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U.S. Department of Agriculture (USDA)
Policy and Program Development Division,
Child Nutrition Programs, Food and Nutrition Service (FNS)
P.O. Box 66740
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Re: RIN 0584-AE25

Dear Ms. Brewer:

On behalf of [Organization], we appreciate this opportunity to provide comments on the proposed rule for Local School Wellness Policy Implementation under the Healthy, Hunger-Free Kids Act of 2010. [Organization] is a strong supporter of robust school policies that create healthy, supportive learning environments and help build the foundation for lifetime health behaviors where children spend a majority of their day.

We believe the proposed rule strengthens the existing guidelines around local wellness policies by assuring that schools have clear and measurable goals for nutrition promotion and education, physical activity, food marketing and advertising, as well as other school-based activities that promote student wellness. The proposed rule also improves accountability and public reporting to provide transparency with parents, students, and the community on implementation, progress, and regular review of the wellness policy. Additionally, it helps to assure adequate representation across the school environment and community on the wellness committee by key stakeholders, including leadership by one or more local education agency (LEA) or school official(s), to optimize the development, implementation, and coordination of the local wellness policy with input and accountability from those involved.

One point that is not addressed in the proposed rule is a timeline for implementation. We propose that LEAs be required to implement this rule at the beginning of the school year that is not earlier than one year and not later than two years following the date on which the regulations are finalized. We would ideally like to see the rule implemented by school year 2015-16, and hope that USDA will finalize the rule as quickly as possible to help schools begin to comply with the new requirements.

We also encourage USDA to incorporate the guidance and details in the preamble into the toolkits and resources that USDA provides LEAs to assist in implementation. In the rule itself, we encourage USDA to expand the definitions section [210.30 (b)] to include definitions of local school wellness policy, nutrition promotion and education, physical activity and physical education, and food and beverage marketing. We offer the following model language:

School Wellness Policy: *School wellness policy* includes both the school board-approved local wellness policy as well as any superintendent regulations, rules, and/or procedures that accompany the school board-approved wellness policy, where applicable.

Nutrition Education and Promotion: *Nutrition promotion and education* refers to all activities that engage students directly or indirectly in classroom settings, foodservice venues, or throughout the school campus, during the school day, that are designed to facilitate adoption of healthy food and beverage choices, in addition to enhancing and encouraging participation in school meal programs, and other food- and nutrition-related behaviors consistent with the most recent *Dietary Guidelines for Americans*.

Food and Beverage Marketing and Advertising: *Food and Beverage Marketing and Advertising* means an oral, written, or graphic statement or representation, including a company logo or trademark, made for the purpose of promoting the use or sale of a product by the producer, manufacturer, distributor, seller, or any other entity with a commercial interest in the product. This covers any property or facility owned or leased by the school district or school (such as school buildings, athletic fields, transportation vehicles, parking lots, or other facilities) and used at any time during the school day.

Physical Education: Physical education teaches students the basics of physical literacy and how to integrate physical activity into their lives in order to establish a lifetime of healthy living. A quality physical education program provides learning opportunities, appropriate instruction, meaningful and challenging content for all children, as well as student and program assessment. Physical education should be the cornerstone of increasing the overall quantity of physical activity in school.

Physical Activity: Physical activity is bodily movement of any type and may include recreational, fitness, and sport activities, such as jumping rope, playing soccer, lifting weights, as well as daily activities, such as walking or taking the stairs, and reducing sedentary time. Opportunities to accumulate physical activity during the school day include time spent in physical education class, classroom-based movement, recess, walking or biking to school, and recreational sport and play that occurs before, during, and after school.

Below we offer specific comments on different provisions of the proposed rule:

Local School Wellness Policy Leadership

We strongly support the requirement that there be one or more LEA or school official(s) who serves as the designated contact for the wellness policy and is ultimately responsible for implementation, conveying progress, and ensuring regular reviews and updates of the wellness policy and assuring school compliance with the policy. It is important that the LEA make the name, position title, and contact information for the designated official(s) available on the district and individual school websites, in communications to parents, in school newsletters, and/or in other school communications. We encourage USDA to provide additional guidance to LEAs on what “authority” means.

Many school food service professionals report that monitoring is most effective when it is the responsibility of a school principal or superintendent, who can engage support from other members of the wellness committee. We recommend that the accountable person be at the leadership level (e.g., a district superintendent). In addition, more than one designee would be appropriate to support leadership in various aspects of the policy (e.g., health services, curriculum, nutrition education, physical education). School food professionals should be involved in the development and monitoring of a wellness policy, but should not necessarily be designated as the responsible party, since only a portion of school wellness policies is directed towards school foods.

Public Involvement in Local School Wellness Policy Development

We support the requirement that schools seek to involve a broad array of stakeholders to participate in the development, implementation, and periodic review and update of the local wellness policy to assure coordination across the school environment and throughout the community. The LEA should be required, rather than encouraged, to make available the names and position titles or relationship to the school of the wellness committee members (but not contact information) to foster transparency, accountability, and communication. We are pleased that USDA will encourage wellness committees at both the LEA and school level. We think that it is excellent that there is mention in the preamble of coordinating with SNAP-Education coordinators and educators, and per the new Farm Bill, these educators should be prepared to incorporate physical activity into SNAP-Education resources and technical assistance. We also encourage USDA to include pertinent resources and programs of other state and local health, education, and transportation departments (including state health departments that have received funding under the *State Public Health Actions to Prevent and Control Diabetes, Heart Disease, Obesity, and Associated Risk Factors and Promote School Health* grant program), in your guidance to LEAs.

Content of the Local School Wellness Policy

We support the areas of coverage of the proposed rule, including nutrition promotion and education, physical activity, nutrition guidelines for all foods, food and beverage marketing, and other school-based activities and resources that promote student wellness. Improved coordinated school health programs will augment prevention efforts and help improve fitness, academic performance, mental health, physical health, and well-being across the school environment.

We believe that the resources, toolkits, and model policies that will be provided by USDA will be essential to ensuring schools' success in implementing local wellness policies. We encourage USDA to incorporate the resources of other organizations (such as WellSAT, the Alliance for a Healthier Generation's Smart Snack calculator, and other resources) and provide access to appropriate outside resources in your supporting materials. We strongly agree that wellness policy goals should be measurable over the short and long term, and should elucidate who will make what change, by how much, where, and by when. We are pleased that USDA will provide guidance to and models for LEAs on how best to create strong, clear goals with specific and measurable objectives and benchmarks.

Nutrition Promotion and Education

We strongly support continuing to include nutrition promotion and education in the wellness policy. The examples that USDA provides on how schools might implement nutrition promotion and education activities (e.g. integrated into core and elective subjects, posters, participatory activities, information provided to families, etc.) are helpful, and we encourage USDA to provide strong guidance and resources to LEAs to accompany these recommendations.

Including nutrition education as a core component of health education classes, as well as integrating nutrition education throughout the curriculum, are effective ways to implement nutrition education in the school environment, and we encourage USDA to utilize the resources developed by the Institute of Medicine in this area in your guidance to LEAs.ⁱ In addition, engaging with families through school-sponsored family wellness activities is important in ensuring that nutrition lessons are brought home. Providing students and parents with nutrition education and information can help encourage students to make healthy choices both inside and outside of school. Informing parents about how the school is addressing nutrition, nutrition education, and physical activity, and providing ideas and resources about how families can reinforce these lessons is important.

Physical Activity

We strongly support including physical activity in the local school wellness policy. We recommend that USDA specifically mention in its guidance to LEAs and model local wellness policies that school-age children should accumulate at least 60 minutes per day of physical activity and avoid prolonged periods of inactivity. The key method for achieving this goal is physical education supplemented by additional opportunities for physical activity before, during, and after the regular school day.ⁱⁱ USDA should include recommendations to limit screen time and long periods of sedentary behavior during the school day. Once again, we feel it is important for USDA to define physical education and physical activity within the actual rule and provide examples of physical activity opportunities before, during, and after school and reiterate the importance of physical education as the cornerstone for physical activity.

We are glad that the agency has mentioned so prominently the importance of incorporating the quality and quantity of physical education into the local wellness policy. We encourage the agency to include recommendations for physical education curricula, increasing the number of classes offered, improving teacher training, and coordinating with additional educational or home-based components as part of model local wellness policies.^{iii, iv, v, vi, vii}

In the preamble, USDA mentions developing recommendations for waivers and exemptions from physical education classes and physical activity. In model policies, USDA should provide language that does not allow for waivers and substitutions for physical education, including the following:

- Disallow automatic waivers or substitutions for physical education.
- Disallow using or withholding physical activity as punishment.

- Do not allow waivers for students with disabilities, but rather provide modifications or adaptations that ensure physical education courses meet the needs of students with disabilities.
- Do not allow students to opt out of physical education to participate in other classes or prepare for standardized tests.

We appreciate that USDA mentions shared use as a possible component of the local wellness policy. Opening school buildings and grounds during non-school hours for community use is an important way to foster physical activity opportunities in communities. Incorporating a policy around shared use into the local wellness policy will give schools the opportunity to think through how they want to craft shared-use opportunities with community members, community groups, or school or public agencies during non-school hours for use of their facilities.

We encourage USDA to offer guidance on the Presidential Youth Fitness Program and recommend that local wellness policies encourage schools to participate in all three aspects of the program (assessment, professional development, and recognition). As part of local school wellness policies, LEAs should be encouraged to report their results from the Presidential Youth Fitness Program in an aggregate manner to the community and the relevant state agency to improve tracking of physical fitness data across the United States and inform efforts to strengthen local wellness policies to improve student physical activity and physical fitness.

Other School-based Wellness Activities

We appreciate the excellent examples that USDA provided for other LEA activities that integrate nutrition and health into the school environment. USDA should provide those examples to schools through its guidance and model local wellness policies, including on school gardens, farm to cafeteria activities, healthy fundraisers, the HealthierUS School Challenge, outreach to families, and staff wellness activities and professional development opportunities that inspire school staff to serve as role models for students. We also think it is important that LEAs are encouraged to assess their progress using CDC's School Health Index or other evaluation tools, such as the Alliance for a Healthier Generation's Healthy Schools Program Inventory. USDA and CDC should offer regular trainings to schools on how to complete the School Health Index.

Nutrition Guidelines for All Foods

We fully support coordination and alignment with USDA's school meal and Smart Snack standards. We agree that LEAs should be encouraged to describe whether and how their food and beverage offerings comply with the new meal and Smart Snack standards, including whether in-school fundraisers that involve food and beverages meet the Smart Snacks standards.

USDA should provide model local wellness policy language and guidance on promotion of information such as school menus on school websites, school meal program participation and compliance reporting, meal timing and duration (including recess before lunch and adequate

seat time), and the availability of free drinking water throughout the school day and during school meals. USDA also should encourage schools through guidance and model policies to extend the USDA standards beyond the school day to cover after school activities.

In addition, we support that local wellness policies address standards for foods and beverages *available* on campus, including through classroom parties and celebrations, snacks served at school that are not part of a federally reimbursed snack program, and food rewards and incentives. To maintain consistency, we suggest that USDA encourage schools to use the Smart Snacks nutrition standards for those foods. Schools should not only teach children how to make healthy choices, but also should provide an environment that fosters healthy eating. USDA should recommend that school wellness policies clearly state that food should not be used as a reward or incentive for performance or behavior. Providing food based on performance or behavior connects food to mood. This practice encourages children to eat treats even when they are not hungry and can instill lifetime habits of rewarding or comforting themselves with food. Rewarding children with food during class also reinforces eating outside of meal or snack times.

We encourage USDA to provide guidance and model policy language to LEAs on how to address standards for all foods and beverages available on campus, including on healthy fundraisers, alternatives to serving unhealthy foods during classroom parties, alternatives to using food as rewards, and healthy snack ideas.

Policies for Food and Beverage Marketing

We are extremely pleased that the proposed rule would require schools to address food marketing and advertising in their local wellness policies. Advertising and marketing to children in schools requires special consideration because the food industry is reaching children in an environment where parents have little or no oversight or ability to consent, and because students should have a learning environment that does not include messages that undermine nutrition and health education.

We agree that the Smart Snack standards should be used as the minimum standard for school food marketing. However, schools, districts, or states can strengthen and build on those standards. Using the same standards for marketing as for food sales can help to facilitate implementation and help to reduce confusion.

We encourage USDA to assure LEAs that they are free to implement stronger standards for marketing. For example, LEAs could extend the marketing standards beyond the school day, and they could choose to use their local or state competitive foods standards if those standards go beyond the Smart Snack standards. That would allow LEAs to align their marketing standards with their food sales standards. USDA also should note that LEAs also have the discretion to restrict all marketing of food and beverages in schools.

Through guidance and model local wellness policies, USDA should help schools to understand and encourage them to address the full range of food marketing in schools, including marketing and advertising through:

- signs, scoreboards, or posters
- curricula, textbooks, or other educational materials
- vending machine exteriors, food or beverage cups or containers, food display racks, coolers
- equipment, uniforms, school supplies (ex. pencils, notebooks, textbook covers)
- advertisements in school publications, during announcements on the public announcement (PA) system, on school radio stations, in-school television (such as Channel One), computer screen savers, and/or school-sponsored Internet sites, or websites promoted for educational purposes (ex. coolmath-games.com)
- branded fundraisers and corporate-sponsored programs that encourage students and/or their families to sell, purchase, or consume products, and/or provide funds to schools in exchange for consumer purchases of those products (ex. McTeacher's night, Labels for Education, Box Tops for Education)
- corporate incentive programs that reward or provide children with free or discounted foods or beverages (ex. Pizza Hut Book It! Program)
- sponsorship of materials, programs, events, or teams
- market research activities
- corporate-sponsored scholarships
- free samples, taste-tests, or coupons

USDA could clarify in guidance which types of marketing would be exempt from the standards, including:

- Marketing or brand images on clothing worn on school grounds
- Marketing on product packaging for products not sold by the school
- Marketing that students view incidentally through media that are used for educational purposes and are not produced or controlled by the local education agency, school, faculty, or students (such as ads in magazines used in an art class)

USDA should clarify in the final rule which marketing in education materials is covered. Marketing that students view only incidentally, through media that are used for educational purposes and are not produced specifically for schools or controlled by the local education agency, school, faculty, or students, such as ads in magazines used in an art class, should be exempt. However, corporate marketing placed in curricula and textbooks; websites designed for use in schools, such as coolmath-games.com; and ads on in-school radio stations or in-school television, such as Channel One, should be covered by the local wellness policy.

USDA should give guidance to schools about how to address brand advertising. Brand advertising features general brand depictions, such as brand logos, product line logos, or

spokescharacters, in the absence of a focus on a specific product (for example, showing the company brand on a sign at a sponsored event, a Pepsi logo on a scoreboard, or a Gatorade logo on a soccer uniform). If a brand is marketed rather than a specific product, then all the products within the marketed brand or product line should meet the Smart Snack guidelines. Alternatively, schools can replace the brand marketing with marketing for a specific product that meets the Smart Snack guidelines.

USDA also should give guidance to schools about how to address advertising for products that have been reformulated to meet Smart Snacks standards for sales in schools but that are also available in less healthy versions outside of schools.

USDA should provide guidance, model policies, and resources to support implementation of the final rule. Those resources should include data and materials regarding revenue from school marketing to assist schools that are concerned about possible financial ramifications and help schools identify healthy, practical, and profitable ways to raise funds (such as <http://cspinet.org/new/pdf/schoolfundraising.pdf>).

In addition, we encourage USDA to assess implementation and impact of the final rule on the food marketing environment in schools by incorporating food marketing into future School Nutrition Dietary Assessment studies. USDA should use the resulting data to inform its work in creating and supporting future resources and guidance for schools as they evaluate and improve their policies. Additionally, we encourage USDA to incorporate food marketing policies into all levels of the HealthierUS School Challenge.

Informing the Public

We support the requirement that LEAs provide periodic and detailed public notices on the LEA's wellness policy. We agree with USDA that the LEA must actively notify households regarding its wellness policy, to ensure that families receive the information. This provision will strengthen the impact of local school wellness policies by improving implementation, accountability, and transparency. We urge USDA to move quickly to propose the transparency requirements under Section 209 of the Healthy, Hunger-Free Kids Act.

Implementation, Assessment and Updates

We support the requirement that LEAs issue a detailed annual progress report, as well as triennial comprehensive assessments on its LWP. However, we encourage USDA to provide clearer guidance in the final rule on the difference between what should be included in the progress report versus the assessment. We envision the triennial assessment as an opportunity to conduct strategic planning around local wellness policies, and we ask USDA to encourage LEAs to incorporate their wellness policy implementation into the school district and school level strategic plan, which would further enhance implementation, impact, and accountability. We agree that LEAs should determine the frequency with which they update their LWP. However, through guidance and model policies, USDA should encourage LEAs to update their policy every three years in concert with the triennial assessment.

We envision the one-year progress report as an opportunity for the wellness committee to determine how well the local wellness policy is being implemented in each school and if adjustments, resources, training, or other implementation measures are needed. USDA should offer more detail in the preamble and in accompanying guidance and model language about what constitutes minimally acceptable reporting and what would be ideal. We recommend the Bridging the Gap Report as a resource for informing the reporting requirements.^{viii} In addition, USDA and state child nutrition agencies should review school reporting and use the results to determine what guidance, technical assistance, and resources LEAs need.

We also support USDA's recommendations around recordkeeping, technical assistance, and offering resources that promote best practices. These should be widely available and easily accessible.

We strongly support the requirement that an assessment of the local wellness policy be included in the district's compliance review. The compliance review should include the official designated by the LEA who is responsible for the local wellness policy (in addition to the food service professional involved in implementing the school meal and Smart Snack standards). Currently, there is not adequate accountability and enforcement of local wellness policies, which undermines the credibility and effectiveness of the policies, and contributes to their inconsistent implementation in schools. Including the local wellness policy in the compliance review will help to reinforce with LEAs that the policies are important.

We support the record-keeping requirements. To avoid added burden on schools, USDA should clarify that record-keeping can be the same as the annual and three-year assessments, with the main difference being that the assessment is communicated out to state agencies and the public.

Summary

In conclusion, we commend USDA for developing a robust rule for local school wellness policies that will strengthen existing policies and lead to more effective leadership, implementation, stakeholder involvement, accountability, assessment, and transparency. We are pleased that USDA will be providing comprehensive model policies, toolkits, and technical assistance. We urge USDA to include additional definitions in the final rule for each of the key areas to be covered in the local wellness policy and provide schools with about a year for compliance with the final rule.

We hope you will provide further guidance to schools on reporting requirements and use this reporting to inform USDA's work in supporting LEAs' wellness policies. USDA's Special Nutrition Program Operations Study (SN-OPS) also should provide important feedback to USDA that can then be translated into resources and toolkits that support local school wellness policies. We are glad to serve as a resource if we can be of any help as LEAs move forward in implementing these updates for local school wellness policies. If you have any questions or need additional information related to our comments, please do not hesitate to contact us.

Sincerely,

References:

ⁱ National Research Council. *Nutrition Education in the K-12 Curriculum: The Role of National Standards: Workshop Summary*. Washington, D.C.: The National Academies Press, 2013.

ⁱⁱ Institute of Medicine. *Accelerating Progress in Obesity Prevention. Solving the Weight of the Nation*. May 8, 2012. <http://iom.edu/Reports/2012/Accelerating-Progress-in-Obesity-Prevention.aspx>.

ⁱⁱⁱ Kriemler S, Zahner L, Schindler C, Meyer U, Hartmann T, Hebestreit H, Brunner-La Rocca HP, van Mechelen W, Puder JJ. Effect of school based physical activity programme (KISS) on fitness and adiposity in primary schoolchildren: cluster randomised controlled trial. *BMJ*. 2010;340:c785.

^{iv} Harris KC, Kuramoto LK, Schulzer M, Retallack JE. Effect of school-based physical activity interventions on body mass index in children: a meta-analysis. *CMAJ : Canadian Medical Association Journal (Journal de l'Association Medicale Canadienne)*. 2009;180:719-726.

^v Jago R, McMurray RG, Bassin S, Pyle L, Bruecker S, Jakicic JM, Moe E, Murray T, Volpe SL. Modifying physical education: piloting strategies to increase physical activity. *Pediatric Exercise Science*. 2009;21:171-185.

^{vi} Jansen W, Borsboom G, Meima A, Zwanenburg EJ, Mackenbach JP, Raat H, Brug J. Effectiveness of a primary school-based intervention to reduce overweight. *International Journal of Pediatric Obesity*. 2011;6:e70-77.

^{vii} McKenzie TL, Sallis JF, Rosengard P. Beyond the stucco tower: Design, development, and dissemination of the SPARK physical education programs. *Quest*. 2009;61:114-127.

^{viii} Bridging the Gap. *Local School Wellness Policies*. 2013. http://www.bridgingthegapresearch.org/_asset/13s2jm/WP_2013_report.pdf