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

Simplifying Meal Service and Monitoring Requirements in the National School Lunch and School Breakfast Programs	Docket No. FNS-2019-0007

COMMENTS OF THE CENTER FOR SCIENCE IN THE PUBLIC INTEREST

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School Programs Branch
Policy and Program Development Division
Food and Nutrition Service
1320 Braddock Place, 4th Floor
Alexandria, Virginia 22314

Re: Docket No. FNS-2019-0007; Simplifying Meal Service and Monitoring Requirements in the National School Lunch and School Breakfast Programs

The Center for Science in the Public Interest[1] submits these comments in strong opposition to the U.S. Department of Agriculture's (USDA) "Simplifying Meal Service and Monitoring Requirements in the National School Lunch and School Breakfast Programs" proposed rule (85 FR 4094), which would weaken the school nutrition standards.

The importance of healthy school meals has taken on new urgency during the ongoing coronavirus outbreak. With more than 72,000 school closures in the U.S. affecting at least 37 million children, ensuring students continue to have access to healthy school meals is more critical than ever. These rollbacks fail to put children's health first, which is the clear goal of school nutrition programs under statute. If finalized, this rule would jeopardize the progress schools are making to provide healthier food to vulnerable children and decrease the overall healthfulness of school meals. The changes would decrease school meal participation by encouraging *a la carte* purchases, which is both a fiscal risk to school meal programs and an equity concern. Moreover, the proposal would allow less fruit and less variety of vegetables, which likely would result in replacing them with starchy vegetables, such as potatoes, which children already overconsume. For example, the combined changes would allow children to consume foods that are higher in sodium, saturated fat, and refined grains, and consume an additional eight cups of hash browns, tater tots, French fries or other potatoes in place of fruit in breakfast and other vegetables in lunch per child per week.

These proposed changes would jeopardize children's health. The 2012 school nutrition standards are based on sound science and reflect the 2010-2015 Dietary Guidelines for Americans (DGA),[2] which are further confirmed by the 2015-2020 DGA and the National Academies of Science, Engineering, and Medicine (formerly, Institute of Medicine) 2009 report *School Meals: Building Blocks for Healthy Children*.[3] The Harvard University T.H. Chan School of Public Health concluded that the 2012 update to school meal standards and the 2013 update to competitive foods is, "one of the most important national obesity prevention policy achievements in recent

[1] CSPI is a non-profit organization supported by approximately 500,000 members and subscribers to its *Nutrition Action Healthletter*.
[2] 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.
[3] Institute of Medicine. *School Meals: Building Blocks for Healthy Children*. Washington, DC: The National Academies Press; 2010.

decades."[4] Researchers estimate that these improvements could prevent more than two million cases of childhood obesity and save up to $792 million in health-care related costs over ten years. Improved school nutrition is critical given that one out of three children and adolescents aged 2 to 19 years is overweight or obese[5,6] and children consume one-third to one-half of daily calories during the school day.[7]

Absent a review by USDA, a recent Health Impact Assessment (HIA) conducted by the Robert Wood Johnson Foundation's Healthy Eating Research program found that the proposed changes would adversely affect student's health and academic performance, and that students from low-income families attending schools that are majority black or hispanic and in rural neighborhoods are most likely to be impacted by the proposed changes.[8] The HIA recommends USDA reverse course and maintain strong nutrition standards and supporting schools via enhanced training, technical assistance, and investments in school kitchen equipment and infrastructure. Weakening school nutrition standards would be the wrong move at any time, but to pursue these changes during a moment like this—when healthy meals at school and at home are at a premium for millions of children and families—is especially problematic. The HIA estimates that these changes are likely to impact the overall dietary quality of school meals as measured by Healthy Eating Index (HEI) scores, and result in fewer school meals being aligned with the DGA.

Virtually all schools (99 percent) participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) have made and are making great progress toward serving healthier meals for participating children with less sodium; more whole grains, fruits, and vegetables; and fewer sugary drinks and unhealthy snacks.[9] USDA's 2019 *School Nutrition and Meal Cost Study*, which gathered data from more than 1,200 schools nationwide—the most comprehensive study on the updated standards to date—found that the nutritional quality of school lunches and breakfasts, measured by the HEI-2010 scores,[10] increased by 41 percent and 44 percent, respectively, between school years 2009-10 and 2014-15.[11] Additional studies have documented the efficacy of the updated nutrition standards. A Healthy Eating Research study examining 1.7 million meals served in six schools in an urban Washington school district found that the overall nutritional quality of meals increased by 29 percent under the healthier 2012 standards.[12] A study by the Rudd Center for Food Policy & Obesity examined 12 middle schools

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[4] Gortmaker SL, Wang YC, Long MW, et al. Three Interventions that Reduce Childhood Obesity Are Projected to Save More Than They Cost to Implement. *Health Aff.* 2015;34:1932-9.
[5] 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.
[6] 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.
[7] U.S. Department of Agriculture. *School Nutrition Dietary Assessment Study-III*. Washington, DC: USDA; 2007.
[8] Lott M, Miller L, Arm K, Story M. Rapid Health Impact Assessment on USDA Proposed Changes to School Nutrition Standards. Durham, NC: Healthy Eating Research; 2020. Available at https://healthyeatingresearch.org/.
[9] U.S. Department of Agriculture. *School Meal Certification Data* (as of September 2016). Washington, DC: USDA; 2017.
[10] Total HEI-2010 scores provide an overall measure of nutritional quality. A higher score reflects better conformance with Dietary Guidelines for Americans recommendations and higher nutritional quality.
[11] U.S. Department of Agriculture. *School Nutrition and Meal Cost Study.* Washington, DC. USDA; 2019.
[12] Johnson DB, Podrabsky M, Rocha A, et al. Effect of the Healthy Hunger-Free Kids Act on the Nutritional Quality of Meals Selected by Students and School Lunch Participation Rates. *JAMA Pediatr*. 2016;170:e153918.

in an urban, low-income school district and found that more students chose fruit after the healthier standards went into effect and students ate more of their vegetables and lunch entrées.[13] The DGA has long recommended a healthy eating pattern that is high in fruits, vegetables, lean protein foods, and whole grains, and low in saturated fat, cholesterol, sugar, sodium, and refined grains. Further misalignment with the DGA will put children at increased risk of diet-related disease due to increased consumption of sodium, sugar-sweetened foods and drinks, processed meats, and refined carbohydrate foods like white bread and fried potatoes. In fact, the 2020 Dietary Guidelines Advisory Committee is currently reviewing the existing evidence on dietary patterns and health, including evidence that dietary patterns higher in refined carbohydrate foods like French fries are linked to greater risk of some cancers[14] and all-cause mortality.[15] This scientific review underlying the DGA process reinforces limiting fried starchy vegetables as part of a healthy dietary pattern.

In addition to the threat to children's health, the rollbacks depart from the solid bipartisan history of child nutrition programs. Under the George W. Bush administration, Congress passed the Child Nutrition Reauthorization Act of 2004. This legislation directed USDA to update federal school meal nutrition standards based on the Dietary Guidelines at the time. The 2020 proposed rule runs counter to longstanding congressional intent to update and advance nutrition standards for school meals based on the most recent science. Congress enacted the Healthy, Hunger-Free Kids Act of 2010 with strong bipartisan support. The legislation tasked USDA with updating nutrition standards for school meals, as well as snacks and beverages sold throughout the school day. The impactful progress made during both Republican and Democratic administrations should not be undone.

This rule is not USDA's first weakening of school nutrition. In 2018, USDA implemented a now-invalidated final rule (Child Nutrition Programs: Flexibilities for Milk, Whole Grains, and Sodium Requirements, 83 Fed. Reg. 63775 [Dec. 12, 2018]) that delayed the next levels of sodium reduction by seven years and eliminated sodium-reduction Target 3, cut the whole grain-rich standard in half from 100 to 50 percent, and allowed flavored low-fat (1 percent) milk to be sold without a calorie (and/or added sugar) limit. Despite 99 percent of public comments submitted opposed these rollbacks, USDA finalized a rule that went further in harming child nutrition and health than what was proposed in the interim final rule. That rule was recently struck down by a federal court[16] and a separate lawsuit is pending from a consortium of states—California, Illinois, Minnesota, New Mexico, New York, Vermont—and Washington, DC.

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[13] Schwartz MB, Henderson KE, Read M, et al. New School Meal Regulations Increase Fruit Consumption and Do Not Increase Total Plate Waste. *Child Obes.* 2015;11:242-7.

[14] To answer the question, "What is the relationship between dietary patterns consumed and certain types of cancer?" the 2020 Dietary Guidelines Advisory Committee is using existing systematic reviews conducted by the 2015 Dietary Guidelines Advisory Committee available at (pages 8 and 46): https://nesr.usda.gov/sites/default/files/2019-04/2015DGAC-SR-DietaryPatterns.pdf.

[15] At meeting 4 of the 2020 Dietary Guidelines Advisory Committee, the Dietary Patterns Subcommittee presented its draft conclusion for the question, "What is the relationship between dietary patterns consumed and all-cause mortality?" A key finding presented was, "the dietary patterns that included […] lower (relative to higher) refined carbohydrates and sweets tended to show reduced risk of all-cause mortality." The webcast of the meeting is available at https://www.youtube.com/watch?v=2RnX37Xoz18&feature=youtu.be.

[16] Center for Science in the Public Interest v. Sonny Perdue, GJH-19-1004 (D. Md. 2020). Accessed at: https://cspinet.org/sites/default/files/CSPI_v_USDA_Opinion_4.13.2020.pdf

The current proposed rule continues on this path of "death by a thousand cuts" and undermines efforts to improve the quality and nutritional value of foods served in schools. USDA purports that the proposed changes are "customer-focused;" however, the data show that parents and students are in favor of the healthier standards. More than 70 percent of parents with school-age children support the updated school meal nutrition standards, according to a nationally representative poll.[17] Continually weakening the standards does not provide more stability and consistency for schools or industry. On the contrary, it continuously changes the goalposts for school efforts and industry reformulation.

Proponents of the rollbacks cite decreasing participation as justification for weakening child nutrition; however, the data show that any declining participation is not a result of the 2012 standards. USDA's *School Nutrition and Meal Cost Study* found that participation is highest in schools with the healthiest meals.[18] Participation among students receiving free meals has dramatically increased (from 15.4 million children in 2008 to 20 million children in 2019) and remains the largest category (about two-thirds of participating students in 2019).[19] Overall participation remains high with about 30 million students participating in 2019. Many other factors impact participation, such as sales of competitive foods, increased charges for paid meals, time to eat, long lunch lines, and school closures and consolidations. Changing the meal pattern to incorporate less healthy foods is the antithesis of increasing participation.

Although Executive Orders 12866 and 13563 require agencies to assess costs and benefits of regulatory actions and select approaches that maximize net benefits, including the effect on public health and equity, USDA did not do these assessments, nor did they consult the public health or medical communities. A vast majority of participants are low-income: 85 percent of SBP participants and 71 percent of NSLP participants receive free or reduced priced meals, determined by their household income.[20] According to research by Bridging the Gap, prior to the updated 2012 school nutrition standards, students in more affluent and larger schools were more likely to have access to healthier foods than those in lower-income and smaller schools.[21] Another study found that improved school nutrition standards are associated with a decrease in obesity among low-income students.[22] A public health and equity analysis must be conducted to assess the potential repercussions of these proposed rollbacks.

USDA also claims that some program operators have experienced an increase in food waste, yet USDA's own research shows that plate waste has not increased with implementation of the healthier school nutrition standards.[23] Any challenges schools face should be addressed through

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[17] Hart Research Associates and Ferguson Research. Nationwide Polling Regarding Parents' Views of School Meal and Smart Snacks Standards telephone poll among 1,112 parents. 2014.
[18] U.S. Department of Agriculture, 2019.
[19] U.S. Department of Agriculture. *Child Nutrition Tables: National Level Annual Summary Tables: FY 1969-2019*. Washington, DC: USDA; 2019.
[20] U.S. Department of Agriculture, 2019.
[21] Terry-McElrath YM, O'Malley PM, Johnston LD. Foods and Beverages Offered in US Public Secondary Schools through the National School Lunch Program from 2011–2013: Early Evidence of Improved Nutrition and Reduced Disparities. *Preventive Medicine.* 2015; 78:52-58.
[22] Taber DR, Chriqui JF, Powell L, Chaloupka FJ. Association Between State Laws Governing School Meal Nutrition Content and Student Weight Status: Implications for New USDA School Meal Standards. *JAMA Pediatr.* 2013:167:513-9.
[23] U.S. Department of Agriculture, 2019.

additional technical assistance, such as: time of day and length of time to eat; involving students in taste tests and meal planning; renaming and presenting the food in kid-friendly and appealing ways; providing adequate kitchen equipment; improving nutrition education; and scheduling recess before lunch. Weakening the standards will not decrease food waste. USDA should be focusing on solutions that effectively address the problem.

The proposed changes in this rule will further undermine the school meal programs. We should be raising the bar, not lowering the floor, when it comes to providing children healthy foods.

In short, we urge the Department to:

- Remove the *a la carte* entrée exemption entirely. Do not allow an *a la carte* side exemption and maintain the whole grain-rich entrée requirement. These proposed *a la carte* changes would widen the existing junk food loophole to allow students with the economic means to purchase unbalanced meals like pizza, French fries, and cookies for lunch every day of the week, further widening the equity gap and decreasing participation in the school meals program.
- Maintain the existing variety of vegetable subgroups. Weakening this requirement would allow an additional three cups of French fries in lunch per week, reducing a healthful variety of vegetables.
- Maintain the fruit requirement in breakfast outside of the cafeteria to maintain children's access to fruit. Halving this requirement will reduce whole fruit for students and could lead to only juice being served.
- Do not make permanent the potato appropriations rider allowing schools to substitute starchy vegetables for fruit in breakfast which would decrease fruit and the healthful variety of vegetables. When taken in the aggregate with the change to the vegetable subgroup requirement in lunch, students could potentially have up to eight additional cups of French fries, tater tots, and hash browns every week in school (five cups of starchy vegetables at breakfast and an additional three cups at lunch in high school).
- Ensure that removing the grain requirement in breakfast does not increase the amount of processed meat served. The nutritional quality of school breakfast has already been weakened by halving the whole grain-rich requirement and there is no existing added sugar limit. Rather than further diminishing the grain requirement and potentially exposing children to more processed meat, which poses a risk to health, the Department should add a limit for added sugars in school meals, restore the whole grain-rich requirement, and limit processed meat in school meals.
- Do not allow grain-based desserts in the Child and Adult Care Food Program (CACFP).
- Ensure schools are providing age-appropriate meals and portion sizes by not allowing K-12 or similarly configured schools use one or two meal patterns for all students. If allowed, this change should be limited to smaller schools with fewer than 500 students.
- Expand water options in the safest way possible.
- Develop an administrative review process that is less burdensome, but maintain the 3-year frequency.

Additional detailed comments follow:

Remove the a la carte entrée exemption, do not allow an a la carte side exemption, and maintain the whole grain-rich entrée requirement.

Extending the *a la carte* entrée exemption would result in more opportunities for students to choose unbalanced meals like pizza, French fries, and cookies for lunch every day of the week. According to USDA, 59 percent of high schools, 54 percent of middle schools, and 29 percent of elementary schools sell entrée items *a la carte*.[24] Currently, entrées must fit within the overall weekly calorie, saturated fat, and sodium requirements for a reimbursable meal. But in a reimbursable meal, entrées that are higher in calories, saturated fats, or sodium are balanced by items lower in calories, saturated fats, or sodium (*e.g.*, a pizza slice is balanced with salad, baby carrots, sliced fruit, and 1 percent milk) on both the day that meal is consumed and also throughout the week.

An item that is balanced as part of the reimbursable meal is often not healthy enough to be sold with the accompanying side items that balance the meal nutritionally. Roughly one-third (30.9 percent) of daily lunch menus feature pizza (19.2 percent in elementary schools, 48.8 percent in middle schools, and 47.8 percent in high schools).[25] According to the *School Nutrition and Meal Cost Study*: "offering pizza or pizza products on more than half of daily lunch menus was associated with significantly lower mean HEI-2010 scores" and conversely, "for middle schools only, not offering French fries or similar potato products on any daily lunch menus was associated with a significantly higher mean HEI-2010 score (1.5 points higher)."[26] Other less healthy items are offered regularly as well: 21.2 percent of menus contain breaded/fried chicken nuggets and similar products (18.1 percent in elementary schools, 27.3 percent in middle schools, and 24.8 percent in high schools); 15.6 percent of daily menus contain hamburgers, (11.2 percent in elementary schools, 23.9 percent in middle schools, 20.8 percent in high schools); and 14 percent contain cheeseburgers (7.4 percent in elementary schools, 23.0 percent in middle schools, 24.5 percent in high schools).[27] According to USDA, combination entrées like pizza, cheeseburgers, and hot dogs provide 60 percent of the saturated fat and 47 percent of the sodium in a typical lunch.[28]

That is why Congress requires individually sold items to meet nutrition standards.[29] The law required USDA to establish nutrition standards for *a la carte* entrée items based on the Dietary Guidelines for America and the National Academies of Science, Engineering, and Medicine's 2007 report, *Nutrition Standards for Food In Schools: Leading the Way Toward Healthier*

[24] U.S. Department of Agriculture, 2019.
[25] U.S. Department of Agriculture, 2019.
[26] U.S. Department of Agriculture, 2019.
[27] U.S. Department of Agriculture, 2019.
[28] U.S. Department of Agriculture, 2019.
[29] Pub.L. 111–296.

Youth.[30,31,32] For example, pizza sold under these standards have to meet calorie, sodium, saturated fat, and whole grain-rich standards. The law did not allow for any exemptions other than for infrequent school-sponsored fundraisers as approved by the state.[33] Despite more than 209,000 commenters suggesting that NSLP and SBP menu items should not receive *any* exemption from the competitive food standards, USDA granted exemptions for entrée items sold on the day of and the day after it was offered for sale as part of a reimbursable meal.[34] USDA stated that it would, "closely monitor this exemption during implementation to determine the overall nutrient profile of products being offered under the exemption…*Should the exemption undermine the overall goal of the competitive food standards for healthier products for sale in schools, we will consider a stricter standard* [emphasis added]."[35]

The existing *a la carte* exemption for the day of and day after already undermines the goal of the competitive food standards. The proposed extension of this *a la carte* exemption widens the existing loophole. The expanded exemption could allow program operators to purchase additional entrées in order to serve them *a la carte* for most of the school week. Any issues with entrée leftovers can and should be addressed with better training on menu planning and procurement, rather than by lowering the standards for entrée items that do not meet the competitive foods standards and undermine children's diets and health.

Decreasing the nutritional quality of the foods served *a la carte* may impact school meal participation rates. For example, a study analyzing 154 Connecticut schools districts found that when unhealthy competitive foods were removed, lunch participation increased, and revenue increased by roughly $30,000 for an average school district per year.[36] Another study found that lunch participation increased when competitive foods were removed from high schools, compared to the control schools.[37] A study by the Robert Wood Johnson Foundation found that schools that implemented healthier nutrition standards for meals *and* snacks reported revenues rebounding to original profits two years after the updated standards went into effect (in 2014) and that participation in the school meals program rose significantly among students from low-income families during the same period.[38]

With more opportunity to choose non-compliant entrées *a la carte*, students who have the means to pay are very likely to be drawn away from the balanced reimbursable meal, and instead, would be able to make up meals such as two pizza slices, a bag of chips, a granola bar, and a G2

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[30] 78 Fed. Reg. 39068. National School Lunch Program and School Breakfast Program - Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, June 28, 2013.
[31] Institute of Medicine. *Nutrition Standards for Food In Schools: Leading the Way Toward Healthier Youth.* Washington, DC: The National Academies Press; 2007. *Nutrient standards are:* 1) no more than 35 percent of total calories from fat; 2) less than 10 percent of total calories from saturated fat; and 3) no more than 480 mg of sodium.
[32] U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015.
[33] Pub.L. 111–296.
[34] 78 Fed. Reg. 39068.
[35] 78 Fed. Reg. 39068.
[36] Long M, Luedicke J, Dorsey M, et al. Impact of Connecticut legislation incentivizing elimination of unhealthy competitive foods on National School Lunch Program participation. *Am J Public Health.* 2013;103:59-66.
[37] Boehm R, Read M, Henderson KE, Schwartz MB. Removing competitive foods v. nudging and marketing school meals: a pilot study in high-school cafeterias. *Public Health Nutr*. 2020;23:366-373.
[38] Cohen JF, Gorski MT, Hoffman JA, et al. Healthier Standards for School Meals and Snacks: Impact on School Food Revenues and Lunch Participation Rates. *Am J Prev Med*. 2016;51:485-92.

Gatorade. Such a change poses significant equity concerns. For instance, children from lower-income families who receive free lunch would end up with reimbursable meal whereas other children could pick and choose *a la carte* items for purchase. This may increase stigma in the lunchroom, reversing years of efforts to decrease lunch shaming.

The table below shows a real high school menu with the extended entrée and side exemptions (in red) that would allow for cheeseburgers and pizza with fried potatoes (tater tots or hash browns) every day, along with dessert (strawberry shortcake) on most days.

	Monday	Tuesday	Wednesday	Thursday	Friday
Entrée 1	Cheeseburger (326cal, 672mg)	Chicken Tenders (240cal, 827mg)	Sausage Pizza (360cal, 520mg)	Roasted Chicken with Dinner Roll (100cal, 200mg)	Chili with Crackers (557cal, 808mg)
Side 1	Tater Tots (149cal, 217mg)	Crispy Sweet Potato Cubes (89cal, 104mg)	Hashbrown Potatoes (250cal, 550mg)	Southern Turnip Greens (57cal, 88mg)	Crispy Sweet Potato Cubes (89cal, 104mg)
Side 2	Cheesy Broccoli (43cal, 231mg)	Seasoned Lima Beans (210cal, 663mg)	Grits with Cheese (131cal, 435mg)	Yam Patties (120cal, 160mg)	Veggie Cup with Ranch (132cal, 543mg)
Side 3	Mac & Cheese (359cal, 907mg)	Garden Salad (29cal, 133mg)	Peach Slices (65cal, 6mg)	Mac & Cheese (359cal, 907mg)	Diced Pears (78cal, 7mg)
Side 4	Fresh Strawberries (29cal, 1mg)	Fresh Oranges (61cal, 0mg)	Tropical Fruit (126cal, 3mg)	Fresh Strawberries (29cal, 1mg)	Fresh Oranges (61cal, 0mg)
Side 5	Fresh Apples (72cal, 1mg)	Applesauce (59cal, 2mg)	Assorted Vegetable Juice (28cal, 18mg)	Fresh Bananas (105cal, 1mg)	
Side 6		Strawberry Shortcake (84cal, 48mg)			
A La Carte Exempt Items (additions per the proposed rule are in red)					
Entrées					
Entrée 1	Cheeseburger (326cal, 672mg)	Cheeseburger (326cal, 672mg)	Cheeseburger (326cal, 672mg)	Sausage Pizza (360cal, 520mg)	Sausage Pizza (360cal, 520mg)
Entrée 2		Chicken Tenders (240cal, 827mg)	Sausage Pizza (360cal, 520mg)	Chicken Tenders (240cal, 827mg)	Roasted Chicken with Dinner Roll (100cal, 200mg)
Entrée 3			Chicken Tenders (240cal, 827mg)	Roasted Chicken with Dinner Roll (100cal, 200mg)	Chili with Crackers (557cal, 808mg)
Sides					
Side 1	Tater Tots (149cal, 217mg)	Tater Tots (149cal, 217mg)	Tater Tots (149cal, 217mg)	Crispy Sweet Potato Cubes (89cal, 104mg)	Hashbrown Potatoes (250cal, 550mg)
Side 2	Cheesy Broccoli (43cal, 231mg)	Strawberry Shortcake (84cal, 48mg)	Strawberry Shortcake (84cal, 48mg)	Strawberry Shortcake (84cal, 48mg)	Crispy Sweet Potato Cubes (89cal, 104mg)
Side 3	Mac & Cheese (359cal, 907mg)	Cheesy Broccoli (43cal, 231mg)	Crispy Sweet Potato Cubes (89cal, 104mg)	Hashbrown Potatoes (250cal, 550mg)	Mac & Cheese (359cal, 907mg)
Side 4	Fresh Strawberries (29cal, 1mg)	Mac & Cheese (359cal, 907mg)	Hashbrown Potatoes (250cal, 550mg)	Grits with Cheese (131cal, 435mg)	Grits with Cheese (131cal, 435mg)
Side 5	Fresh Apples (72cal, 1mg)	Crispy Sweet Potato Cubes (89cal, 104mg)	Cheesy Broccoli (43cal, 231mg)	Mac & Cheese (359cal, 907mg)	Peach Slices (65cal, 6mg)
Side 6		Seasoned Lima Beans (210cal, 663mg)	Mac & Cheese (359cal, 907mg)	Applesauce (59cal, 2mg)	Tropical Fruit (126cal, 3mg)
Side 7		Garden Salad (29cal, 133mg)	Fresh Strawberries (29cal, 1mg)	Seasoned Lima Beans (210cal, 663mg)	Assorted Vegetable Juice (28cal, 18mg)
Side 8		Fresh Oranges (61cal, 0mg)	Fresh Apples (72cal, 1mg)	Garden Salad (29cal, 133mg)	Southern Turnip Greens (57cal, 88mg)
Side 9		Applesauce (59cal, 2mg)	Seasoned Lima Beans (210cal, 663mg)	Peach Slices (65cal, 6mg)	Yam Patties (120cal, 160mg)
Side 10		Fresh Strawberries (29cal, 1mg)	Garden Salad (29cal, 133mg)	Tropical Fruit (126cal, 3mg)	Mac & Cheese (359cal, 907mg)
Side 11		Fresh Apples (72cal, 1mg)	Fresh Oranges (61cal, 0mg)	Assorted Vegetable Juice (28cal, 18mg)	Fresh Strawberries (29cal, 1mg)
Side 12			Applesauce (59cal, 2mg)	Southern Turnip Greens (57cal, 88mg)	Fresh Bananas (105cal, 1mg)
Side 13			Grits with Cheese (131cal, 435mg)	Yam Patties (120cal, 160mg)	Crispy Sweet Potato Cubes (89cal, 104mg)
Side 14			Peach Slices (65cal, 6mg)	Fresh Oranges (61cal, 0mg)	Veggie Cup with Ranch (132cal, 543mg)
Side 15			Tropical Fruit (126cal, 3mg)	Fresh Strawberries (29cal, 1mg)	Diced Pears (78cal, 7mg)
Side 16			Assorted Vegetable Juice (28cal, 18mg)	Fresh Bananas (105cal, 1mg)	Fresh Oranges (61cal, 0mg)

Allowing an exemption for sides served with the meal to be served a la carte would further undermine nutrition standards by weakening the competitive food standards.

As established by USDA's 2013 competitive foods rule, entrée items were provided an exemption allowing them to be served for one additional day as an *a la carte* item, but all school meal side dishes that are served *a la carte* must meet the competitive food or Smart Snacks standards.[39] This was, importantly, in response to significant commenter opposition to *any* exemptions for NSLP/SBP menu items from the standards.[40] Yet the current proposal requests comment on allowing an additional harmful exemption for side dishes.

Allowing an additional exemption for side dishes would significantly weaken the Smart Snacks rule by allowing numerous noncompliant items to be served *a la carte*. Rather than receiving balanced meals planned by food service professionals, students would be able to create numerous combinations of entrées and sides that are higher in calories, saturated fat, sodium, and refined grains in the *a la carte* line, bypassing items like fruits and vegetables that balance out these items when they are served as part of a reimbursable meal.

As with indulgent entrée items, noncompliant side items can only fit into a balanced reimbursable meal pattern when spread over the course of the week (and those meal patterns are now, as a result of the prior rollbacks, too high in sodium, too low in whole grains, and lacking a standard for added sugars).

Relaxing standards for *a la carte* side items is likely to increase competition with reimbursable school meals and decrease meal participation and revenue for the school and may further increase stigma toward participating students. This is why Congress required individually sold items to meet nutrition standards and did not allow for any exemptions other than for *infrequent* school-sponsored fundraisers.[41]

Removing the whole grain-rich entrée requirement would reduce whole grain consumption.

The DGAs are clear: they recommend at least half of grains be whole grain.[42] Children aged 4 to 18 do not meet the recommended intake for whole grains and exceed the recommended limit for

[39] 78 Fed. Reg. 39068.
[40] 78 Fed. Reg. 39068.
[41] Pub.L. 111–296.
[42] U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015.

refined grains.[43] Eating more whole grains is associated with reduced risk of heart disease, stroke, and diabetes; they provide more nutrients and are a healthful source of fiber.[44]

The 2018 rollbacks already reduced the amount of whole grains required to be offered in school meals.[45] USDA rolled back this standard despite 80 percent of schools not requesting a single whole grain-rich product waiver.[46] If the whole grain-rich requirement is removed for entrées offered *a la carte*, it would be possible that children who purchase *a la carte* entrées daily would *never* get whole grains at school.

Schools are already offering whole grain-rich entrées regularly, so it should not be a challenge for them to maintain their *a la carte* entrées as whole-grain rich. According to USDA's *School Nutrition and Meal Cost Study*, whole grain-rich versions of all types of combination entrées were offered in all grade configurations more frequently on daily lunch menus than non-whole-grain-rich versions (except for mixtures with meats/meat alternates and vegetables, such as pasta with broccoli).[47] Allowing non-whole grain rich entrées to be sold *a la carte* would disincentivize schools from offering whole grain-rich entrées in the reimbursable meal.

Rather than moving school foods further from the clear recommendations in the Dietary Guidelines for whole grains, schools should provide whole-grain rich foods to support children's health and the development of healthy eating patterns. Successful strategies to encourage students to eat more whole grains include student surveys, sampling and taste testing new products and recipes, and peer-to-peer sharing of food preparation techniques between school food professionals.

Reducing the minimum amount for some vegetable subgroups could allow an additional three cups of French fries per week in school lunches, reducing a healthful variety of vegetables, not waste.

In the 2012 school meal rule, USDA established subgroup minimums to be aligned with the DGA to increase variety in vegetable consumption.[48] According to the DGA, children do not

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[43] *Males (grains in ounce-equivalents):* aged 4 to 8: average whole grains 0.7, average refined grains 5.4, recommended range for whole or total grains 2.0–3.0; aged 9 to 13: average whole grains 0.7, average refined grains 6.6, recommended range for whole grains 2.5–4.5; aged 14 to 18: average whole grains 0.8, average refined grains 7.5, recommended range for whole grains 3.0–5.0. *Females (grains in ounce-equivalents):* aged 4 to 8: average whole grains 0.5, average refined grains 5.0, recommended range for whole grains 2.0–3.0; aged 9 to 13: average whole grains 0.6, average refined grains 6.0, recommended range for whole grains 2.5–3.5; aged 14 to 18: average whole grains 0.5, average refined grains 5.5, recommended range for whole grains 3.0–4.0. Data source: U.S. Department of Agriculture and U.S. Department of Health and Human Services. *What We Eat in America, NHANES 2007-2010*. Beltsville, MD: USDA, 2010.

[44] U.S. Department of Agriculture. *Why is it Important to Eat Grains, Especially Whole Grains?* https://www.choosemyplate.gov/eathealthy/grains/grains-nutrients-health. Published June 2015. Accessed February 2020.

[45] 83 Fed. Reg. 63775.

[46] 83 Fed. Reg. 63775.

[47] U.S. Department of Agriculture, 2019.

[48] 77 Fed. Reg. 4088.

meet the recommended amounts of vegetables.[49] Potatoes are the most commonly consumed vegetable, accounting for 21 percent of all vegetable consumption.[50] The DGA recommends that, "following a healthy eating pattern would include an increase in total vegetable intake from all vegetable subgroups, in nutrient-dense forms, and an increase in the *variety* of different vegetables consumed over time [emphasis added]. Each of the vegetable subgroups contributes different combinations of nutrients, making it important for individuals to consume vegetables from all the subgroups."[51] Compared to other vegetable subgroups, red and orange vegetables contain the most vitamin A.[52] By serving a greater variety of vegetables, USDA's *School Nutrition and Meal Cost Study* found greater consistency with the DGA:

> "Overall and among middle schools, offering dark green vegetables or legumes on more than half of daily lunch menus was associated with significantly higher mean HEI-2010 scores … For high schools only, a large and positive association was observed between the mean HEI-2010 score and the median number of vegetable choices offered on daily menus. Daily menus in high schools that offered a median of 3 to 4 vegetable choices across the week were associated with a significantly higher mean HEI-2010 score (2.8 points higher) than those that offered fewer than 2 vegetable choices. The difference increased to 3.8 points for high schools that offered a median of 5 or more vegetable choices."[53]

The proposal to revise the minimum vegetable subgroup requirements of the "red/orange" and "other" vegetable subgroups would likely lead to schools substituting vegetables such as carrots, sweet potatoes, cucumbers, celery, mushrooms, and other healthful choices, with French fries. This is counter to the recommendations of the DGA and could result in reduced variety of vegetables offered to students.

Reducing "red/orange" from 1.25 cups to 0.5 cups per week and "other" from 0.75 cups to 0.5 cups per week for students in grades 9-12 could lead to the federal government reimbursing schools for an additional **three cups of French fries per week under the vegetable serving requirement**. On average, 45.7 percent of vegetables offered in the NSLP are already starchy vegetables, with the greatest percentage of vegetables as starchy vegetables (53.2 percent) in middle schools.[54] Of those, French fries and similar potato products are the most common starchy vegetable served. Thus, it is expected that this proposal would result in more French fries in lieu of healthier vegetables in school lunches.

The current DGA under development further underscore these findings. The 2020 Dietary Guidelines Advisory Committee is currently reviewing the existing evidence on dietary patterns

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[49] *Males (cup-equivalents):* aged 4 to 8: average 0.8, recommended 1.5–2.5; aged 9 to 13: average 1.1, recommended 2.0–3.0; aged 14 to 18: average 1.3, recommended 2.5–4.0; *Females (cup-equivalents):* aged 4 to 8: average 0.8, recommended 1.5–2.5; aged 9 to 13: average 1.0, recommended 1.5–3.0; aged 14 to 18: average 1.1, recommended 2.5–3.0.

[50] U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015.

[51] U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015.

[52] Marcoe K, Juan W, Yamini S, et al. Development of Food Group Composites and Nutrient Profiles for the MyPyramid Food Guidance System. *J Nutr Educ Behav*. 2006;38:S93-S107.

[53] U.S. Department of Agriculture, 2019.

[54] U.S. Department of Agriculture, 2019.

and health, including evidence that dietary patterns higher in refined carbohydrate foods like French fries are linked to greater risk of some cancers and all-cause mortality.

USDA asserted that program operators find the varying NSLP vegetable subgroup requirements to be complex and confusing. Yet, USDA's *School Nutrition and Meal Cost Study* found that 93.6 percent of weekly lunch menus met weekly NSLP meal pattern requirements for quantity of red/orange and 92.1 percent met requirements for other vegetables; and these are the two subgroups that have requirements different than the 0.5 cup.[55]

Further, a majority (70 percent) of food service directors reported that the 2012 nutrition standards are very or somewhat helpful in increasing children's consumption of red/orange vegetables.[56] Rather than weakening the standards and depriving children of much-needed vegetable varieties for ideal health, training and technical assistance should focus on effective strategies that increase students' consumption of vegetables and provide additional financial and commodity support to ensure access to high-quality fresh vegetables.

USDA cited food waste as a justification for the proposed changes. Counter to claims in the proposed rule, USDA's own data supports that plate waste has not increased due to the 2012 standards.[57] Moreover, this provides no justification for this specific change: the mean percentage of red/orange vegetables wasted was comparable to the waste of other vegetable subgroups among all schools, and among middle and high schools, red/orange vegetables had the lowest mean percentage wasted.[58]

Also, there is no evidence that revising the subgroup requirements is an appropriate strategy for reducing waste; instead there are other strategies that have been demonstrated to be effective. For example, USDA found that starting lunch at 12:00 PM or later was associated with a significantly lower percentage of calories wasted than starting before 11:30 AM (18 percent versus 20 percent).[59] Other strategies include involving students in taste tests, meal planning, renaming and presenting the food in kid-friendly and appealing ways, providing more time to eat, and scheduling recess before lunch.

If consistency in servings is truly an issue, USDA could instead raise all the subgroup servings to 0.75 of a cup to match the current red/orange standard while maintaining the daily and weekly total vegetable quantities.

Halving the fruit requirement in breakfast outside of the cafeteria would limit children's access to fruit.

Weakening the standard on the availability of fruit is contrary to science-based recommendations. The standard is consistent with the recommendations of the DGA and NASEM's 2009 report *School Meals: Building Blocks for Healthy Children* that recommended

[55] U.S. Department of Agriculture, 2019.
[56] U.S. Department of Agriculture, 2019.
[57] U.S. Department of Agriculture, 2019.
[58] U.S. Department of Agriculture, 2019.
[59] U.S. Department of Agriculture, 2019.

five cups of fruits be offered per week at breakfast for grades K-12.[60] According to the DGA, children do not, or only barely, consume the recommended amounts of fruit.[61] Thanks to this standard, USDA's data shows the HEI-2010 score for whole fruit increased by 39 percentage points (from 50 to 89 percent of the maximum score) from SY 2009-2010 to SY 2014-2015.[62]

Breakfast in the classroom is a common practice; it was offered in more than a quarter of elementary schools (27 percent, 15 percent of middle schools, and 14 percent of high schools).[63] Pre-packaged "grab-and-go" breakfasts were offered in 21 percent of high schools, 15 percent of middle schools, and 7 percent of elementary schools.[64] Rolling back the fruit requirement in breakfast outside school cafeterias will decrease access to fruit for many children, counter to dietary advice.

Once again, USDA cites plate waste as justification for this rollback. The evidence shows otherwise. The *School Nutrition and Meal Cost Study* did not examine plate waste of breakfast outside of the cafeteria, but in the cafeteria, the amount of fruit waste was comparable to overall amounts of plate waste.

While USDA reasons that the amount of fruit children would take from breakfast in the classroom (0.5 cup) is comparable to what is required to be taken in the cafeteria (0.5 cup), the two scenarios are fundamentally different. Under offer-versus-serve (OVS), students eating breakfast in the cafeteria must be offered one cup of fruit (half of which can be in the form of 100 percent juice). They have the *option* to decline up to 0.5 cup of fruit (or juice). When breakfast is served outside of the cafeteria, students must also be offered one cup of fruit. Halving the fruit offering no longer allows children the ability to consume as much fruit as they could choose in the cafeteria, and students would no longer have access to a full cup of fruit should they want it. For all children, this is incompatible with a healthy diet; for the 22 million lower-income children who rely on school meals for most of their meals, this poses an equity concern.

Contrary to claims by USDA, we know of no evidence to show that weakening the fruit requirement will increase participation in breakfast in the classroom. Schools that choose to provide breakfast in the classroom, opposite of USDA's intent, are likely seeking ways to increase access to fresh fruits for low-income students. Reducing fruit in breakfast in the classroom would reduce the nutritional quality of the meal. Compared to breakfast in the cafeteria or second-chance breakfast programs, breakfast in the classroom was associated with overall strong nutritional quality without increasing calorie intake among elementary school students attending low-resource schools.[65]

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[60] Institute of Medicine, 2010.
[61] *Males (cup-equivalents):* aged 4 to 8: average 1.2, recommended 1.0–2.0; aged 9 to 13: average 1.1, recommended 1.5–2.0; aged 14 to 18: average 1.0, recommended 2.0–2.5; *Females (cup-equivalents):* aged 4 to 8: average 1.2, recommended 1.0–1.5; aged 9 to 13: average 1.1, recommended 1.5–2.0; aged 14 to 18: average 0.8, recommended 1.5–2.0.
[62] U.S. Department of Agriculture, 2019.
[63] U.S. Department of Agriculture, 2019.
[64] U.S. Department of Agriculture, 2019.
[65] Ritchie LD, Rosen NJ, Fenton K, et al. School breakfast policy is associated with dietary intake of fourth- and fifth-grade students. *J Acad Nutr Diet*. 2016;116:449-457.

The 2012 rule considered the operational challenges of schools serving breakfast in the classroom and provided flexibility by not requiring a daily meat/meat alternate in breakfast and allowing meat as a substitute for grains at breakfast.[66]

To the extent that they may exist, any operational challenges surrounding the limited opportunity to decline food items can be solved with solutions such as a "sharing table" on which children can place unwanted fruit, juice, or other items. The report *School Meals: Building Blocks for Healthy Children* hypothesized that, "a rule that allows more options to decline foods clearly could reduce waste."[67] Rather than cutting the amount of fruit children receive, the report also states that plate waste can decline in elementary schools where students could make their own choices, such as choosing different kinds of whole fruit. When breakfast is served in the classroom or "grab-and-go," operators could keep two varieties of fruit available for students. USDA should give guidance on how schools could apply these mitigating solutions.

This proposed change may also result in students only being offered juice in place of whole fruit. Although 100 percent juice can be offered, no more than half of the per-meal fruit component may be juice because it lacks dietary fiber and when consumed in excess can contribute extra calories. For example, if a school is offering 0.5 cup of fruit pieces and 0.5 cup fruit juice to meet the one cup fruit component at breakfast, the student must select at least one of those two items to have a reimbursable breakfast under OVS. However, in the classroom, if only 0.5 cup fruit is required, that may result in only juice being offered.

If finalized, to protect the health of children, this aspect of the proposal must include a requirement that the 0.5 cup serving of fruit come from whole or cut fruit and not from juice (see the below table).

Example of breakfast in the classroom from a real school menu. Under the proposed rule, the school could swap out whole fruit for juice every day.

Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**
French Toast Sticks (270cal, 280mg)	Chicken Biscuit (244cal, 533mg)	Chocolate Chip Muffin (310cal, 170mg, 26g sugar)	Egg & Sausage Biscuit (300cal, 810mg)	Yogurt (210cal, 125mg)
		Cheese Stick (60cal, 200mg)		Goldfish Graham Crackers
Apple Juice (60cal, 13g sugar)	Orange Juice (60cal, 13g sugar)	Grape Juice (80cal, 19g sugar)	Fruit Punch (100cal, 23g sugar)	Apple Juice (60cal, 13g sugar)
Raisins (130cal)	Sliced Apples (34cal)	Banana (92cal)	Orange (62cal)	Sliced Apples (34cal)
Milk	Milk	Milk	Milk	Milk
Under the Proposed Rule:				
French Toast Sticks (270cal, 280mg)	Chicken Biscuit (244cal, 533mg)	Chocolate Chip Muffin (310cal, 170mg, 26g sugar)	Egg & Sausage Biscuit (300cal, 810mg)	Yogurt (210cal, 125mg)
		Cheese Stick (60cal, 200mg)		Goldfish Graham Crackers
Apple Juice (60cal, 13g sugar)	Orange Juice (60cal, 13g sugar)	Grape Juice (80cal, 19g sugar)	Fruit Punch (100cal, 23g sugar)	Apple Juice (60cal, 13g sugar)
Milk	Milk	Milk	Milk	Milk

[66] 77 Fed. Reg. 4088.
[67] Institute of Medicine, 2010.

Making permanent the potato appropriations rider allowing schools to substitute vegetables for fruit in breakfast would decrease fruit and the healthful variety of vegetables.

For the past two fiscal years, unwarranted riders in congressional spending bills have prevented the required variety of vegetables when substituted in breakfast. Schools must offer one cup of fruit daily and five cups of fruit weekly.

While vegetables may be substituted for fruits, the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes), or "other vegetables" subgroups, *before* potatoes may be served. Making this rollback permanent would lead to less fruit and less variety in the vegetables being served (*e.g*., leafy greens such as spinach in an omelet or black beans in a breakfast burrito). Instead, more potatoes (*e.g*., hash browns, home fries) could, and likely would, be served. **When taken in the aggregate of the relaxed vegetable subgroup requirement in lunch, students would foreseeably be consuming potatoes in breakfast and potatoes in lunch, and could potentially have up to eight cups of French fries, tater tots, and hash browns every week in school (five cups of starchy vegetables at breakfast and an additional three cups at lunch).**

Starchy vegetables, such as potatoes, are already consumed in abundance, and French fries, in particular, are associated with unhealthy dietary patterns (see discussion above). It is important for growing kids to receive a variety of vegetables and fruits to help provide a balanced diet and needed nutrients.

Removing the grain requirement in breakfast could increase the amount of processed meat served.

USDA has already weakened the nutritional quality of school breakfast by halving the whole grain-rich requirement and failing to require an added sugars limit. The lack of a standard has led to overly sugary breakfasts in schools, including items such as sweetened cereals, French toast sticks, cinnamon rolls, muffins, and other pastries. Removing the grain requirement might help reduce these sugary items in school breakfast.

However, removing the grain requirement could also increase the amount of processed meats, such as sausage, ham, and bacon. Processed meats (in burgers and sandwiches) are a top source of sodium in Americans' diets.[68] USDA has rolled back sodium levels in school meals, locking them in at unsafe levels. In addition, processed meats pose a cancer risk. A comprehensive review of the evidence by the American Institute for Cancer Research, the leading U.S. authority on the link between diet and cancer risk, has found that regular consumption of processed meats increases the risk for colorectal cancer, one of the leading types of cancer in the U.S.[69] Numerous expert groups, including the World Health Organization, American Heart Association, and the American Cancer Society, advise limiting consumption of processed meats. The

[68] U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015.
[69] World Cancer Research Fund/American Institute for Cancer Research. Diet, Nutrition, Physical Activity, and Cancer: A Global Perspective. Continuous Update Project Expert Report, 2018. Available at https://www.aicr.org/research/third-expert-report/.

American Institute for Cancer Research recommends avoiding them altogether.[70] Since processed meats are allowed to be served in the school meal programs without restrictions, USDA must consider and provide guidance on how to mitigate an influx of processed meats in place of grain-based breakfasts.

Do not allow grain-based desserts (e.g. cakes, cookies, and donuts) to be creditable in the Child and Adult Care Food Program.

The current regulations prohibiting the crediting of grain-based desserts in the Child and Adult Care Food Programs (CACFP) have been a resounding success. Program operators are serving healthier meals and snacks through CACFP. The 4.5 million children participating in CACFP have benefitted from the improvements in child care centers, homes, and afterschool programs across the country. The rule is simple, practical, and understandable for all levels of program staff from a volunteer in an afterschool program, to a busy family child care provider, to a nutritionist in charge of Head Start menus. Rolling back the rule now would undermine the success of the healthier meal pattern, increasing empty calories, saturated fat, and refined grains in CACFP meals and snacks.

Implementing an across-the-week allowance for grain-based desserts is likely to complicate program administration as well as harm child nutrition and health. CACFP program monitoring and auditing is done on a daily basis. This administrative approach determines a significant portion of the CACFP meal pattern design. As was made clear in the original rulemaking, any new requirement that counts across the week would create confusion for program operators and auditing difficulties. A two-ounce equivalent per week limit would allow grain-based desserts to be served to preschool children four times a week. (For children aged one to five the grain serving size is 0.5 of an ounce equivalent.)

Grain-based desserts are not a necessary dietary component; there are many other foods available that can be used to meet grain recommendations. The consumption of grain-based desserts (cakes, snack cakes, cookies, or pastries) is already widespread among young children: 27 percent of 12- to 17.9-month-olds and 36 percent of 18- to 23.9-month-olds consume sweet bakery items on a typical day.[71] Grain-based desserts are one of the top sources of added sugars in the diets of children two to eight years of age.[72] Limiting grain-based dessert consumption in child care and after school programs is an effective and targeted approach for reducing consumption of added sugars, saturated fat, and refined grains.

As noted in the proposed rule, a majority of commenters supported excluding grain-based desserts in the previous 2015 proposed rule based on scientific evidence. The CACFP community did not ask for a change to the grain-based desserts regulations in response to USDA's request for information on crediting. Good nutrition is critically important for all children, particularly for children from birth to five as their taste preferences are being developed. It is best to stay the course and keep the current successful regulations prohibiting the crediting of grain-based deserts.

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[70] World Cancer Research Fund/American Institute for Cancer Research, 2018.

[71] Roess AA, Jacquier EF, Catellier DJ, et al. Food Consumption Patterns of Infants and Toddlers: Findings from the Feeding Infants and Toddlers Study (FITS) 2016. *J Nutr*. 2018;148:1525S-1535S.

[72] Reedy J and Krebs-Smith, SM. Dietary sources of energy, solid fats, and added sugars among children and adolescents in the United States. *J Am Diet Assoc*. 2010;110:1477-84.

Ensure schools continue to provide age-appropriate portion sizes and meal patterns by not allowing K-12 or similarly configured schools use the same one or two meal patterns for all students.

We oppose allowing K-12 or similarly configured schools use the same one or two meal patterns for all students. This proposed change could lead to two problematic outcomes for children. In the first, younger students could be overfed, if the school chooses a meal pattern for older students, which also would serve too many calories, saturated fats, sodium, and added sugars for their age. Many kids already do not have enough time to eat and more food on their plates may lead to more waste. A second problematic scenario is that older students may be underfed if given meals designed for younger students, putting children at risk for inadequate nutrition and hunger, undermining the intent of the school meal programs.

The rule proposes to make this change to school food authorities with fewer than 2,500 students. However, this would cover a quarter (about 23 percent) of total schools. If allowed, this change should be limited to smaller schools with fewer than 500 students, as defined in the Hiring Flexibility Under Professional Standards rule.[73]

We support allowing schools with certain grade configurations (*e.g*., 7-9) that are only slightly misaligned with meal pattern grade groups (*e.g*., 6-8, 9-12) to use the same meal pattern to all students, given the closeness of the age ranges.

Expanding water options is a step in the right direction to increase water consumption, but must be done in the safest way possible and not permit "naturally flavored" sweeteners.

We support allowing schools to sell calorie-free, "naturally flavored" waters (with or without carbonation), in portions up to 20 ounces, to students in all age/grade groups, as long as the agency clarifies that those flavors do not include non-caloric sweeteners. This proposed change may support greater water consumption, especially in place of diet beverages in high school and flavored milks that are high in added sugars and calories now permitted by USDA.

We oppose permitting certain sweeteners in water by including them under the definition of "naturally flavored." For instance, stevia leaf extract (steviol glycosides) and monk fruit extract are two low-calorie sweeteners (LCS) that are considered "natural flavors" and are commonly found in flavored waters. A 2018 American Heart Association science advisory noted the dearth of evidence on the potential adverse effects of beverages with LCS relative to potential benefits, and concluded that on the basis of the available evidence, "at this time, it is prudent to advise against prolonged consumption of LCS beverages by children."[74] In addition, the 2015 Dietary Guidelines Advisory Committee report recommended that, "added sugars should be reduced in the diet and not replaced with LCS, but rather with healthy options, such as water in place of

[73] 84 Fed. Reg. 6953. Hiring Flexibility Under Professional Standards. March 1, 2019.
[74] Johnson RK, Lichtenstein AH, Anderson CAM, et al. Low-calorie sweetened beverages and cardiometabolic health: a science advisory From the American Heart Association. *Circulation*. 2018;138:e126-e140.

sugar-sweetened beverages."[75] Other experts, such as Robert Wood Johnson Foundation's Healthy Eating Research program, recommend that children and youth aged 5 to 13 drink, "water with no added sweeteners, unflavored, low-fat and nonfat milk, and 100% fruit juice. All beverages are recommended to be free of additives such as electrolytes and artificial flavors."[76]

We note that allowing the sale of flavored waters could exacerbate equity concerns that regular tap water at the drinking fountain is not as desirable and relegated to only students who do not have means to purchase flavored water. It is important to note that many schools do not have safe drinking water and need to improve basic water access.[77] USDA should provide additional guidance particularly with an eye to maintaining equitable access to safe and appealing drinking water for students.

Allowing potable water to be naturally flavored with fruit or vegetables may also increase consumption of water. The fruit or vegetables used to flavor the potable water must not count toward the fruit or vegetable requirements in the meal pattern.

Maintain the 3-year frequency of the administrative review process, and make it less burdensome

While we understand that agencies and schools are pressed for time, changing the administrative review (AR) process to a 5-year cycle will mean that students could go through an entire school (*e.g.*, high school for four years) without any review of the meals in their district. Delaying addressing potential problems with meals for five years at most schools would leave children at risk for nutritional shortfalls and excesses, which could harm their health. It also would be poor stewardship of the program, with infrequent assurance that taxpayer dollars are being spent as intended. More frequent reviews make sense for schools at higher risk of noncompliance. To reduce burden while protecting the integrity of the school meal programs, USDA should work to streamline the AR process to allow it to maintain the 3-year frequency. In addition, USDA proposes moving to more frequent follow-ups for high-risk schools. For this change to be implemented as intended, it will be critical to closely examine how "high-risk" is defined.

To evaluate this proposal, much more information would be needed about USDA's proposed new compliance system, which schools would opt into in order to forego parts of the administrative review. Broadly, we are concerned such an "incentive" will simply lower compliance, while increasing meal verification that may make it harder for qualified low-income families to participate in the program.

Finally, we have concerns that removing fiscal action for repeat violations for vegetable subgroups may result in decreased compliance with vegetable subgroups and fruit servings. USDA data shows that the milk (97 percent), fruit (92 percent) and vegetable (79 percent)

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[75] Dietary Guidelines Advisory Committee. *Scientific Report of the 2015 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Health and Human Services and the Secretary of Agriculture*. Washington, DC: U.S. Department of Agriculture; 2015.

[76] Robert Wood Johnson Foundation Healthy Eating Research. *Recommendations for Healthier Beverages.* Durham, NC: Healthy Eating Research, 2013.

[77] Patel AI, Hecht CE, Cradock A, et al. Drinking Water in the United States: Implications of Water Safety, Access and Consumption. *Am J Public Health.* 2017;107:1354-56.

components enjoy the highest weekly meal pattern compliance rates within the reimbursable meal.[78] In contrast, food groups which allow the state discretion of administering fiscal penalties for repeated violations have lower compliance rates (*e.g.*, 49 percent for grains and 58 percent for meat/meat alternate). Given these data, we are concerned that removing the mandatory fiscal penalty for non-compliance would cause undue harm to student access to fruits and vegetables.

Additional comments on food waste

Food waste is, "one of the most pressing challenges of our time and one that is solvable."[79] A recent report suggests that school food waste weighs an estimated 530,000 tons annually, costing $1.7 billion.[80] Undoubtedly, this is an important and urgent issue to address. However, according to USDA's *School Nutrition and Meal Cost Study* waste has not increased since the implementation of the Healthy, Hunger-Free Kids Act and that it has been a problem well before the meal pattern updates.[81]

Yet USDA continues to misleadingly cite food waste reduction as a rationale for these and the 2018 rollbacks. Rather than further weakening nutrition standards and undermining child health, 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, innovative equipment use, involving students in taste tests and meal planning, and renaming and presenting the food in kid-friendly and appealing ways.

Full Utilization of Offer vs. Serve: The goal of OVS is to reduce food waste while allowing students to choose the foods they want to eat. USDA's own data shows that OVS helps to reduce food waste.[82] When students and 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. It also helps reduce overall food costs.[83] Currently, OVS is mandated only for high school students. With proper guidelines and education, schools can use OVS in elementary and middle schools, maintain good nutrition standards, and achieve reimbursement requirements.[84]

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[78] U.S. Department of Agriculture, 2019.
[79] Academy of Nutrition and Dietetics. "Academy Applauds New Legislation to Prevent Food Waste in Schools" January 2020. https://www.eatrightpro.org/news-center/on-the-pulse-of-public-policy/from-the-hill/academy-applauds-new-legislation-to-prevent-food-waste-in-schools. Accessed on February 16, 2020.
[80]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 February 16, 2020.
[81] U.S. Department of Agriculture, 2019.
[82] U.S. Department of Agriculture, 2019.
[83] USDA. Offer vs. Serve Tip Sheet. https://fns-prod.azureedge.net/sites/default/files/resource-files/OVS%20Breakfast%20tip%20sheet.pdf. Accessed on February 16, 2020.
[84] 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 February 16, 2020.

Increased Time for Children to Eat

Studies show that students need at least 20 minutes in their seats to eat lunch.[85] However, nearly 50 percent of schools in the United States do not require, or even recommend, that students receive that much time to consume their meal.[86] According to the Centers for Disease Control and Prevention (CDC), longer lunch periods allow for increased consumption of healthy foods and decreased plate waste.[87]

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.[88] School nutrition programs can train staff to efficiently move children through the meal line, offer kiosks and 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.[89] USDA, CDC, and the Department of Education must work together to promote and incentivize best practices around time for children to eat.

Nutrition Education for Students

As stated in a joint position paper by the Academy of Nutrition and Dietetics, the School Nutrition Association, and the Society of Nutrition Education and Behavior:

> "Nutrition education is a crucial component of comprehensive school nutrition programs. It contributes to healthful eating in and out of school and to a reduced risk of childhood obesity. Nutrition education is defined as all of the educational activities that engage students, not only through direct classroom education but also through other venues throughout the school campus during the school day that are designed to motivate students and facilitate adoption of healthful food choices accompanied by a supportive school environment. The literature shows that simply knowing what to eat is not enough to change behavior."[90]

Programs that employ experiential learning and use the cafeteria as a classroom help promote healthy eating habits help reduce food waste. Nutrition education can include indirect methods such as posters or displays in cafeterias, classrooms, or hallways. These nutrition education activities should be closely linked with participatory activities such as nutrition promotions, food demonstrations and taste testing in the cafeteria, school gardening, culinary education, and farm-to-school activities. Moreover, it is important to engage families through school-sponsored

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[85] SDSU Extension. "Food Waste in School and Strategies to Reduce it." https://extension.sdstate.edu/food-waste-schools-and-strategies-reduce-it. Accessed on February 16, 2020.
[86] Centers for Disease Control and Prevention. Results from the School Health Policies and Practices Study. Atlanta, GA: Centers for Disease Control and Prevention, 2016.
[87] Centers for Disease Control and Prevention. "Making Time for School Lunch." https://www.cdc.gov/healthyschools/nutrition/school_lunch.htm. Accessed on February 16, 2020.
[88] Centers for Disease Control and Prevention. "Making Time for School Lunch."
[89] Centers for Disease Control and Prevention. "Making Time for School Lunch."
[90] Position of the Academy of Nutrition and Dietetics, Society for Nutrition Education and Behavior, and School Nutrition Association: Comprehensive Nutrition Programs and Services in Schools. *J Acad Nutr Diet*. 2018;118:913-919.

family wellness activities, newsletters, workshops, or website postings to help families reinforce nutrition education messages at home.

Direct and indirect nutrition education must be integrated with high-quality food provided to children through school meals, healthful food choices available throughout the school campus, well-implemented wellness policies, other food- and nutrition-related activities in the school, and reinforcement in the home and community to have lasting impact. USDA's Team Nutrition as well as other effective initiatives can provide frameworks for coordinated efforts by school foodservice personnel, teachers, parents, and other community members to work together to accomplish the goal of healthy children in healthful environments.

Technical Assistance, Not Weakening Child Nutrition, Is the Preferred Approach to Operational Challenges

In addition to nutrition education, a meaningful investment in technical assistance for school nutrition professionals is imperative to not only help them meet and exceed nutrition standards but to prepare, present, and serve the food in ways that promote consumption and reduce waste. Simple strategies such as cooking with spices and placing food items at certain points on the service line can help promote healthy food choices.

According to the *School Nutrition and Meal Cost Study*, 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.[91] To make lasting change in the NSLP, there must be adequate investment in supporting those expected to make the changes. The solution to operations challenges is not to roll back science-based nutrition standards essential to child health, but to double down and support efforts that have been shown to significantly improve the nutrition quality of food offered to children at school.[92]

Need for Equipment and Infrastructure Investment

Schools are responsible for providing high-quality meals that are appealing to students while meeting the nutrition standards.[93] One barrier to child health in schools is outdated infrastructure for food storage and preparation. Since 2009, USDA has provided grants approximately $160 million in kitchen equipment funding, which is appropriated annually through Congress.[94]

There have been positive effects of these USDA grants. However, three out of five school districts report needing new equipment.[95] In a study released by the World Wildlife Fund,

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[91] U.S. Department of Agriculture, 2019.
[92] U.S. Department of Agriculture, 2019.
[93] Position of the Academy of Nutrition and Dietetics, Society for Nutrition Education and Behavior, and School Nutrition Association: Comprehensive Nutrition Programs and Services in Schools.

[94] USDA. USDA awards grants for new school food service equipment to help schools dish up healthy meals. Retrieved from https://www.fns.usda.gov/pressrelease/2014/006514. Accessed on February 20, 2020.

[95] USDA. *Child Nutrition Program Operations Study (CN-OPS-II).* Alexandria, VA: 2019.

schools reported using equipment to mitigate food waste including the purchase of bulk milk machines, which increased consumption and reduced waste in some school districts.[96] An investment in school kitchen equipment is an investment in healthy children.

In conclusion, the proposed changes in this rule will further undermine the school meal programs and not reduce waste. We should be raising the bar, not lowering the floor, when it comes to providing children healthy foods.

Sincerely,

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Deputy Director Legislative Affairs

[96] 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 February 16, 2020.