



CENTER FOR FOOD SAFETY

April 8, 2013

Julie Brewer, Chief, Policy and Program Development Branch
Child Nutrition Division
Food and Nutrition Service
P.O. Box 66874
Saint Louis, MO 63166

Docket ID: FNS-2011-0019

Submitted Electronically

Re: 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

Dear Ms. Brewer:

The Center for Food Safety submits these comments in response to the USDA's "Smart Snacks in School" proposed rule. The Center for Food Safety (CFS) is a national non-profit advocacy organization working to protect human health and the environment by curbing the use of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. Additional organizations supporting these comments are listed below.

CFS strongly supports USDA's efforts to improve the overall nutritional quality of school foods sold through the federal meal programs. While CFS also supports USDA's effort to improve the nutritional quality of food sold outside the school meal program, also known as "competitive foods," we are concerned that the current nutrient-based proposal is an unworkable solution to the decades-old problem of ubiquitous junk food and soft drinks in schools.

USDA should help schools eliminate competitive foods altogether for the following reasons.

Competitive foods financially undermine the school meal program.

Congress' clear intent with the federally-subsidized school lunch and breakfast programs is to ensure millions of schoolchildren are well-nourished. However, the ongoing presence of competitive food in schools undermines these programs financially. Indeed the very term "competitive" underscores this problem.

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Several studies have demonstrated this reality. As a recent report¹ from the Illinois Public Health Institute notes:

While on the surface, competitive foods may appear to be an important source of revenue for schools and food service operations, a few studies indicate otherwise. A study sponsored by the USDA found that, on average, revenue from the sale of competitive foods during the 2005-2006 school year covered only 71% of the reported cost of providing such food; subsequently, revenue from subsidized reimbursable meals are often used to offset losses from competitive foods.²

According to school chef Ann Cooper: "Students should be eating healthy complete meals; the opportunity to opt-out by purchasing competitive food is actually counter to the mission of the National School Lunch Program."

Competitive foods at school meals creates stigma for low-income children.

The presence of so-called "a la carte" items on the school meal line sets up a demographic divide between those who can afford these items and those who cannot. Eliminating any competing school meal items would avoid this stigma, making a more positive eating environment for all schoolchildren.

School food expert and sociology professor Janet Poppendieck agrees that unless competitive foods are eliminated entirely, that stigma will persist:³

Unless the new rules convince schools to do away with the competitive foods altogether, however, a la carte items and other competitive foods will continue to undermine the National School Lunch Program, because a la carte service stigmatizes the federal lunch.

Slightly healthier junk food is still unhealthy, sends the wrong message.

CFS is very concerned that USDA's narrow focus on nutrients such as grams of fat and sugar will still result in highly-processed junk food with only slightly improved nutritional profiles. For example, reduced-fat corn chips and baked potato chips are still junk foods with almost zero nutritional value. Moreover, lower calorie soft drinks such as Diet Coke also offer zero nutrition and have no place in a child's diet.

Similarly, USDA does not seem concerned with specific ingredients that have already been shown to be potentially harmful, including artificial sweeteners and artificial dyes. Even

¹ Bassler, E et al (2013) Controlling Junk Foods and the Bottom Line: Case Studies of Schools Successfully Implementing Strong Nutrition Standards for Competitive Foods and Beverages. Chicago, IL: Illinois Public Health Institute.

² Bartlett S, Glanz F, Logan C. (2008) School Lunch and Breakfast Cost Study-II, Final Report. Alexandria, VA: U.S. Department of Agriculture, Food and Nutrition Service, Office of Research, Nutrition and Analysis.

³ Poppendieck, Janet. "The ABCs of School Lunch." In *A Place at the Table*. PublicAffairs, 2013.

partially-hydrogenated oils would be allowed under the federal loophole in which foods labeled “0 grams per serving” of trans-fat may actually contain up to 0.49 grams per serving of the heart-damaging chemical.

Also, allowing fortifying fiber (through substances such as chicory root, inulin, and cellulose) is problematic because studies have questioned the health benefits of isolated fibers. As this article⁴ from the federal government notes: “The health benefits of isolated fibers are still unclear. Research suggests they may not have the same effects as the intact fibers found in whole foods.”

Therefore, USDA’s proposal to allow the fortification of “nutrients of concern” will enable food companies to pass off highly-processed and minimally nutritious food products as “good-for-you.” For example, a cookie made with 50 percent “whole grains” that includes dry milk solids for “calcium” may qualify.

CFS is also troubled by the multiple exceptions for dairy. For example, low-fat cheese is not subject to saturated fat limits and chocolate milk is not subject to sugar limits. Moreover, USDA is proposing allowing an 8-ounce yogurt to contain up to 30 grams of sugar. These concessions appear to be more about appeasing dairy lobbyists than what’s best for children’s health. Cheese, chocolate milk, and yogurt should not be given a free pass simply because they offer calcium.

With USDA essentially giving such highly processed foods the “government seal of approval,” future efforts to remove such products from schools will become even more challenging. The food industry will very likely point to the new federal nutrition standards on competitive foods as the “new normal” in schools, potentially undermining advocates who wish to rid schools of these unhealthy processed products altogether. Although the USDA is clear that the new rules will set a floor and not a ceiling, meaning that states and local school districts may set stronger standards or even eliminate competitive foods altogether should they so choose, the political reality may prove challenging.

Competitive food allows junk food companies to market to children.

Maintaining the presence of fast food, soda, and junk food companies in public schools sends all the wrong messages to children. These companies are eager to sell their products in schools because they want to get kids hooked at an early age, to ensure brand loyalty for life. A vending machine that promotes Diet Coke versus Coke exploits children all the same. More important than the nutritional content is the branding messages that these products carry. The fast food, soft drink, and junk food companies are happy to comply with minor tweaks to their products to ensure their brands remain in schools. With these proposed nutrition guidelines, USDA is helping to secure the inappropriate, exploitative, and harmful role these companies currently have in targeting children, in and out of schools.

⁴ “Rough Up Your Diet,” NIH News in Health, August 2010. <http://newsinhealth.nih.gov/issue/Aug2010/feature1>.

Challenge of enforcing nutrition guidelines for competitive foods.

CFS also has serious concerns about the practical challenges of how the new USDA rules will be enforced. We already know that school meals guidelines are often not enforced, despite the incentive to comply being tied to reimbursement. Will food service directors, already overworked and underpaid, now have the additional responsibility of policing competitive foods standards? This hardly seems fair or feasible. In contrast, as a practical matter, the elimination of competitive foods altogether makes compliance far easier for everyone involved.

States and school districts are already eliminating competitive foods.

Some states have taken a leadership role on this issue, showing it can be done. For example, Arkansas, Florida, Texas, Indiana, and North Carolina have eliminated vending machines in elementary schools.⁵ In addition, the San Francisco Unified School District has eliminated competitive foods in school meals (a la carte items) from all schools, while Portland Public Schools in Oregon have eliminated all competitive foods from elementary schools.

While most of the action taken to date has focused on elementary schools, CFS sees no public policy reason to exempt middle and high school students from policies that eliminate competitive foods. Why should older students be exposed to fast food, soft drinks, and junk food? Children of all ages deserve to attend schools that provide a healthy environment conducive to learning.

In schools where competitive foods have been eliminated, participation in school meals improved, resulting in increased revenue for the meal program.

There are powerful economic incentives for schools to eliminate competitive foods altogether. For example, district-wide elimination of competitive food in school meals in the San Francisco Unified School District resulted in a 27 percent increase in the number of reimbursable school lunch meals being served.⁶ Also, from the Illinois Public Health Institute report cited above:

The complete elimination of competitive foods in some Boston Public Schools has not caused undue negative financial impact. Similar to what was experienced in other school districts, respondents reported that the overall financial position across all food service accounts improved. Losses related to elimination of competitive foods were offset by increased participation in reimbursable school meals programs.

This same report found that while “strengthening nutrition standards for competitive foods are associated with increased participation in the USDA reimbursable meal program, *schools that completely eliminated competitive food sales tended to see the greatest increases in school meal participation rates.*”

⁵ State School Healthy Policy Database: http://www.nasbe.org/healthy_schools/hs/bytopics.php?topicid=3115.

⁶ San Francisco Unified School District School Meal Milestones, July 2012: <http://www.sfusd.edu/en/assets/sfusd-staff/nutrition-and-meals/SFUSD%20SNS%20Timeline%20July%202012.pdf>.

Thus, to maximize the economic benefit to schools, USDA should provide resources to help schools that want to eliminate competitive foods completely, as opposed to placing a healthy halo and government seal of approval upon highly-processed and nutritionally-void products from companies seeking only to target children with their brands. **At the very least, USDA should be clear that schools are not required to offer competitive foods and are free to remove them any time they wish, as some districts and states have already done.**

In conclusion, to ensure children's health, USDA should provide guidance and resources to assist schools in successfully eliminating all competitive foods from schools.

Sincerely,

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The following organizations and individuals also sign on to these comments:

- Campaign for a Commercial-Free Childhood
- Corporate Accountability International
- Dietitians for Professional Integrity
- Food Democracy Now!
- Food and Water Watch
- New York Coalition for Healthy School Food
- Nutritional Therapy Association
- Organic Consumers Association
- Reese Richman, LLP

- Andy Bellatti, MS, RD, Registered Dietitian
- Ann Cooper, Founder, Food Family Farming Foundation
- Nancy Huehnergath, Food Policy Consultant
- Frances Moore Lappé and Anna Lappé, Small Planet Institute
- Janet Poppendieck, PhD, Author, Free for All: Fixing School Food in America and Professor Emerita, Hunter College