



April 9, 2013

U.S. Department of Agriculture
Food, Nutrition and Consumer Services
3101 Park Center Drive, Room 640
Alexandria, Virginia 22302-1594

Docket ID: FNS-2011-0019

Re: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger Free Kids Act of 2010

Dear Ms. Brewer:

California Project LEAN of the Public Health Institute is providing comment on the proposed rule for nutrition standards for all foods and beverages sold in schools.

California Project LEAN applauds the USDA for proposing minimum nutrition standards for foods and beverages sold in schools throughout the nation. California was one of the leading states in the nation to adopt competitive food and beverage standards, requiring full implementation of competitive food and beverage standards by July 2009. A key component of the USDA proposal is that states and school districts can keep or adopt standards that go above and beyond the national standards. This is especially important in California, where we don't want to lose momentum on the strides many school districts have made to assure competitive foods are healthy foods.

California Project LEAN (Leaders Encouraging Activity and Nutrition) is a program of the Public Health Institute. California Project LEAN works to advance nutrition and physical activity policy in schools and communities in order to prevent obesity and its associated chronic diseases. Our efforts are centered on youth and parent empowerment approaches, policy and environmental change strategies, and community-based solutions that improve nutrition and physical activity environments.

This letter provides supporting comments and suggested areas to strengthen the proposed USDA Standards for competitive foods. We identify key issues, state our position, and offer a rationale from our experience and the literature.

Supporting Comments:

Issue: National standards for competitive foods and beverages

Position:

We commend USDA Food and Nutrition Service (FNS) for proposing strong national nutrition standards for competitive food and beverage sales. These updated standards will have a beneficial impact on the diet and life-long health of U.S. school children. We urge the agency to finalize and fully implement the rule within the proposed timeline to ensure that children across the country have greater access to healthy snacks and beverages in schools.

Rationale:

- Implementing competitive food and beverage standards is feasible for schools: California schools have implemented competitive food and beverage standards since 2005. A study conducted in 2007, just two years after standards were introduced, found that California schools were “making significant progress toward the implementation of state nutrition standards.”¹
- Competitive food and beverage standards may impact obesity rates: Between 2005 and 2010, childhood obesity in California declined 1.1%.² Although we can’t attribute this leveling off of obesity rates to competitive food and beverage legislation, the legislation may have played a part. A national study comparing California high school students with those from states with no competitive food and beverage standards found that California students consumed fewer calories, less fat and less sugar.³
- California adults support strong school nutrition policies: A poll conducted recently by CA4Health, the PHI Community Transformation Grant project focusing on rural California counties, shows that 79% of registered voters favor strengthening school nutrition standards to limit unhealthy foods and drinks sold in schools.⁴

Issue: USDA’s proposed standards do not pre-empt states or school districts from adopting stricter standards

Position:

We support USDA’s approach to propose minimum standards that allow states and school districts to keep or adopt standards that go above and beyond the federal standards.

¹ Samuels S, Bullock, SL, Woodward-Lopez G, Clark S, Kao J, Craypo L, Barry J, Crawford PB. To what extent have high schools in California been able to implement state-mandated nutrition standards? *Journal of Adolescent Health*. 2009;45(suppl 3):S38–S44.

² Babey SH, Wolstein J, Diamant AL, Bloom A, Goldstein H. A Patchwork of Progress: Changes in Overweight and Obesity Among California 5th-, 7th-, and 9th-Graders, 2005- 2010. UCLA Center for Health Policy Research and California Center for Public Health Advocacy, 2011.

³ Taber DR, Chriqui, JF, Chaloupka FJ. Differences in nutrient intake associated with state laws regarding fat, sugar, and caloric content of competitive foods. *Arch Pediatr Adolesc Med*. 2012;166(5):452-458.

⁴ August 2012 Field Poll, Field Research Corporation

Rationale:

- Aspects of California's current competitive food and beverage legislation are stricter than USDA's proposal: We don't want to weaken the positive changes California schools have made.
- Many California school districts have adopted standards above and beyond California's legislated nutrition standards and the USDA proposal: We don't want to lose momentum for creating the healthiest competitive food and beverage environment possible.

Issue: **Diet and low calorie beverages not allowed in elementary and middle schools**

Position:

We strongly support USDA's proposal to eliminate diet and low calorie beverages in elementary and middle schools.

Rationale:

- When low calorie beverages, such as sports drinks, are allowed, children consume them: From 1989–2008, the percentage of American children ages 6 to 11 consuming sports drinks increased significantly, from 2 percent to 12 percent.⁵
- Low calorie sports drinks provide children with extra calories: While sports drinks contain fewer calories than full-calorie sodas, they can still be a significant contributor to added calories and they are not generally necessary for hydration.
- Diet soda does not contribute to a healthy diet: Diet soda may not contribute calories, but it may replace beverages that provide positive nutrition for students.

Issue: **Requirement for positive nutrients**

Position:

We strongly support USDA's proposal to require that competitive foods be either a fruit, a vegetable, a dairy product, a protein food, a "whole-grain rich" grain product (50% or more whole grains by weight or have whole grains as the first ingredient), a combination food that contains at least 1/4 cup of fruit or vegetable; or contain 10% of the Daily Value (DV) for naturally occurring calcium, potassium, vitamin D, or fiber. This requirement ensures that competitive foods sold to children in schools will contribute to a healthful diet.

Rationale:

- Promote nutrient dense, whole foods: Children's nutrient needs should be met primarily by consuming nutrient-dense, whole foods.
- Minimize empty calories: The proposed rule assures that competitive foods contribute to a healthy diet rather than provide empty calories.

⁵ Lasater G, Piernas C, Popkin B. Beverage patterns and trends among school-aged children in the US, 1989-2008. *Nutrition Journal* 2011, 10:103.

Issue: Sodium limit

Position:

We support the sodium limits established for snack items (≤ 200 mg) and entrees (≤ 480 mg) sold as competitive foods. These limits will contribute significantly to reducing sodium intake of children while at school and will complement the sodium reduction required by USDA for the school meals program.

Rationale:

- Address high blood pressure in children: American children are experiencing a growing prevalence of high blood pressure, which is linked to increasing obesity rates, high sodium intake levels and high calorie diets.^{6,7,8}
- Reduce sodium access in schools: Sodium consumption among children greatly exceeds recommended daily limits.⁹
- Avoid a high salt preference: Children are becoming accustomed to high levels of sodium in processed and restaurant foods. This taste preference for salty foods makes it difficult to adjust to foods with healthier levels of sodium.

Issue: Calorie limits for snacks and entrees sold as competitive foods

Position:

We support USDA's proposed calorie limits for snacks and side dishes (≤ 200 calories) in middle and high schools as well as the proposed calorie limits for entrees (≤ 350 calories) in middle and high schools.

However, since younger students have lower calorie needs, we recommend that USDA set competitive food calorie maximums for snacks and side dishes in elementary schools at **150 calories** and for entrees at **260 calories**.

Rationale:

- Calorie limits are feasible: Schools in California and across the country have instituted calorie limits for snacks and entrees sold as competitive foods.
- Calorie limits can make a difference: Research indicates that as few as 110 to 165 calories a day may have been responsible for the increase in childhood obesity between

⁶ Urrutia-Rojas X, Egbuchunam CU, Bae S, Menchaca J, Bayona M, Rivers PA, Singh KP. High blood pressure in school children: prevalence and risk factors. *BMC Pediatr*. 2006 Nov 16;6:32.

⁷ Hofman A, Hazebroek A, Valkenburg HA. A randomized trial of sodium intake and blood pressure in newborn infants. *JAMA*. 1983 Jul 15;250(3):370-3.

⁸ He FJ, MacGregor GA. Importance of Salt in Determining Blood Pressure in Children: Meta Analysis of Controlled Trials. *Hypertension*. 2006 Nov;48(5):861-9.

⁹ Lloyd-Jones DM, et al., American Heart Association Strategic Planning Task Force and Statistics Committee. Defining and Setting National Goals for Cardiovascular Health Promotion and Disease Reduction: The American Heart Association's Strategic Impact Goal Through 2020 and Beyond. *Circulation*. 2010 Feb 2;121(4):586-613.

1988 and 2002.¹⁰ Children consume an average 277 calories per day from competitive foods sold in schools.¹¹

Issue: Water

Position:

We support USDA's requirement that schools make potable water available to children at no charge during the meal service. However, we strongly suggest that USDA **strengthen** the water requirements to assure that:

- Water is "readily accessible without restriction" in addition to being "available"
- Water is "readily accessible without restriction" during breakfast when breakfast is served in the same space as lunch
- The water requirements in the final rule are effective immediately
- Compliance with the water requirement is included with the State agency administrative review of school food service.

Rationale:

- Facilitate water consumption: Water is essential to good health. According to the Institute of Medicine (IOM), water should be consumed with meals in order to meet daily needs.¹² In schools, water may be "available" (i.e. from a drinking fountain) but may not be readily accessible to students in adequate quantities to consume with their meal. One survey found that almost half of schools with water available during lunch did not provide cups;¹³ a water source without cups limits children to only a few sips of water at a time.
- Monitor compliance with the water requirement: Including the water requirement in the State agency food service administrative review will assure that schools in violation of the water requirement develop and submit a plan for corrective action to the state authority.

Suggested Areas to Strengthen the Proposed USDA Standards:

Issue: Diet drinks in high schools

Position:

We strongly urge USDA to eliminate diet drinks from high schools.

Rationale:

- Eliminating diet drinks in high schools is feasible: Diet beverages have been banned from California high schools since 2009, illustrating that it is feasible to remove these beverages from high schools. High school students are still children; The American

¹⁰ Wang YC, et al. "Estimating the energy gap among U.S. children: a counterfactual approach." *10Pediatrics* 118 (2006): e1721.

¹¹ [Fox, MK, et al. "Availability and Consumption of Competitive Foods in US Public Schools." *JADA* 109 \(2009\): S57-66.](#)

¹² Institute of Medicine. (2007). *Nutrition Standards for Foods in Schools: Leading the Way Toward Healthier Youth*. Washington, DC: The National Academies Press.

¹³ Food Research Action Center (2013). *School Water SNAPSHOT*. Washington, D.C.:FRAC.

Academy of Pediatrics states that for children, the long-term effects of consuming artificially-sweetened beverages are unknown, so it's best for children to avoid them.¹⁴

- Diet beverages don't necessarily help control weight: Although the scientific findings are mixed and not conclusive, there is evidence that regular use of artificial sweeteners may promote weight gain.^{15,16,17}
- Diet soda does not contribute to a healthy diet: Diet soda may not contribute calories, but they do not provide nutrients needed for growth and development. Diet beverages may, if offered during the school day, displace more healthful foods and beverages. The IOM recommend allowing diet beverages in high schools **only after school**, to avoid competition with and potential displacement of nutrient-dense foods in school meals and snacks.¹⁸

Issue: Low calorie drinks in high schools

Position:

We strongly urge USDA to eliminate low calorie beverages (i.e., sports drinks) from high schools.

Rationale:

- When allowed, low calorie beverages dominate: After California legislation banned soda sales in schools, a study found that eight of the top 10 beverages offered for sale in California schools were lower calorie sports drinks.¹⁹
- Low calorie beverages provide children with extra calories: While low calorie beverages contain fewer calories than soda, they can be a significant contributor to added calories and may replace beverages that provide positive nutrition for children.

Issue: Caffeinated beverages in high schools

Position:

We strongly urge USDA to eliminate caffeinated beverages from high schools.

¹⁴ Committee on Nutrition and the Council on Sports Medicine and Fitness. Sports Drinks and Energy Drinks for Children and Adolescents: Are They Appropriate? PEDIATRICS Vol. 127 No. 6 June 1, 2011, pp. 1182 -1189.

¹⁵ Bellisle F, Drewnowski A. Intense sweeteners, energy intake and the control of bodyweight. *European Journal of Clinical Nutrition*. 2007; 61:691-700.

¹⁶ Swithers SE, Davidson TL. A role for sweet taste: calorie predictive relations in energy regulation by rats. *Behavioral Neuroscience*. 2008; 122:161-173.

¹⁷ Fowler SP, Williams K, Resendez RG, Hunt KJ, Hazuda HP, Stern MP. Fueling the obesity epidemic? Artificially sweetened beverage use and long-term weight gain. *Obesity*. 2008; 16:1894-1900.

¹⁸ Committee on Nutrition Standards for Foods in Schools. "Front Matter." *Nutrition Standards for Foods in Schools: Leading the Way Toward Healthier Youth*. Washington, DC: The National Academies Press, 2007.

¹⁹ Samuels, S. The Impact of Competitive Food and Beverage Standards. (March 2009). Retrieved February 2013. from:

<http://samuelsandassociates.com/samuels/upload/ourlatest/CompetitiveFoodsmemo51909.pdf>.

Rationale:

- Caffeine has adverse effects in children: Regular consumption of caffeinated beverages can cause physical dependence and withdrawal symptoms. As a result, the IOM has stated that caffeine in significant quantities has no place in foods and beverages offered in schools.²⁰
- Eliminate energy drinks: As written, the proposed standards would allow diet or low calorie energy drinks. The American Academy of Pediatrics states that “energy drinks pose potential health risks primarily because of stimulant content; therefore, they are not appropriate for children and adolescents and should never be consumed.”²¹

Issue: Flavored milk**Position:**

We strongly urge USDA to eliminate flavored milks, including non-dairy flavored milks, from elementary, middle and high schools.

Rationale:

- Flavored milk provides significant amounts of added sugar: Flavored milk is a sweetened beverage; compared to plain milk, flavored, sweetened milk may provide between 8 and 14 grams of added sugar per cup of milk.
- When flavored milk is available, children choose flavored milk: 70% of milk consumed in schools is flavored.²²
- Eliminating flavored milk is feasible: A number of California school districts have successfully removed flavored milk, including Los Angeles Unified School District – California’s biggest district and the second largest school district in the country.

Issue: Exemption for National School Meals Program foods**Position:**

We strongly urge no exemption be given to meal items (sides and entrees) sold as a la carte options.

Should USDA go forward with an exemption, we suggest a modification: exempt **only entrée items** (not side items), require entrée items to meet limits on fat, sugars, and sodium (sodium could be phased in over time similar to the meals), and be allowed only on the day the item is served in the meal and the following day.

Rationale:

- Undermines intent of the proposed standards: Allowing sales of any foods that do not meet the standards undermines efforts to create a healthy school food environment; selling individual items that do not meet nutrition standards conflicts with the key

²⁰ Committee on Nutrition Standards for Foods in Schools. "Front Matter." *Nutrition Standards for Foods in Schools: Leading the Way Toward Healthier Youth*. Washington, DC: The National Academies Press, 2007.

²¹ Committee on Nutrition and the Council on Sports Medicine and Fitness. Sports Drinks and Energy Drinks for Children and Adolescents: Are They Appropriate? PEDIATRICS Vol. 127 No. 6 June 1, 2011, pp. 1182 -1189.

²² School Milk Facts. <http://www.milkdelivers.org/schools/school-milk-facts>. Downloaded March 2013.

purpose of this rule to ensure that “children are provided with healthy food options throughout the school day.”

- A la carte foods account for 93% of competitive food sales, according to the USDA: Exempting a la carte items may create a school food environment where the majority of competitive foods available for sale do not need to meet the USDA standards.
- School meals contain components that together make a healthy meal: School meals are designed to balance the nutritional components of all food items in a meal across all meals over a week. Together, the meal items create a balanced meal that provides key nutrients and limits calories, fats, sugars, and sodium. This balancing allows individual foods that exceed calorie, fats, sugars, and sodium limits to be included in a reimbursable meal. When such items are sold individually, students get the negative nutrition components (fats, calories, etc.) without getting the positive nutrients from the other items included in the meal.

Issue: Fundraising

Position:

We urge no exemption be given from the competitive food and beverage standards for any food and beverage fundraising sales.

If the USDA must provide an exemption for fundraising, we suggest that exempted fundraisers be **infrequent**, taking place on no more than a maximum total number of school days as specified by the Secretary of Agriculture. States can set their own definition of infrequent, as long as it does not exceed the Secretary’s maximum total number of school days.

In the case that an exemption is provided, we suggest that exempted fundraiser foods or beverages **may not** be sold in competition with school meals on the school campus at any time during the meal service, with “meal service” being defined as 30 minutes before breakfast service begins and 30 minutes after breakfast ends, and 30 minutes before the first lunch period through 30 minutes after the last lunch period.

Rationale:

- California has required all food and beverage fundraising sales to adhere to competitive food/beverage standards since 2007.
- Fundraising junk food sales are widespread: A 2006 national survey found that nearly half of elementary schools and over half of middle and high schools sell candy and baked goods through fundraisers.²³
- Foods sold as fundraisers can compete with the school meals program: Fundraisers such as morning cinnamon roll sales at the school entrance and lunchtime pizza sales in the quad compete with healthy, federally-reimbursed meals. As schools work to provide healthier choices in the lunch and breakfast programs, unhealthy fundraisers undermine schools’ ability to promote healthy food and beverage options to students.

²³ O’Toole T, Anderson S, Miller C, Guthrie J. “Nutrition Services and Foods and Beverages Available at School: Results from the School Health Policies and Programs Study 2006.” Journal of School Health 2007, vol. 77, pp.500-521.

Thank you for the opportunity to provide comments on USDA's proposed rule on competitive food standards. We urge you to build on your proposal and strengthen it to ensure that schools provide children the most nutritious foods and beverages possible.

Sincerely,

Cyndi Guerra Walter

Program Director

California Project LEAN

Public Health Institute