THE U.S. DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE

Child Nutrition Programs: Revisions to Meal Patterns Consistent With the 2020 Dietary Guidelines for Americans	Docket No. FNS-2022-0043

COMMENTS OF THE CENTER FOR SCIENCE IN THE PUBLIC INTEREST

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The Center for Science in the Public Interest (CSPI) submits these comments in response to the U.S. Department of Agriculture's (USDA) "Child Nutrition Programs: Revisions to Meal Patterns Consistent With the 2020 Dietary Guidelines for Americans**"** proposed rule (88 FR 8050), which will improve the nutritional quality of school meals.

CSPI has worked since 1971 to improve the public's health through better nutrition and safer food. We are an independent, non-profit consumer education and advocacy organization. CSPI is a strong advocate for healthier school foods. We convene the National Alliance for Nutrition and Activity, the nation's largest nutrition advocacy coalition, which successfully advocated for updating the science-based nutrition standards following the passage of the 2010 Healthy, Hunger-Free Kids Act (HHFKA). CSPI greatly appreciates the USDA's commitment to strengthening the nutrition standards of school meals through this rulemaking, bolstered by the investments in the Healthy Meals Incentives program.

CSPI urges the USDA to maintain the provisions outlined in the proposed rule and, in addition, strengthen the sodium reduction targets and whole grain-rich requirements to better align school meals with the Dietary Guidelines for Americans (DGA).

The School Breakfast Program (SBP) and National School Lunch Program (NSLP) administered by the USDA are cornerstone federal nutrition assistance programs. School meals are one of the healthiest sources of foods for school-age children[1], with some children consuming as much as half of their daily calories at school.[2] In 2012, the USDA followed requirements from the HHFKA to update school meal nutrition standards for the first time in several decades, which successfully improved the nutritional quality of school meals and increased the amount and variety of fruits, vegetables, and whole grain-rich foods offered in school meals.[3] Despite the success of the 2012 standards, the USDA rolled back requirements on sodium, whole grains, and flavored milk in 2018.[4] That 2018 rule was widely opposed by the public[5] and invalidated by a federal court in 2020 over a lack of notice on key provisions.[6] In 2022, the USDA issued Transitional Standards, which provided necessary flexibility to school food authorities (SFAs) for SY 2022-2023 and SY 2023-2024 as schools responded to and recovered from the COVID-19 pandemic.[7]

The past several years presented immense challenges for SFAs trying to keep abreast of and successfully meet regulations aimed at improving the nutritional quality of school meals. The rollbacks to the nutrition standards issued in 2018, followed by the COVID-19 pandemic and the resulting supply and labor chain impacts, introduced uncertainty for SFAs and stalled progress.

[1] Liu J, Micha R, Li Y, Mozaffarian D. Trends in Food Sources and Diet Quality Among US Children and Adults, 2003-2018. *JAMA Netw Open*. 2021;4(4):e215262.
[2] Centers for Disease Control and Prevention. *School Nutrition*. Last Reviewed March 3, 2023. https://www.cdc.gov/healthyschools/nutrition/schoolnutrition.htm. Accessed April 17, 2023.
[3] 77 Fed. Reg. 4087. Nutrition Standards in the National School Lunch and School Breakfast Programs.
[4] 83 Fed. Reg. 63775. Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements.
[5] 83 Fed. Reg. 63775. Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements.
[6] *CSPI v. Perdue*, 438 F. Supp. 3d 546 (D. Md. 2020).
[7] 87 FR 6984. Child Nutrition Programs: Transitional Standards for Milk, Whole Grains, and Sodium

Setting strong nutrition standards for school meals is especially important for the more than 30 million school-age children receiving school lunches, and over 15 million children receiving school breakfasts.[8,9] This proposed rule prioritizes children's nutrition and health, and if implemented, will improve the nutrition quality of meals for millions of children. Healthy Eating Research conducted a Rapid Health Impact Assessment (HIA) to understand the potential impacts of aligning the school meal nutrition standards with the 2020-2025 DGA on nutritional quality of school meals, school meal participation, student dietary consumption, students' health and wellbeing, and academic performance. The evidence reviewed for the Rapid HIA suggests that aligning school meal nutrition standards with the DGA will improve the healthfulness of foods and beverages served and sold in school, increase participation in school meals, which can lead to increased food service revenue and increased food security, and may improve children's academic performance.[10] A recent modeling study[11] estimated the diet and health effects of aligning school meal standards for sodium, whole grains, and added sugars with recommendations from the 2020-2025 DGA for school-aged children and adolescents. The updated standards resulted in greater intake of whole grains and reduced intake of both added sugars and sodium. And in the short-term, reductions in added sugars and sodium intake were associated with reductions in BMI and blood pressure in childhood, respectively. In the long-term, the dietary changes sustained into adulthood were associated with reduced mortality from cardiovascular disease, diabetes, and cancer, lower disability adjusted life years (DALYs), and lower health-care related costs among adults. Even accounting for incomplete school compliance, death, DALYs, and healthcare cost savings were still observed.

CSPI strongly supports the USDA's proposals to:

- Establish per-product and per-meal limits on added sugars.
- Establish gradual sodium limits for school breakfast and lunch.
- Require a majority of grains offered in school meals to meet the whole grain-rich criteria.
- Make it easier for SFAs to provide traditional and plant-based foods to students.

CSPI encourages the USDA to further strengthen the Final Rule by:

- Replacing the total sugars standard in Smart Snacks standards with an added sugars standard, to be consistent with the DGA.
- Establishing additional sodium-reduction targets for school meals to fully meet the DGA.
- Limiting processed meats, which will support sodium reduction efforts
- Developing a whole grain standard that fully aligns with the DGA, allowing schools to either:
    A. return to the 100-percent whole grain-rich requirement; or

[8] U.S. Department of Agriculture. *National School Lunch - Participation and Meals Served* (Data as of April 14, 2023). https://fns-prod.azureedge.us/sites/default/files/resource-files/slsummar-4.pdf. Accessed April 20, 2023.
[9] U.S. Department of Agriculture. School Breakfast - Participation and Meals Served. Data as of April 14, 2023. https://fns-prod.azureedge.us/sites/default/files/resource-files/sbsummar-4.pdf. Accessed April 20, 2023
[10] Miller L, Lott M, Story M. Rapid Health Impact Assessment on Changes to School Nutrition Standards to Align with 2020-2025 Dietary Guidelines for Americans. Healthy Eating Research. February 2023. https://healthyeatingresearch.org/research/rapid-health-impact-assessment-on-changes-to-school-nutrition-standards-to-align-with-2020-2025-dietary-guidelines-for-americans/. Accessed April 20, 2023.
[11] Wang L, et al. Evaluation of Health and Economic Effects of U.S. School Meal Standards Consistent with the 2020-2025 Dietary Guidelines for Americans. *American Society for Nutrition, Nutrition 2023*. July 22-25, 2023. Boston, MA. [Manuscript submitted for publication]

B. provide a majority of whole grain-rich items while balancing the remaining enriched products with 100-percent whole grain products.

- Disallowing aspartame, acesulfame-K, saccharin, and sucralose in school meals and competitive foods (Smart Snacks) standards, given that food manufacturers are likely to substitute sugar with these carcinogenic low-calorie sweeteners.
- Disallowing synthetic dyes in school meals and competitive foods (Smart Snacks) standards.
- Encouraging SFAs to prioritize, when financially and operationally feasible, minimally processed foods.
- Expanding and clarifying allowable bid specifications that will make it easier for SFAs to prioritize values-aligned purchasing.

Detailed comments follow.

Section 2: Added Sugars

CSPI strongly supports the USDA's proposals to limit added sugars in school meals. Among children, intake of added sugars has been associated with increased adiposity, dental decay, and an increase in risk factors for cardiovascular disease[12,13]. Since 2015, the DGAs have recommended limiting added sugars to less than 10 percent of total daily caloric intake[14,15], yet children and adults of all ages exceed this daily limit. Nearly 70 percent of added sugars in the U.S. diet (for individuals aged 2 and older) comes from five food categories: sweetened beverages (24 percent), desserts and sweet snacks (19 percent), sweetened coffee and tea drinks (11 percent), candy and sugars (9 percent), and breakfast cereals and bars (7 percent).[16] Among children who don't meet the DGA recommendation for added sugars, the top sources of added sugars in the diet are sweetened beverages, sweet bakery products, and candy.[17].

Two recent studies using data from the School Nutrition and Meal Cost Study (SNMCS), the only nationally representative study of the school meal environment, assessed the availability

[12] Vos MB, et al. Added Sugars and Cardiovascular Disease Risk in Children: A Scientific Statement From the American Heart Association. *Circulation*. 2017 May 9; 135(19):e1017-e1034.
[13] Moynihan PJ, Kelly SA. Effect on caries of restricting sugars intake: systematic review to inform WHO guidelines. *J Dent Res*. 2014 Jan;93(1):8-18.
[14] U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2015 – 2020 Dietary Guidelines for Americans*. 8th Edition. December 2015. Available at https://health.gov/our-work/food-nutrition/previous-dietary-guidelines/2015. Accessed April 15, 2023.
[15] U.S. Department of Agriculture & U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2020-2025*. December 2020. https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf. Accessed April 14, 2023.
[16] Dietary Guidelines Advisory Committee. Scientific Report of the 2020 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture and the Secretary of Health and Human Services. U.S. Department of Agriculture, Agricultural Research Service. July 2020. https://www.dietaryguidelines.gov/sites/default/files/2020-07/ScientificReport_of_the_2020DietaryGuidelinesAdvisoryCommittee_first-print.pdf. Accessed April 20, 2023.
[17] Added Sugars in American Children's Diet: What We Eat in America, NHANES 2015-2016. Food Surveys Research Group Dietary Data Brief No. 26. December 2019. https://www.ars.usda.gov/ARSUserFiles/80400530/pdf/DBrief/26_Sources%20of%20Added%20Sugars%20in%20Children%27s%20Diet_1516.pdf.

and consumption of added sugars during the school day.[18,19] These studies found that 92 percent of school breakfasts contained 10 percent or more of calories from added sugars, as did 69 percent of lunches. Additionally, both studies found that, in the aggregate, the main source of added sugars in both school breakfasts and school lunches was flavored fat-free milk. Flavored fat-free milk contributed 29 percent of the added sugars in school breakfasts and almost half (47 percent) of the added sugars in school lunches. Fox and colleagues found that, over 24 hours, 63 percent of children exceeded the DGA recommended limit for added sugars. These findings demonstrate the prevalence of added sugars in the school meal environment and in children's diets and support the need for establishing an added sugars standard for reimbursable school meals in alignment with the most recent DGA recommendations.

Parents have also expressed concern about excessive amounts of added sugars in school meals. Quotes from a community-based participatory research study performed with Latino parents in California's San Joaquin Valley are included below:

> "Children cannot sustain themselves on treats that give pure sugar. They [SFAs] give for the morning bars and cereal that are full of sugar."
>
> "The cereal is too sweet."[20]

Weekly Dietary Limit

CSPI supports the proposed weekly dietary limit, which is aligned with the DGA recommendation. To ensure clarity for program operators, CSPI recommends that the USDA explicitly describe how the weekly dietary limit will be calculated (e.g., does the 10 percent limit apply to the average weekly calories on the menu, or the maximum calorie limit allowed per grade group?).

To allow SFAs more flexibility in meeting the weekly dietary limit, CSPI recommends that the USDA set this standard from the maximum calorie limit for each grade group at each meal.

[18] Added Sugars in School Meals and Competitive Foods: A Report to Congress. U.S. Department of Agriculture, Food and Nutrition Service. 2022.
[19] Fox MK, Gearan EC, Schwartz C. Added Sugars in School Meals and the Diets of School-Age Children. *Nutrients*. 2021;13(2). Epub 20210130. doi: 10.3390/nu13020471.
[20] Sohlberg TM, Higuchi EC, Ordonez VM, Escobar GV, De La Rosa A, Islas G, Castro C, Hecht K, Hecht CE, Bruce JS, Patel AI. Parent Perception of School Meals in the San Joaquin Valley during COVID-19: A Photovoice Project. Nutrients. 2023; 15(5):1087. https://doi.org/10.3390/nu15051087

Grade Group (Calorie Range)	CSPI Calculated DGA-aligned Standard (< 10% of Calories from Added Sugars)
Breakfast	
K–5 (350–500 kcal)	≤ 12.5 g
6–8 (400–550 kcal)	≤ 13.75 g
9–12 (450–600 kcal)	≤ 15 g
Lunch	
K–5 (550–650 kcal)	≤ 16.25 g
6–8 (600–700 kcal)	≤ 17.5 g
9–12 (750–850 kcal)	≤ 21 g

We calculated the permissible number of grams of added sugars by multiplying the maximum of each grade group's calorie range by 0.10 and dividing the result by 4, as 1 gram (g) of sugar contains 4 calories (kcal). As a practical consideration, we also recommend that the USDA set these standards for added sugars at, not below, 10 percent of calories and (as with the sodium limits) set them as an average over the week so that schools can serve more sugary items on a day so long as they balance it by offering less sugary items on another.

Food companies already have K-12 products available that fit with the USDA's proposed weekly dietary limit. According to CSPI's 2021 School Meals Corporate Report Card and 2022 School Milk Report, there are already a variety of products in the K-12 marketplace that meet the weekly dietary limit proposed by the USDA.[21,22] We found that compliance ranges with a DGA-aligned added sugars standard were high (all companies were ≥ 75 percent) for more than three-fourths (14 of the 18) of applicable minor food groups for grades K-5 through 9-12 breakfast. Compliance ranges indicate the percentage of products in a given minor food group that meet the proposed standard for each company.

For example, from General Mills Convenience and Foodservice, a school can choose between Yoplait Smooth with 11 grams of added sugar or Trix yogurt with a modest 5 g of added sugars (and no artificial sweeteners or synthetic dyes). CSPI's report indicates that there is no shortage of products from major suppliers that could comply with the added sugars standards sought here.

Product Specific Limits

CSPI supports the proposed per-product limits on the top sources of added sugars, which will urge industry reformulation and in turn, help schools to meet the weekly limits. Per-product limits incentivize industry, as evidenced by the recent International Dairy Foods Association (IDFA) announcement that 37 school milk producers representing over 90 percent of the school milk volume (according to IDFA) will meet the USDA's proposed product specific limit for

[21] Center for Science in the Public Interest. School Meals Corporate Report Card 2021. https://www.cspinet.org/resource/school-meals-corporate-report-card-2021.
[22] Center for Science in the Public Interest. Behind the Carton 2022 School Milk Report. https://www.cspinet.org/resource/behind-carton-school-milk-report-2022.

flavored milk beginning with the 2025-2026 school year.[23] Of note, CSPI would not be supportive of a Final Rule that contains only the product specific limits (and not the weekly dietary limit) because without the weekly dietary limit, school meals could still exceed the DGA recommendations.

According to CSPI's 2021 School Meals Corporate Report Card and 2022 School Milk Report, there are already breakfast cereals, yogurts, and flavored milks being marketed and sold to K-12 school food programs that meet the per-product standards proposed by the USDA.[24,25] In CSPI's 2021 report, of the total of 117 cold and hot cereals, 47 had no more than 6 grams of added sugars per dry ounce (another 16 products contained 6.0-6.4 grams of added sugars per dry ounce, and 11 were missing data).

We also found that companies with some of the most concerning products were already producing better alternatives. For instance, one major K-12 company, Post Foodservice offered Marshmallow Mateys cereal, which 5.75 teaspoons of added sugars, four synthetic food dyes, and more salt than a slice of Smart Snacks Domino's cheese pizza slice. They also offered a Frosted Strawberry Shredded Wheat cereal that is only 2.5 teaspoons of added sugars, with no food dyes, and hardly any sodium.[23]

Of the total of 64 yogurts, 41 had no more than 12 grams of added sugars per 6 ounces (one product was missing data).

In our 2022 school milk report, of the total of 29 flavored milks, 12 flavored milks (41 percent) had 10 g added sugars or less (7 fat-free, 5 low-fat).

There are many known strategies for reducing added sugars in school meals, especially at breakfast which tends to be sweeter than lunch. In August 2022, the USDA published guidance with best practices for reducing added sugars at school breakfast including only offering unflavored milk at breakfast, offering protein sources in combination with grains to meet the grains requirement, offering fruits with no or few added sugars, and sweetening smoothies with fruit.[26] These best practices combined with the USDA's proposed per-product standards will help schools limit added sugars to within science-based limits.

Child and Adult Care Food Program (CACFP)

CSPI supports the USDA's proposal to apply the proposed product-specific limits to CACFP. Uniform product requirements across programs will simplify the standards for both industry and program operators.

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[23] International Dairy Foods Association. IDFA Announces 'Healthy School Milk Commitment' to Provide Nutritious Milk with Less Added Sugar for Students in Public Schools, Surpassing USDA Standards. April 5th, 2023. https://www.idfa.org/news/idfa-announces-healthy-school-milk-commitment-to-provide-nutritious-milk-with-less-added-sugar-for-students-in-public-schools-surpassing-usda-standards. Accessed April 12, 2023.
[24] Center for Science in the Public Interest. *2021 School Meals Corporate Report Card*. November 2021. https://www.cspinet.org/resource/school-meals-corporate-report-card-2021. Accessed February 13, 2023.
[25] Center for Science in the Public Interest. *Behind the Carton: 2022 School Milk Report*. December 2022. https://www.cspinet.org/resource/behind-carton-school-milk-report-2022. Accessed February 13, 2023.
[26] U.S. Department of Agriculture. *Best Practices for Reducing Added Sugars ay School Breakfast*. August 2022. https://www.fns.usda.gov/tn/best-practices-reducing-added-sugars-school-breakfast. Accessed February 13, 2023.

Request for Additional Suggestions

Research suggests that in addition to flavored milks, sweetened cereals, muffins and sweet/quick breads (which are all addressed in this proposed rule by product-specific limits), condiments and toppings are a major source of added sugars in school meals.[27] To better support SFAs in meeting the per-meal requirement, the USDA could suggest limiting condiments and toppings high in added sugars as a best practice in training materials.

CSPI recognizes that the Food and Drug Administration (FDA) has oversight of the use of low-calorie sweeteners (LCS; sometimes called non-nutritive sweeteners [NNS] or high-intensity sweeteners) in foods generally, but we encourage the USDA to use its authority to set school food standards to discourage their use in products for children because, as stated by the American Academy of Pediatrics, "the long-term safety of NNSs in childhood has not been assessed in humans."[28] Until we are confident that LCS consumption in childhood is safe, CSPI recommends that children avoid LCS altogether. We urge the USDA to disallow use of the most concerning LCS —aspartame,[29,30,31,32] saccharin,[33] acesulfame-potassium,[34,35] and sucralose[36]—as part of establishing an added sugars standard for school meals because these four LCS have been shown to cause cancer in animals. According to a 2021 analysis by CSPI, most products from major K-12 companies were free of sucralose, saccharin, aspartame, or acesulfame potassium.[37] Likewise, CSPI's 2022 School Milk Report shows no flavored school milks with the same four LCS of concern.[38] However, CSPI is concerned that manufacturers will replace added sugars with LCS.

We also encourage the USDA to consider revising the *total* sugars limit in Smart Snacks to an *added* sugars limit, as the USDA has proposed for 12 fl. oz. flavored milks sold as competitive foods in this proposed rule.

Section 3: Milk

CSPI greatly appreciates the USDA's interest in finding creative solutions to reduce added sugars in school meals. While flavored milk is the top source of added sugars in school meals, CSPI supports Alternative B (maintaining the current standard allowing all schools to offer fat-

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[27] Fox et al., 2021
[28] Baker-Smith CM, de Ferranti SD, Cochran WJ, AAP Committee On Nutrition, Section On Gastroenterology, Hepatology, and Nutrition. The Use of Nonnutritive Sweeteners in Children. Pediatrics. 2019;144(5):e20192765
[29] Soffritti M, et al. First experimental demonstration of the multipotential carcinogenic effects of aspartame administered in the feed to Sprague-Dawley rats. Environ Health Perspect. 2006 Mar;114(3):379-85.
[30] Soffritti M, et al. Life-span exposure to low doses of aspartame beginning during prenatal life increases cancer effects in rats. Environ Health Perspect. 2007 Sep;115(9):1293-7.
[31] Landrigan PJ, Straif K. Aspartame and cancer - new evidence for causation. Environ Health. 2021 Apr 12;20(1):42.
[32] Tibaldi E, et al. Identification of aspartame-induced haematopoietic and lymphoid tumours in rats after lifetime treatment. Acta Histochem. 2020 Jul;122(5):151548.
[33] Bell W, et al. Carcinogenicity of saccharin in laboratory animals and humans: letter to Dr. Harry Conacher of Health Canada. Int J Occup Environ Health. 2002 Oct-Dec;8(4):387-93.
[34] 53 Fed Reg 28379
[35] More information about CSPI's position on acesulfame-potassium can be found here: https://www.cspinet.org/article/acesulfame-potassium
[36] Soffritti M, et al. Sucralose administered in feed, beginning prenatally through lifespan, induces hematopoietic neoplasias in male swiss mice. Int J Occup Environ Health. 2016 Jan;22(1):7-17.
[37] Center for Science in the Public Interest. *2021 School Meals Corporate Report Card.* 2021.
[38] Center for Science in the Public Interest. *Behind the Carton: 2022 School Milk Report*. December 2022. https://www.cspinet.org/resource/behind-carton-school-milk-report-2022.

free and low-fat milk, flavored and unflavored, with the new proposed added sugars limit for flavored milk). We believe that the weekly dietary limit and the product specific limits for added sugars will sufficiently reduce children's consumption of added sugars in flavored milk.

The DGA recommends that beverages with no added sugars should be the primary choice for children and adolescents of all ages.[39] The DGA also allows flexibility in a healthy eating pattern for some nutrient-dense foods (which include fat-free or low-fat milk) to be made more palatable by adding small amounts of added sugars.[40] School meals have calorie limits for each grade group and on average score highly on the Healthy Eating Index-2010 (81.8 out of 100 for lunch, 71.3 out of 100 for breakfast).[41] The DGA states that it is particularly important for children ages 2 through 8 (which aligns with grades K–3) to consume beverages with no added sugars since there are few calories available after their food group and nutrient needs are meet with nutrient-dense choices.[42] Establishing a product specific added sugars limit for flavored milk, yet disallowing it in grades K-5 would reduce empty calories per meal by 40 kcal, but according to the USDA's School Nutrition and Meal Cost Study, the meals served to grade group K–5 in SY 2014–15 were on average already below the calorie maximum: 432 kcal versus 500 kcal maximum at breakfast, 603 kcal versus 650 kcal maximum at lunch,[43] demonstrating that the calories in flavored milk would not necessarily jeopardize other calories from nutrient-rich foods. The school meals being served to grade group K–5 already offer nutrient-dense foods from a variety of food groups without exceeding a DGA-aligned calorie maximum, and so disallowing flavored milk in certain grade groups is not necessary provided that the USDA retains both the per-product limit for flavored milk and the weekly dietary limit in the final rule. We encourage the USDA to reiterate that only unflavored milk is required to be offered as part of a reimbursable school breakfast or lunch, and that flavored milk may only be offered in addition to unflavored milk.

We also recommend that the USDA reiterate that under Offer Versus Serve (OVS), students are not required to take the milk offered to them, provided that they have taken at least three of the five components (including at least a ½ cup of fruits or vegetables) offered at lunch or at least three of the four food items (including at least a ½ cup of fruits or vegetables) offered at breakfast. Finally, we request that the USDA encourage schools to promote water consumption and (if possible) offer appealing water options—for example, fruit-infused water—in addition to milk during meal service, while noting that water is to be another drink option for students and not a substitute for milk.

Of note, the DGA only recommends fat-free and low-fat milk,[44] and thus we strongly support the continued disallowance of whole and reduced-fat milk in school meals.

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[39] U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2020-2025 Dietary Guidelines for Americans*. 2020. https://www.dietaryguidelines.gov/. Accessed March 27, 2023.
[40] U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2020-2025 Dietary Guidelines for Americans*. 2020. https://www.dietaryguidelines.gov/. Accessed April 19, 2023.
[41] U.S. Department of Agriculture. *School Nutrition and Meal Cost Study*. Volume 2. 2019. https://www.fns.usda.gov/school-nutrition-and-meal-cost-study. Accessed April 14, 2023.
[42] U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2020-2025 Dietary Guidelines for Americans*. 2020. https://www.dietaryguidelines.gov/. Accessed April 19, 2023.
[43] U.S. Department of Agriculture. *School Nutrition and Meal Cost Study*. Volume 2. 2019. https://www.fns.usda.gov/school-nutrition-and-meal-cost-study. Accessed April 14, 2023.
[44] U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2020-2025 Dietary Guidelines for Americans*. 2020. https://www.dietaryguidelines.gov/. Accessed March 27, 2023.

For consistency and to ensure maximum positive impact on child health, CSPI urges the USDA to apply added sugars limits for flavored milk in the SBP and NSLP to both CACFP and the Special Milk Program (SMP).

CSPI also recommends that the USDA collect and publish data on the nutritional quality of the school milks being offered across the country. Due to the perishable nature of refrigerated milk, suppliers of school milk vary across the country, and SFAs often award bids to local or regional producers. While local SFAs know who supplies their milk and can look at the Nutrition Facts labels on the products that they purchase, it is our understanding that neither the USDA nor state agencies have information on the nutritional content of milk sold to schools. Furthermore, we have learned that the nutrition information for the specific school milk products being offered at meals is not collected during SFAs' administrative reviews (ARs), and instead, standard nutrient values are provided to represent different milk types, which are used in calculating overall menu compliance. Among the products included in our 2022 School Milk report, we found wide ranges of sodium and added sugars levels, indicating that this current approach is severely flawed and should be rectified.[45] During ARs, state agencies should collect the nutrition information of each school milk product offered by the SFA, use these values when calculating that SFA's compliance, and report these data to the USDA.

We are aware that the dairy industry does collect and internally report data on the nutritional quality of school milk, but that information is not publicly available. Publicly available, peer-reviewed data should be the standard for evaluating the national school milk marketplace, and the USDA should not rely on proprietary industry data to evaluate compliance with nutrition standards.

As such, CSPI urges the USDA to instruct state agencies to collect and report product-specific nutrition information for milk during SFAs' ARs. We also urge the USDA to conduct a study on the national school milk marketplace and publish a report with corresponding data.

Special dietary needs and preferences should be considered by SFAs in the context of including milk on the school lunch and breakfast menus. According to the National Institute of Diabetes and Digestive and Kidney Diseases, while the national average of lactose malabsorption is approximately 36 percent, African Americans, American Indians, Asian Americans, and Hispanics/Latinos are more likely to experience lactose malabsorption.[46] The Proposed Rule itself affirms "the disproportionate rates of lactose intolerance among communities of color."[47] Industry reports show that demand for plant-based[48,] and plant-forward[49] meals have grown.

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[45] Center for Science in the Public Interest. *Behind the Carton: 2022 School Milk Report*. December 2022. https://www.cspinet.org/resource/behind-carton-school-milk-report-2022. Accessed February 13, 2023.
[46] National Institute of Diabetes and Digestive and Kidney Diseases. *Definition & Facts for Lactose Intolerance.* February 2018. https://www.niddk.nih.gov/health-information/digestive-diseases/lactose-intolerance/definition-facts#common. Accessed April 27, 2023.
[47] 88 FR 8050
[48] Singh, S. *Plant-Based Food Market Size, Trends, Share, and Forecast to 2030*. February 2021. https://www.marketresearchfuture.com/reports/plant-based-food-market-8578. Accessed April 27, 2023.
[49] Cobe, P. *The rise in plant-forward eating continues post-pandemic*. Restaurant Business. August 2022. https://restaurantbusinessonline.com/consumer-trends/rise-plant-forward-eating-continues-post-pandemic. Accessed April 27, 2023.

Additionally, according to a 2018 Gallup poll, nonwhite Americans are three times as likely to describe themselves as vegetarian than white Americans.[50]

We urge the USDA to clarify that SFAs are authorized and encouraged to provide a non-dairy beverage that meets the USDA standards to any student with a special medical or dietary need whose parent or guardian makes a request; clarify that plant-based diets can qualify as a special medical or dietary need, whether the diet is due to religious, cultural, physiological, philosophical, or other reasons; and clarify that lactose intolerance can be considered both a disability and a special medical or dietary need. We encourage the USDA to provide a model parental notice and form for milk substitution requests that SFAs can use on their websites and mail to families. Lastly, we encourage the USDA to amend regulations and policy memoranda for all school meal programs other than the NSLP such that disability-related substitutions must be made available upon request of a parent or legal guardian.

Section 4: Whole Grains

Neither of the whole grain options proposed by the USDA align with the DGA. Of the two options that the USDA is soliciting feedback on, CSPI prefers the option that would require 80 percent of grains to be whole grain-rich and does not recommend the option that would require all grains to be whole grain-rich expect on one day per week, as it could result in even fewer whole grains being offered than the current 80-percent requirement. See the example below:

Lunch Grades K-5
Grain Weekly Requirement 8-9 oz. eq.; Daily Minimum: 1 oz. eq. [51]

Monday	Tuesday	Wednesday	Thursday	Friday
Enriched (2 oz. eq.)	Whole Grain-Rich (2 oz. eq.)	Whole Grain-Rich (2 oz. eq.)	Whole Grain-Rich (1 oz. eq.)	Whole Grain-Rich (1 oz. eq.)

Weekly grains totals:
2/8 (25 percent) enriched;
6/8 (75 percent) whole grain-rich

Further, while the proposed days per week option would reduce competition between whole grain-rich items and enriched grains, it would also result in children not having access to whole grains at school one day per week.

To further encourage SFAs to procure whole grains, we encourage the USDA to consider ways to incentivize schools to purchase more 100-percent whole grains or 100-percent whole-grain-rich products, such as by recognizing SFAs that go beyond the 80-percent requirement and

[50] Gallup. *What Percentage of Americans Are Vegetarian?* September 2019. https://news.gallup.com/poll/267074/percentage-americans-vegetarian.aspx. Accessed April 27, 2023.
[51] National School Lunch Program Meal Pattern. https://fns-prod.azureedge.us/sites/default/files/resource-files/nslp-meal-pattern-chart-2022.pdf. Updated February 24, 2022. Accessed March 19, 2023.

recognizing food manufacturers for innovation in whole grain and whole grain-rich products as part of the Healthy Meals Incentive Initiative.

While CSPI prefers this option of the two provided, it still does not fully align with the DGA. The 2020-2025 DGA recommends that at least half of grains consumed be whole.[52] According to the USDA, eating more whole grains may reduce the risk of heart disease and support healthy digestion.[53] Whole grain consumption is associated with reduced risk of chronic disease.[54]

The majority of U.S. children ages 5 to 18 do not meet the recommended intake for whole grains and exceed the recommended limit for refined grains.[55] Prior to the 2018 rollbacks to the school meal nutrition standards, less than 15 percent of SFAs requested a whole grain-rich waiver.[56] Regardless, in 2018, the USDA halved the amount of whole grains required in school meals, from the DGA-aligned standard requiring 100 percent of grains to be whole grain-rich to a standard of 50 percent.[57]

The effects of the rollback rule coupled with the pandemic and resulting supply chain disruptions are still evident. The weakened standards removed the incentive for companies to continue to perfect their whole grain-rich K-12 products and opened the door to reintroducing enriched products to the K-12 market. Anecdotally, we have heard from school districts that they have had to stop offering some of their well-accepted whole grain-rich products because they are no longer carried by manufacturers. A 2023 study funded by CSPI found that many students who eat both school breakfast and lunch are likely consuming less than half the recommended levels of fiber from school meals.[58]

Flexibilities during the pandemic were needed, but now the USDA should send a clear message that children's health comes first by strengthening the whole grain requirement. Further, we encourage the USDA to maintain the whole grain-rich requirement in the definition of an entrée under Smart Snacks to maintain consistency with the quantitative recommendations of the DGA and to ensure students purchasing entrées a la carte are still consuming more whole grains.

Finally, we recognize that a phase-in period may be necessary for industry and school districts to reorient to stronger standards, yet the historical success of this standard is evidence of its feasibility. According to CSPI's research in 2021, in 13 of 18 product categories with creditable grains assessed, every company in the report offered at least 75 percent whole grain-rich products. In 15 of the 18 categories, there was at least one company that offered whole grain-rich grains exclusively.[59] According to SNMCS, for combination lunch entrées, SFAs provided the whole-grain-rich versions of all types of combination entrées in all grades more frequently on daily lunch menus than non-whole-grain-rich versions (except for *mixtures with meats/meat*

[52] U.S. Department of Health and Human Services and U.S. Department of Agriculture. *2020-2025 Dietary Guidelines for Americans.* 9th Edition. December 2020.
[53] U.S. Department of Agriculture. Grains. MyPlate.gov. https://www.myplate.gov/eat-healthy/grains. Accessed April 27, 2023.
[54] Seal CJ, Brownlee IA (2015) Whole-grain foods and chronic disease: evidence from epidemiological and intervention studies. Proc Nutr Soc. 2015 Aug;74(3):313-9.
[55] U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2020–2025*. 9th Edition. December 2020.
[56] 82 FR 56703
[57] 83 FR 63775
[58] Chapman LE, et al. Nutrient Content and Compliance with Sodium Standards in Elementary School Meals in the United States Pre- and Post-COVID-19. *Nutrients*. 2022;14(24):5386.
[59] Center for Science in the Public Interest. *2021 School Meals Corporate Report Card.* 2021.

alternates and vegetables).[60] SFAs and industry have been successful in meeting a DGA-aligned standard in the past, and they can do so again.

Section 5: Sodium

We appreciate the USDA's continued focus on the need to reduce sodium in school meals. The proposed reductions are a good next step and will help lower sodium intake in children, but the final limits do not go far enough. The USDA should revise the proposed reductions to fully align with the quantitative recommendations in the most recent DGA.

The DGA recommends that children ages 4-8 years limit sodium intake to <1,500 mg a day, <1,800 mg for children 9-13, and <2,300 mg for children 14-18. These limits are based on the 2019 National Academies of Sciences, Engineering, and Medicine (NASEM) Dietary Reference Intake report for sodium. The NASEM found that exceeding these limits, known as Chronic Disease Risk Reduction Intakes (CDRR), "increase the risk of chronic disease in the population."[61] According to the DGA, children 4-8 years consume, on average, between 2,525-2,785 mg of sodium per day.[62] Those numbers increase to 3,030-3,451 mg for children 9-13 years and 2,875-3,888 mg for children 14-18 years—all substantially higher than the CDRR amount.[63] A 2014 nationally representative poll conducted by Pew Charitable Trusts, Robert Wood Johnson Foundation, and American Heart Association found that 75 percent of parents think salt should be limited in school meals.[64]

The USDA acknowledges in the preamble of the rule that while the Healthy Eating Index (HEI) score for sodium improved from SY 2009-2010 to SY 2014-2015, it remained at a score of 27 percent of the maximum possible score. Compared to the 95 percent for fruits, 82 percent for vegetables, and 95 percent for whole grains, *sodium offers the greatest opportunity for improvement in school meals*.[65]

Under the proposed rule, the average sodium intake for children will continue to exceed the DGA recommended limit. For example, an elementary school lunch could contain up to 810 mg of sodium after the third sodium reduction occurs in 2029.[66] That represents more than half (54 percent) of the 2020-2025 DGA daily sodium limit for 5-8-year-olds from lunch alone. School breakfast could provide an additional 435 mg or 29 percent of the 2020-2025 DGA daily limit for that age group. That means children up to age 8 could consume 83 percent of their daily sodium limit at breakfast and lunch, leaving just 17 percent for dinner and snacks. This would make it extremely difficult for children to meet the DGA recommendations for sodium.

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[60] U.S. Department of Agriculture, *School Nutrition and Meal Cost Study Volume* 2. 2019. https://fns-prod.azureedge.net/sites/default/files/resource-files/SNMCS-Volume2.pdf. Accessed March 2022.
[61] National Academies of Sciences, Engineering, and Medicine 2019. *Dietary Reference Intakes for Sodium and Potassium*. Washington, DC: The National Academies Press.
[62] U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2020-2025.*
[63] U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2020-2025.*
[64] Pew Charitable Trusts. Parents Support Healthier School Food Policies by 3-to-1 Margin. September 2014. Available at: https://www.pewtrusts.org/en/about/news-room/press-releases-and-statements/2014/09/08/parents-support-healthier-school-food-policies-by-3to1-margin Accessed April 28, 2023.
[65] 88 FR 8050
[66] 88 FR 8050

This is concerning because excess sodium consumption places children at increased risk of developing elevated blood pressure at an early age. Children with high sodium diets are approximately 36 percent more likely to have elevated blood pressure than children with lower sodium diets.[67] Studies show a link between high blood pressure in childhood and high blood pressure in adulthood.[68] According to a 2018 report from the Centers for Disease Control and Prevention (CDC), approximately one in seven youth between the ages of 12-19 years already have elevated blood pressure or hypertension.[69]

We urge the USDA to adopt strong sodium standards that fully align with the quantitative recommendations in the DGA. To do this, the USDA should develop new final limits based on the CDRR amounts, using the same process developed by the NASEM in the *School Meals: Building Blocks for Healthy Children* report.[70] The final sodium reduction limits should be set at 21.5 percent of the CDRR (and corresponding DGA recommendation) for breakfast and 32 percent of the CDRR (and corresponding DGA recommendation) for lunch.

Recommended Final Sodium Limits

Grade Group	Final Sodium Limit*
Breakfast	
K–5	≤340 mg**
6–8	≤390 mg
9–12	≤500 mg
Lunch	
K–5	≤510 mg**
6–8	≤580 mg
9–12	≤740 mg

* Recommended final sodium limits represent 21.5 percent of the CDRR for breakfast and 32 percent of the CDRR for lunch.
** Limits for K-5 are slightly higher than 21.5 percent and 32 percent of the CDRR because this group spans two different Dietary Reference Intake groups.

[67] Rosner, et al. Childhood blood pressure trends and risk factors for high blood pressure: The NHANES experience 1998-2008. *Hypertension* 2013; 62:247-254.
[68] 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;17:657-662
[69] Jackson SL, et al. Hypertension Among Youths — United States, 2001–2016. MMWR Morb Mortal Wkly Rep 2018;67:758–762.
[70] Institute of Medicine. *School Meals: Building Blocks for Healthy Children*. The National Academies Press. 2010.

CSPI recognizes that SFAs have expressed concern regarding the feasibility of stronger sodium standards, and further limits may not be welcomed.[71] We recognize the need for a gradual approach, and as such, encourage the USDA to establish a longer implementation period to reach DGA-aligned final targets outlined above.

SFAs can meet sodium limits that fully align with the DGA over time and have already made major progress. In fact, SFAs that reached Target 2 at breakfast and lunch have *already* lowered sodium to levels at or lower than the first sodium reduction limit proposed for 2025. The SNMCS found that in SY 2014-15, the average school lunch was already well below the required Target 1, while the average school breakfast was meeting Targets 1 and 2 and was very close to meeting Target 3[72], as demonstrated in the table below.

Grade Group	Average Sodium Content of SBP Breakfasts in SY 2014-15[73]	Final Target (Target 3)[74]	Difference
K-5 (elementary)	454 mg	430 mg	24 mg
6-8 (middle)	494 mg	470 mg	24 mg
9-12 (high)	507 mg	500 mg	7 mg

A more recent study found that even during the pandemic, sodium decreased in breakfast and lunch between 2019 and 2022, and that the vast majority of school menus were compliant with Target 1 and Interim Target 1A and were close to or already meeting Target 2.[75] CSPI's 2021 School Meals Corporate Report Card also found that products from all major food manufacturers in the K-12 market already met or were very close to meeting Target 2 at lunch.[76]

We support the USDA's plan to recommend sodium limits for certain products. The USDA should focus on those products that are the top sources of sodium in school meals according to the SNMCS.[77] We encourage the USDA to consider opportunities to incentivize manufacturers to produce products that meet these limits (e.g., giving bid preference to these items).

Given the high amounts of sodium present in processed meats and their classification as a Class I carcinogen by the International Agency for Research on Cancer[78], we encourage the USDA to limit or phase out the permissibility of processed meats in school meals.

While flavored milk is not a top source of sodium, milk producers should also look to reduce sodium in addition to added sugars in their flavored school milks. In CSPI's 2022 analysis of 51

[71] School Nutrition Association. 2023 School Nutrition Trends Report. 2023. https://schoolnutrition.org/resource/2023-school-nutrition-trends-report/. Accessed April 28, 2023.
[72] U.S. Department of Agriculture. *School Nutrition and Meal Cost Study*. 2019. https://www.fns.usda.gov/school-nutrition-and-meal-cost-study.
[73] U.S. Department of Agriculture. *School Nutrition and Meal Cost Study*. 2019. https://www.fns.usda.gov/school-nutrition-and-meal-cost-study.
[74] 77 FR 4087
[75] Chapman LE, et al., 2022.
[76] Center for Science in the Public Interest. *School Meals Corporate Report Card 2021*. https://www.cspinet.org/resource/school-meals-corporate-report-card-2021.
[77] U.S. Department of Agriculture. *School Nutrition and Meal Cost Study*. 2019. Tables 7.1 and 7.2. https://fns-prod.azureedge.us/sites/default/files/resource-files/SNMCS-Volume2.pdf
[78] World Health Organization. Red Meat and Processed Meat IARC Monographs on the Evaluation of Carcinogenic Risks to Humans Volume 114

flavored and unflavored, fat-free and low-fat school milks, we found that the sodium content in flavored milk (which ranged from 95-250 mg and averaged 164 mg) was significantly higher than in unflavored milk (which ranged from 95-160 mg and averaged 117 mg).[79]

The USDA can help SFAs build on this progress and meet stronger sodium standards. We strongly support the USDA's plan to provide technical assistance, share innovative ideas and best practices, provide grants to small or rural SFAs, and encourage collaboration with the food industry. The Healthy Meals Incentive Initiative, along with kitchen equipment grants, Team Nutrition, and the Institute of Child Nutrition are valuable resources for SFAs. We encourage the USDA to also focus on providing targeted technical assistance that delivers more intensive and personalized training for those programs that may still have difficulties lowering sodium.

Section 6: Menu Planning Options for American Indian and Alaska Native Students

CSPI supports the USDA's proposal to add tribally operated schools, schools serving primarily American Indian or Alaska Native children, and schools operated by the Bureau of Indian Education to the list of schools that may serve vegetables to meet the grains requirement, as well as extending this allowance to CACFP and SFSP operations that predominantly serve these populations.

Section 7: Traditional Foods

CSPI supports the USDA's proposal to explicitly state in regulation that traditional foods may be served in reimbursable school meals and applauds the USDA's commitment to supporting efforts to incorporate traditional foods into school meals, including by addressing barriers to doing so.

Section 8: Afterschool Snacks

CSPI supports the USDA's proposal to align NSLP snack standards for school-aged children with the CACFP snack requirements, create one NSLP snack meal pattern chart, and change all regulatory references from "meal supplements" to "afterschool snacks."

Section 9: Substituting Vegetables for Fruits at Breakfast

Current regulations that allow schools to substitute vegetables for fruit at breakfast were designed to ensure that students are provided a variety of vegetables.[80] Through Federal appropriations, Congress has repeatedly undermined these regulations, such as by allowing hash browns to be served daily.[81,82,83]

It is important for growing kids to receive a variety of vegetables and fruits to help provide a balanced diet and critical nutrients. The USDA's proposal to require schools that substitute vegetables for fruits at breakfast more than one day per school week to offer a variety of vegetable subgroups (from at least two subgroups) will require more variety than what is allowed but will still allow hash browns to be served 4 out of 5 days per week. The appropriations rider

[79] Center for Science in the Public Interest. Behind the Carton 2022 School Milk Report. https://www.cspinet.org/resource/behind-carton-school-milk-report-2022.
[80] 77 FR 4087
[81] Consolidated Appropriations Act, 2022. P.L. 117-103.
[82] Consolidated Appropriations Act, 2021. P.L. 115-260.
[83] Further Consolidated Appropriations Act, 2020. P.L. 116-94.

allows hash browns (and other potatoes) to be served 5 out of 5 days per week.[84] As an alternative, CSPI recommends that the USDA strengthen the requirement to:
Schools may substitute vegetables for fruits at breakfast, provided that a single vegetable subgroup cannot make up more than ½ of vegetable offerings at breakfast per week.

Simplified menu offerings (only showing fruit and vegetables) that would be compliant under this regulation are below:

Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**
Starchy	Dark Green	Other	Red/Orange	Starchy

Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**
Starchy	Dark Green	Other	Fruit	Fruit

Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**
Starchy	Dark Green	Fruit	Fruit	Fruit

Section 10: Nuts and Seeds

CSPI supports the USDA's proposal to allow nuts and seeds to credit for the full meat/meat alternate (or protein source) component in child nutrition programs, consistent with current crediting for nut and seed butters. CSPI encourages the USDA to continue to stress the importance of safe serving practices for younger children, preventing allergen exposures, and serving nuts and seeds within the allowable overall weekly limits for calories, saturated fat, sodium (and added sugars), as stated in the proposed rule.

Section 11: Competitive Foods - Hummus Exemption

CSPI supports the USDA's proposal to add hummus to the list of foods exempt from the total fat standard in the competitive food, or Smart Snack, regulations, provided that it continues to be subject to the saturated fat standard.

Section 13: Buy American

The USDA can create more diversified and resilient supply chains by supporting local and regional food systems. Strengthening support for locally owned, small and mid-sized agricultural and local food processing operations will both create more robust regional economies and promote stability and security in the food supply.

As USDA's Agricultural Marketing Service explains, "The consumer demand for locally produced food is creating jobs and opportunity throughout rural America for farms, businesses

[84] Consolidated Appropriations Act, 2022. P.L. 117-103.

and entrepreneurs that store, process, market and distribute food locally and regionally."[85] Operators should have the opportunity to specifically source from farmers, producers, and vendors in their own communities. This change will shift social power – defined as "communal self-determination"[86] – to program operators.

As such, CSPI supports the proposed five percent ceiling on the non-domestic commercial foods a school food authority may purchase per school year, which is vital to maximizing the impact of domestic purchasing with public dollars on our nation's food and farm economy.

Section 14: Geographic Preference Expansion

CSPI strongly supports the USDA's proposal to expand geographic preference to allow locally grown, raised, or caught as procurement specifications for unprocessed or minimally processed food items, and we urge the USDA to continue to highlight offering unprocessed or minimally processed food items as a best practice in technical assistance and materials to SFAs.

Under current procurement rules, smaller food producers have a harder time competing against larger ones. With the "local" provision, SFAs will have the option to designate and/or require that food items, such as locally grown fruits/vegetables, be produced locally in the bid specification. This will give local producers an opportunity to be competitive in the bid process.

Section 15: Miscellaneous Changes

CSPI supports USDA's proposals to change the name of the meat/meat alternate component in the NSLP, SBP, and CACFP to "protein sources" and to change "legumes (beans and peas)" to "beans, peas, and lentils."

In April 2021, California's Office of Environmental Health Hazards Assessment (OEHHA) released a ground-breaking, peer-reviewed report concluding that, "synthetic food dyes can impact neurobehavior in some children. Data from multiple evidence streams, including epidemiology, animal neurotoxicology, and mechanistic studies, support this finding."[87] The OEHHA report concluded that FDA's Acceptable Daily Intakes, or ADIs, "may not provide adequate protection from neurobehavioral impacts in children."[88] OEHHA explains that, "the animal studies that form the basis of the FDA ADIs are many decades old and were not capable of detecting the types of neurobehavioral outcomes measured in later studies, or for which there is concern in children consuming synthetic dyes."[89] Further, the FDA has already found that the color additive, FD&C Red No. 3, causes cancer in laboratory animals[90] and subsequent studies

[85] U.S. Department of Agriculture, Agricultural Marketing Service. *Local and Regional Food Sector*. https://www.ams.usda.gov/services/local-regional/food-sector. Accessed April 28, 2023.
[86] Racial Equity Tools Glossary, MP Associates, Center for Assessment and Policy Development, and World Trust Educational Services, July 2022. Accessed April 28, 2023.
[87] Office of Environmental Health Hazard Assessment. *Health Effects Assessment. Potential Neurobehavioral Effects of Synthetic Food Dyes in Children.* 2021. https://oehha.ca.gov/media/downloads/risk-assessment/report/healthefftsassess041621.pdf. Accessed April 28, 2023.
[88] Office of Environmental Health Hazard Assessment.
[89] Office of Environmental Health Hazard Assessment.
[90] Final Rule: Termination of Provisional Listings of FD&C Red No. 3 for Use in Cosmetics and Externally Applied Drugs and of Lakes of FD&C Red No. 3 for All Uses, 55 Fed. Reg. 3516 (Feb. 1, 1990). (Stating, "Having concluded that FD&C Red No. 3 causes cancer in rats, the agency hereby terminates the provisional listing of FD&C Red No. 3 for use in cosmetics and externally applied drugs and the provisional listing of the lakes of FD&C Red No. 3 for use in food, drug, and cosmetic products, effective January 29, 1990.)

and reviews have reinforced that conclusion.[91] Nonetheless, FDA does permit the use of synthetic food dyes,[92] and current school nutrition standards do not address them. We strongly urge the USDA to disallow products containing synthetic dyes from school meals and Smart Snacks.

When the National School Lunch Act was passed in 1946, it established the goal of the school meal program to "safeguard the health and well-being of the Nation's children."[93] Today, living up to that intention means leveraging school meals to help combat the greatest threat facing this and future generations of children: climate change.[94] some of the world's leading scientists have explored how to successfully, sustainably, and healthfully feed the growing global population and reported on their findings in the EAT-Lancet Report.[95]According to the report, "a diet rich in plant-based foods and with fewer animal source foods confer both improved health and environmental benefits."

To better support SFAs interested in offering plant-forward menu items, we request the USDA to make the following updates:

- Include quinoa and other grains high in protein in the new "protein sources" meal component.
- Encourage schools to offer daily plant-based options beyond a nut butter sandwich in technical assistance and materials.
- Allow beans, peas, and lentils – as well as tofu and soy products – to qualify as a meat alternate even if they are not visually recognizable.
- Allow red lentil pasta to credit as a meat alternate regardless of whether it is served alongside a visually recognizable meat/meat alternate, and allow beans, peas, and lentils to credit as a meat alternate in smoothies.
- Clarify that beans, peas, and lentils can credit as both a vegetable and meat alternate on the same day if served in sufficient quantities.
- Allow a single legume dish to credit as a vegetable *or* meat alternate on the same day.

CSPI encourages the USDA to advance racial equity and justice through the Final Rule by allowing procurement specifications that reflect this articulated commitment of the USDA. The USDA explains its Equity Commission: "At USDA, we acknowledge we have not done enough to provide all farmers and ranchers an equal chance of success and prosperity. We are committed to changing that, actively working to build a USDA that ensures none of our customers are ignored or left behind."[96] A necessary step towards this goal is allowing SFAs to contribute to this long overdue effort through purchasing both via guidance on specifications to prioritize

[91] CSPI et al. Color Additive Petition to remove FD&C Red No. 3 from the permanent list of color additives approved for use in food and dietary supplements. 2022.https://www.cspinet.org/sites/default/files/2022-10/Red%203%20petition_24%20Oct%202022_FINAL%20%281%29.pdf.
[92] Food and Drug Administration. *Summary of Color Additives for Use in the United States in Foods, Drugs, Cosmetics, and Medical Devices*. 2022. https://www.fda.gov/industry/color-additive-inventories/summary-color-additives-use-united-states-foods-drugs-cosmetics-and-medical-devices. Accessed November 16, 2022.
[93] 42 U.S.C. 1751
[94] World Health Organization. *Climate change and health.* October 30, 2021. https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health. Accessed April 30, 2023.
[95] Eat Lancet Commission. Summary Report of the EAT-Lancet Commission. https://eatforum.org/content/uploads/2019/07/EAT-Lancet_Commission_Summary_Report.pdf. Accessed May 1, 2023.
[96] U.S. Department of Agriculture. *Equity Commission: Shaping Change at USDA*. https://www.usda.gov/equity-commission. Accessed May 1, 2023.

diverse suppliers as well as bids structured to address barriers to entry for BIPOC business owners and operators.

As such, we urge the USDA to clarify that a bid specification for "foods produced by an historically underserved, socially disadvantaged, or limited resource farmer or producer" is allowable.

The workers who harvest, process, transport, prepare, and serve food deserve the same benefits and legal protections as workers in other industries in our country, however, many do not currently have these. Throughout the supply chain, the federal government must protect the right of workers to organize, ensure healthy and safe working conditions, and pay living wages to workers across the food supply chain.

Valuing workforce across the supply chain – including operators – is necessary to USDA's core values of respect and dignity: "We treat all people with courtesy and respect, and we value the inherent dignity of every individual."[97] . Ultimately, doing so will move the Agency closer to alignment with its statement that "Equity is not an add-on or extra."[98] To best foster a valued workforce, we encourage USDA to clarify that SFAs have the authority to terminate contracts with vendors who have a documented history of repeat and egregious labor violations.

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Additional Background: Best Practices

Reducing food waste

A 2019 report suggests that school food waste weighs an estimated 530,000 tons annually, with a value of $1.7 billion.[99] Opponents of strong nutrition standards claim that the healthier meals have contributed to increased waste. However, according to USDA's SNMCS, waste has not increased since the implementation of the HHFKA and was a problem well before the meal pattern updates.[100] Efforts to address school food waste should focus on proven strategies such as increased time to eat, timing of meals, recess before lunch, nutrition education, provider technical assistance, utilization of offer vs. serve (explained below), kitchen equipment use (*e.g.,* fruit slicers to make it easier for younger children to eat pre-sliced fruit), involving students in taste tests and meal planning, and renaming and presenting the food in kid-friendly and appealing ways.[101]

Full Use of Offer vs. Serve (OVS)

The goal of OVS is to reduce food waste while allowing students to choose the foods they want to eat. The USDA's own data shows that OVS helps to reduce food waste.[102] When students and

[97] U.S. Department of Agriculture. *Strategic Plan Fiscal Years 2022-2026.* https://www.usda.gov/sites/default/files/documents/usda-fy-2022-2026-strategic-plan.pdf. Accessed May 1, 2023.
[98] U.S. Department of Agriculture. *Equity at USDA.* https://www.usda.gov/equity. Accessed May 1, 2023.
[99]World Wildlife Fund. Food Waste Warriors: A Deep Dive into food waste in US Foods. https://c402277.ssl.cf1.rackcdn.com/publications/1271/files/original/FoodWasteWarriorR_CS_121819.pdf?1576689275. Accessed on May 1, 2023.
[100] U.S. Department of Agriculture, School Nutrition and Meal Cost Study Volume 4. 2019.
[101] Cohen JFW, Hecht AA, Hager ER, Turner L, Burkholder K, Schwartz MB. Strategies to Improve School Meal Consumption: A Systematic Review. Nutrients. 2021 Oct 7;13(10):3520.
[102] U.S. Department of Agriculture, School Nutrition and Meal Cost Study Volume 4. 2019.

cafeteria staff understand OVS, meal lines move smoothly, allowing students to make the most of mealtime and enjoy the wholesome and appealing foods they are served. OVS also helps reduce the overall cost of food.[103] Currently, OVS is mandated only for high school students. Schools should be encouraged to use OVS in elementary and middle schools whenever feasible.

Increasing Time for Children to Eat

The USDA has recommended schools have a 20 or 30-minute lunch period as a strategy to mitigate plate waste.[104] The CDC recommends students should have at least 20 minutes of seated time to socialize and consume their meal.[105] However, nearly 50 percent of school districts do not require, or even recommend, any amount of time for breakfast, nor do about 25 percent of school districts for lunch.[106] A randomized clinical trial that evaluated seat times and food consumption and waste found that during 10 minutes of seated lunch time, participants consumed significantly less fruit and vegetables compared with 20 minutes of seated lunch time.[107]

Schools should provide 30-minute lunch periods to account for time to stand in line and acquire a meal as well as schedule lunch after recess.[108] School nutrition programs can train staff to efficiently move children through the meal line, offer grab-n-go style service throughout the school building, prepare fruits and vegetables that are easier to consume, and, most importantly, take advantage of universal school meal options like the Community Eligible Program (CEP) to help reduce waste.[109] The USDA, CDC, and the Department of Education (DoE) must work together to promote and incentivize best practices around time for children to eat.

We urge the USDA, in coordination with CDC and DoE, to issue guidance that recommends best practices for time to eat and timing of meals, particularly for lunch. A similar request was made in Congress with the legislation Healthy Meal Time Act (H.R. 6526) introduced in January 2022 by Representatives Kim Schrier, M.D. (WA-08) and Suzanne Bonamici (OR-01), formerly chair of the House Education and Labor Subcommittee on Civil Rights and Human Services. Further, such provisions could be included in local wellness policy requirements.

Providing Additional Technical Assistance and Greater Transparency

According to the USDA, when operators were asked to list challenges they encountered while implementing the new meal patterns they ranked staff training as a three on a five-point scale, indicating that it was a significant challenge.[110] To make lasting change in the NSLP, there must be adequate investment in supporting those expected to make the changes. The solution to

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[103] U.S. Department of Agriculture. Offer vs. Serve Tip Sheet. https://www.fns.usda.gov/tn/offer-vs-serve-lunch-program-tip-sheet. Accessed May 2023.
[104] U. S. Department of Agriculture. *Reducing Food Waste at K-12 Schools*. https://www.usda.gov/foodlossandwaste/schools. Accessed March 2022.
[105] Centers for Disease Control and Prevention. *Making Time for School Lunch.* https://www.cdc.gov/healthyschools/nutrition/pdf/310518-A_FS_SchoolLunchUpdate_508.pdf. Accessed May 9, 2023.
[106] Centers for Disease Control and Prevention. Results from the School Health Policies and Practices Study 2016. https://www.cdc.gov/healthyyouth/data/shpps/pdf/shpps-results_2016.pdf.
[107] Burg X, et al. Effects of Longer Seated Lunch Time on Food Consumption and Waste in Elementary and Middle School–age Children: A Randomized Clinical Trial. JAMA Netw Open. 2021;4(6):e2114148.
[108] Centers for Disease Control and Prevention. *Making Time for School Lunch.*
[109] Centers for Disease Control and Prevention. *Making Time for School Lunch.*
[110] U.S. Department of Agriculture, School Nutrition and Meal Cost Study Volume 1. 2019.

operations challenges is to double down and support efforts that have been shown to significantly improve the nutritional quality of food offered to children at school.

We thank the USDA for the landmark investment in school meals through the $100 million Healthy Meals Incentive Initiative. The recognition program, coupled with incentives for small and/or rural SFAs and school food system transformation challenge sub-grants will undoubtedly support schools in offering healthier meals. Additionally, we encourage the USDA to deliver robust technical assistance to state agencies to ensure they can sufficiently support SFAs and reinstate Team Up for School Nutrition Success (Team Up) trainings and work with states to deliver state-based trainings.

As part of this, the USDA must regularly report to Congress and the public on technical assistance efforts, particularly on sodium, whole grain-rich grains, and added sugars. This should include progress by schools to meet the standards and efforts by the USDA to work with industry to provide products that meet the standards. The USDA must also report the compliance with the nutrition standards, which was last publicly posted in 2016, after years of updating these figures quarterly.

Providing Additional Equipment and Infrastructure Investment

Another barrier to providing nutritious, appealing meals in schools is outdated infrastructure for food storage and preparation. Since 2009, the USDA has provided grants of approximately $160 million in kitchen equipment funding, which is appropriated annually through Congress. Continued funding for kitchen equipment and infrastructure area essential to the success of school nutrition programs. An investment in school kitchen equipment is an investment in healthy children.

Conclusion

In conclusion, we urge the USDA to maintain the strong added sugars standard proposed in this rule and strengthen the whole grain and sodium standards so that they support students in meeting the quantitative DGA recommendations. Further, we urge the USDA to advance equity by providing a pathway for SFAs to procure and offer nutritious foods in alignment with their students' and communities' values, dietary preferences, and cultures. We further ask the USDA to work closely with the food industry to supply healthy and affordable products to the K-12 market and to help schools by providing training and technical assistance to meet these stronger standards.

Sincerely,

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