lunches. The statutory language clearly directs USDA to collect and publish prices for all paid school meals, not just lunches. Congress clearly intended for USDA to collect and publish prices for breakfasts as well as lunches, in order to provide information that school food administrators may use when setting all paid meal prices. Revenues from paid breakfasts are an integral component of school food programs’ finances and school food administrators should have access to the same pricing information to assist them when setting breakfast prices.

The burden on State agencies and school food authorities of submitting prices to USDA would be minimal. USDA estimates that the entire reporting burden associated with reporting paid lunch prices amounts to an increase of less than one fifth of one percent. The additional reporting of breakfast prices would not significantly change reporting time.

*Please revise 7 C.F.R. §210.15(a)(8) as follows:*

“The prices of paid lunches and breakfasts charged by the school food authority.”

*Please revise 7 C.F.R. §210.20(a)(9) as follows:*
“The prices of paid lunches and breakfasts charged by each school food authority.”

Revenues from Nonprogram Foods

The Healthy, Hunger-Free Kids Act demonstrates that Congress intended to ensure that subsidies for reimbursable school meals are used to provide reimbursable meals, and not to subsidize nonprogram foods. Requiring separate accounting of program and nonprogram foods would be the most accurate method of achieving this goal, but separate accounting was not required because of the potential administrative burden associated. The Senate Committee report makes it clear that the formula which incorporates only food costs is intended to act as a simplified proxy for taking into account all the costs associated with offering nonprogram foods.

Because labor costs are not included in the formula, the formula acts as an adequate proxy only in districts where the share of labor costs associated with nonprogram foods is the same as the share of food costs. The formula falls short in districts where labor costs are a higher percentage of total costs than the percentage of food costs. In those districts, the requirements of the simplified formula could be met while millions of dollars of federal reimbursements are used to provide nonprogram foods.

We urge USDA to provide technical assistance to SFAs to help them comply with this provision and ensure that revenues for nonprogram foods are equal to or greater than the total costs of selling those foods. In addition, we urge State agencies to be required to notify USDA of SFAs in which the formula might not ensure that revenues for nonprogram foods are equal to or greater than the total costs of selling those foods due to high labor costs.

State agencies should monitor compliance with the intent of Section 206, as well as compliance with the simplified formula included in the statute. Reporting to USDA on the results of these broader oversight efforts should be minimally burdensome and will provide policy makers with important program management information.

Please revise 7 C.F.R. §210.19(a)(2) as follows:

“... Each State agency shall ensure that school food authorities comply with the requirements for pricing paid lunches and nonprogram foods as required in §210.14(e) and §210.14(f). State agencies shall provide technical assistance to SFAs to help them comply with these requirements. State agencies shall also notify the Secretary of school food authorities in which the formula in §210.14(f)(2) might not ensure that revenues for nonprogram foods are equal to or greater than the total costs of selling those foods due to labor costs associated with the school food authority’s nonprogram foods.

We thank USDA for its efforts to expeditiously implement these regulations and hope that these comments are helpful as USDA develops the information collection components of the final regulations. We intend to submit detailed comments on other aspects of the interim final rule.
Respectfully,

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