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School Meals Policy Division
Food and Nutrition Service
U.S. Department of Agriculture
1320 Braddock Place
Alexandria, VA 22314

**Comment on Expanding Fluid Milk Options in Child Nutrition Programs (91 FR 25073)
(Docket FNS–2026–0067)**

The Center for Science in the Public Interest (CSPI) submits these comments in response to the U.S. Department of Agriculture’s (USDA) final rule, *Expanding Fluid Milk Options in Child Nutrition Programs* (91 FR 25073).

Since 1971, CSPI has worked to improve public health through better nutrition and safer food. CSPI is an independent, non-profit consumer education and advocacy organization and a longstanding advocate for healthier school foods. CSPI convenes 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.

Child Nutrition Programs (CNPs) are vital to the nutrition and health of millions of children each day. The National School Lunch Program (NSLP), School Breakfast Program (SBP), and the Child and Adult Care Food Program (CACFP) significantly improve children’s diet quality, reduce food insecurity, and promote better health outcomes.^{1,2} Participants consume more fruits, vegetables, and dairy than non-participants while increasing fiber intake.^{3,4} As a result of major regulatory and legislative updates over the last fifteen years, school meals are now the healthiest source of food to which children have access.⁵ The NSLP alone serves 30 million children, with over 15 million participating in the SBP, and 4.8 million children and adults benefiting from CACFP.^{6,7,8}

USDA’s final rule *Expanding Fluid Milk Options in Child Nutrition Programs* (91 FR 25073) seeks to codify the Whole Milk for Healthy Kids Act, passed by Congress December 2025, and expand milk offerings to additional programs beyond NSLP, including SBP, CACFP and Special Milk Program—an expansion not required by the statute. In addition to providing these options, the rule, like the underlying statute, exempts the saturated fat content in fluid milk from counting towards the weekly saturated fat limits school meals must follow.

In this comment, we provide an explanation of why we oppose aspects of the final rule as well as recommendations for areas that should be strengthened and clarified in order to meet the stated goal of the final rule.

In this comment, we make the following points:

1. CSPI opposes USDA's decisions to remove dairy fat restrictions from the CNPs and exempt fluid milk from school meal weekly saturated fat limits.
2. CSPI urges USDA to include and specify the nondairy beverage access provisions included in the Whole Milk for Healthy Kids Act in future rulemaking and ensure these provisions apply to all CNPs.
3. CSPI requests USDA clarify that any flavored milk options, regardless of fat content, must meet per-product added sugar limits and weekly added sugar limits as established in the final rule, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*.⁹

Our detailed comments follow:

1. *CSPI opposes USDA's decisions to a) remove dairy fat restrictions from the CNPs and b) exempt fluid milk from school meal weekly saturated fat limits.*

In the 2025–2030 Dietary Guidelines for Americans (DGA), USDA and Health and Human Services recommend that infants starting at 12 months old begin consuming whole milk, and that children and adults of all ages consume full-fat dairy foods, including whole milk. For children ages 5–10 years old, the 2025 DGA specifically claims that "full-fat dairy products are important for children to help meet energy needs and support brain development," a rationale that is repeated in the final rule.¹⁰ However, these recommendations for children are not based on any new evidence reviews demonstrating that full-fat dairy is required to meet daily energy needs or that children consuming lower-fat dairy are at risk of undernutrition. There is also no evidence cited within the 2025 DGA's Scientific Foundation or its Appendices to support the claim that full-fat dairy is important for children's brain development.^{11,12} Therefore, as a matter of transparency and scientific integrity, we request that USDA furnish the evidence to support these health claims.

Neither the 2025 DGA's Scientific Foundation nor its Appendices systematically reviewed the evidence on the relationship between milk and child development. Helpfully, the 2025 Dietary Guidelines Advisory Committee (DGAC) conducted several systematic reviews to answer the question, "What is the relationship between dairy milk and milk alternative consumption and growth, body composition, and risk of obesity?" The DGAC's systematic reviews of the evidence led to the conclusion that limited evidence suggests that among younger children, both total milk consumption and consumption of higher-fat dairy milk may be associated with favorable growth patterns and body composition, and lower risk of obesity during childhood. The DGAC concluded that a conclusion statement could not be drawn about the relationship between total milk consumption and milk with different fat content consumption by older children and adolescents and growth, body composition, and risk of obesity because of "substantial concerns"

with directness, consistency, and risk of bias in the body of evidence for total milk consumption and substantial concerns with consistency, quantity, and risk of bias in the body of evidence for milk with different fat content.¹³

The DGAC's assessment of the evidence is in line with expert assessments from the Academy of Nutrition and Dietetics, the American Academy of Pediatric Dentistry (AAPD), the American Academy of Pediatrics (AAP), and the American Heart Association (AHA) in their 2025 report on Healthy Beverage Consumption in School-Age Children and Adolescents.¹⁴ In their review of the literature exploring the health impacts of milk fat content of plain cow's milk in childhood and adolescence, they found mixed results on the relationship between milk fat content and body weight, and insufficient rigorous evidence to make any conclusion on the relationship between milk fat content and children and adolescents' cognitive functioning. The expert panel recommended fat-free and low-fat milk given their favorable nutrient density and lower calorie and saturated fat content, citing evidence showing beneficial health outcomes associated with diets lower in saturated fat. The expert panel was also concerned about the potential for higher-fat dairy products to contribute excess calories to the diet of children and adolescents with limited discretionary calories available and for whom the potential for excessive weight gain is a concern.

As we communicated in our February 2025 comments to USDA and HHS regarding the 2025 DGAC report, CSPI generally agrees that there is a lack of strong evidence on the relationship between higher-fat or lower-fat dairy milk consumption among children and adolescents and growth, body composition, and risk of obesity.¹⁵ At the time, we recommended that the Agencies maintain the existing recommendations to primarily consume unsweetened fat-free and low-fat milk across the lifespan due to a lack of strong evidence to support higher-fat milk recommendations and the totality of evidence on the intake of saturated fat in the diet on health outcomes. The American Heart Association took a similar pragmatic approach in its 2026 Dietary Guidance to Improve Cardiovascular Health recommended individuals select low- or fat-free dairy products instead of full-fat dairy products to promote cardiovascular health after finding inadequate evidence to support recommending higher-fat dairy products in place of low- or fat-free dairy.¹⁶ AHA stated that, "replacing full-fat dairy products with nonfat and low-fat dairy products or other nondairy sources of unsaturated fat shifts the composition of dietary patterns toward higher unsaturated to saturated fat ratios, those associated with most favorable cardiovascular health." However, we recognize that USDA was compelled by law to develop a final rule that codifies the Whole Milk for Healthy Kids Act of 2025 requirements for milk served in the National School Lunch Program. However, in doing so, USDA used this opportunity to also remove fluid milkfat content restrictions in various other Child Nutrition Programs, including the School Breakfast Program, even though the statute had no such requirements for other CNPs.

CSPI's primary concern with this rule is that the saturated fat in fluid milk products is exempt from counting towards the weekly average amount of saturated fat offered in the NSLP and SBP meal patterns which must be limited to less than 10% of total calories, effectively raising the limits on saturated fat in school meals, and setting a dangerous precedent for further dismantling of the evidence-based nutrient standards.¹⁷ Therefore, schools that offer reduced-fat and whole-milk to students will be likely to not only increase student's intake of saturated fat through

higher-fat milk consumption but be allowed to increase the amount of saturated fat provided by all other foods in a given meal. If whole milk is consumed at both breakfast and lunch, children may consume an additional 9 grams of saturated fat daily.¹⁸ To put that into context, for children ages 5–10 years old, in grades K–5, with estimated calorie needs ranging from 1,200–2,400 kcal/day, choosing whole fat milk (8 ounces) with breakfast could put them at 38–77% of their saturated fat limit for the day, accounting both for the saturated fat in whole milk and the estimated maximum of the saturated fat range allowed in breakfast meals for this grade group, as established by the National Academies of Sciences, Engineering, and Medicine.¹⁹ Using analogous methods, if that same student chose whole milk again with lunch, their saturated fat intake could exceed the daily limit by 83–166%. Following the same assumptions for the maximum of the saturated fat range allowed in each meal, if the student chooses instead to drink reduced-fat milk with breakfast, they could be at 31–62% of their saturated fat limit for the day, and if reduced-fat milk was consumed again with lunch they could be within 68–137% of the saturated fat limit by the end of the school day.²⁰

This exemption is inconsistent even with the 2025–2030 DGA recommendations. While the 2025–2030 DGA recommend full-fat dairy, they still maintain the recommendation that saturated fat intake remain below 10% of total calories.²¹ Allowing schools to exclude fluid milk saturated fat from weekly saturated fat limits for school meal standards therefore makes it very unlikely that children will stay within the recommended daily limit for health. This concern is particularly urgent given that saturated fat is categorized specifically as a nutrient of public health concern, due to widespread overconsumption across the population—nearly 90% of children already consume more saturated fat than is recommended by the current DGA.²²

Finally, differentiating fluid milk saturated fat and permitting it to be exempt from school meal nutrition standards sets a dangerous precedent for allowing special interests to carve out further exemptions in child nutrition program standards. Child nutrition must come before food industry interests.

2. CSPI urges USDA to include and specify the nondairy beverage access provisions included in the Whole Milk for Healthy Kids Act in future rulemaking and ensure these provisions apply to all CNPs.

CSPI takes strong objection to the exclusion of nondairy beverage guidance from this rule. Per the Whole Milk for Healthy Kids Act (the Act) and a subsequently released implementation memorandum from USDA’s Food and Nutrition Service, a “nutritionally equivalent” nondairy beverage is permissible to be readily available in school cafeterias.^{23,24} These critical updates to school meal patterns are important for increasing nutritious beverage options for students with allergies or dietary or religious preferences. Without explicit inclusion of these provisions in rulemaking, even though there is nothing in the Act that precludes them, school food authorities (SFAs) are uncertain what practices are allowed regarding how and when to offer nondairy beverages to students. According to the National Institute of Diabetes and Digestive and Kidney Diseases, the national prevalence of lactose malabsorption is approximately 36 percent, and this rate is greater in African American, American Indian, Asian American, and Hispanic/Latine populations.²⁵

CSPI supports reducing barriers to students' accessing nutritionally equivalent nondairy beverages as part of their school meals, including through the Act's provision allowing parents/guardians to request this option rather than only through a medical professional's note. As such, CSPI urges USDA to codify the nondairy beverage provisions included in the Act in future rulemaking and to ensure these provisions apply to all CNPs. This confusion surrounding implementation is especially apparent to SFAs since, as noted, the Act and implementation memorandum only apply to the NSLP and not school breakfast. CSPI urges USDA to clarify that SFAs are authorized to provide a nondairy beverage that meets USDA standards to any student with a special medical or dietary need, as requested by a parent or guardian; clarify that plant-based diets qualify as a special medical or dietary need, whether 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 for these purposes. We encourage the USDA to provide a model parental/legal guardian notice and form for milk substitution requests that SFAs can use on their websites and share with families.

Lastly, CSPI encourages USDA to amend regulations and policy memoranda for all school meal and snack programs beyond the NSLP such that disability-related substitutions must be made available upon request of a parent or legal guardian. Aligning these requirements across all child nutrition programs would enhance program integrity, simplify implementation, and ensure access to appropriate meal accommodations for all participants.

3. CSPI requests USDA clarify that any flavored milk options, regardless of fat content, must meet per-product added sugar limits and weekly added sugar limits as established in the final rule, Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans.

CSPI urges USDA, in future rulemaking, to clarify that any flavored milk options, regardless of fat content, must meet per-product added sugar limits and weekly added sugar limits as established in USDA's *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*.²⁶ These added sugar limits must also apply to any nutritionally equivalent nondairy beverages. While flavored milk is discussed in this rule, continued adherence to these standards is not specified. Additionally, due to the change in regulatory language from "Children 6 years old and older and adults **must be** served unflavored or flavored, low-fat or fat-free milk" to "Fluid milk served to children 6 years and older and adult participants **may be** unflavored or flavored, whole, reduced-fat, low-fat, or fat-free milk," CSPI encourages 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. Maintaining the integrity of these provisions is especially critical; a 2021 analysis of School Nutrition and Meal Cost Study (SNMCS) data predating the 2024 updates to added sugar limits for school meals found that over 24 hours, 63% of children exceeded the recommendations for added sugars to comprise less than 10% of total daily calories.²⁷ Specifically, two studies also found, in the aggregate, that the main source of added sugars in both school breakfasts and lunches was flavored fat-free milk.^{28,29} Flavored fat-free milk contributed 29% of the added sugars in school breakfasts and almost half (47%) of the added sugars in school lunches before the 2024 updates.^{30,31} Thus, as SFAs continue to implement these

updates, USDA must maintain this targeted approach to limiting added sugars in school meals, particularly from the greatest sources.

In conclusion, CSPI opposes USDA's decision to remove dairy fat limits from CNPs and to exempt fluid milk from school meal weekly saturated fat limits. Additionally, CSPI urges USDA to include the Whole Milk for Healthy Kids Act's nondairy beverage access provision that makes it easier for students to request nutritionally equivalent nondairy alternatives to milk in future rulemaking and to ensure these provisions apply to all CNPs. CSPI further urges USDA to clarify that any flavored milk options, regardless of fat content, must meet per-product added sugar limits and weekly added sugar limits as established in the final rule, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*.³²

Sincerely,

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