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Ms. Julie Brewer  
Chief, Policy and Program Branch  
Child Nutrition Division  
US Department of Agriculture  
Food, Nutrition and Consumer Services  
3101 Park Center Drive, Room 640  
Alexandria, VA 22302

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 Food Policy Advocates (CFPA) is writing to provide comment, perspective and recommendations to strengthen the proposed rule for nutrition standards for all foods and beverages sold in schools.

CFPA is a statewide organization whose mission is to improve the health and well being of low-income Californians by increasing their access to nutritious, affordable food. CFPA has worked to strengthen the federal nutrition programs for over twenty years by sponsoring state and local legislation, conducting research and working with communities across California to create environments that support optimal nutrition. As a result of this focus, CFPA is in a unique position to provide USDA with useful insights into the lessons learned from California's competitive food and beverage experience.

CFPA's comments identify four potential improvements to the proposed rule: 1) Increasing Participation in National School Lunch, School Breakfast and Afterschool Meals, 2) Developing Students' Nutrition Literacy by Serving Whole Foods, 3) Providing Adequate Detail to Ensure Water Accessibility, and 4) Increasing Compliance Across School Campuses.

In addition to the four focus areas outlined in this letter, CFPA supports the detailed and comprehensive comments drafted by the National Alliance for Nutrition and Activity (NANA), which address specific recommendations and provisions in the proposed rule.

## Increasing Participation in SBP, NSLP and Afterschool Meals through the Proposed Rule

While the nutritional benefits of participating in the federal nutrition programs are significant for low-income children and adolescents, too many students are not eating the most nourishing foods on campus. This participation gap – nearly two million low-income students don't participate in California – is exacerbated by the availability of snacks, beverages and fundraising outside school cafeterias. While California's adoption of food and beverage standards has reduced the availability of some high-calorie foods and drinks, CFPA strongly supports a final rule that even more significantly limits competitive food sales and that effectively enforces the nutrition guidelines.

Many California schools have eliminated competitive foods and a la carte options. CFPA believes that the elimination of competitive foods is a best practice that ought to be replicated and encouraged in guidance from USDA. This strategy can increase NSLP and SBP participation, ensures all students are exposed to whole, nutritious foods, and eliminates the stigma associated with not having enough money to purchase competitive foods. For example, a 2009-10 intervention at San Francisco Unified School District demonstrated that the elimination of a la carte options increased NSLP participation among eligible students, leading the district to remove all a la carte options the following school year in all middle and high schools. The following specific changes to the proposed rule will help increase participation in the meal programs:

- Eliminate exemptions to be given to meal items (sides and entrees) sold as a la carte options. Exempting these items would severely undermine the integrity of the competitive food standards and the intended impact of the new meal program standards, which were designed to ensure adequate nutritional intake from a variety of meal components during the week. However, should USDA decide to go forward with an exemption, we recommend it be a *modified* version of alternatives A1 and B1. Such an exemption should include only entree items (not side items), all items should meet limits on fat, sugars, and sodium (sodium could be phased in over time similar to the phase-in for the school meal standards), and be allowed on the day the item is served in the meal and the following day. This would provide flexibility for school food service, allowing service of leftover entrees.
- Extend the standards until 30 minutes after the final USDA-funded meal or snack is served, in order to reduce competition with USDA foods and beverages served in afterschool programs.
- Request State Agencies to work with local School Food Authorities to develop appropriate policies to reduce mobile vending at key school access points (e.g., entrances, areas surrounding school's perimeter), in order to prevent the sale of unapproved foods and beverages from undermining both the school meal standards and competitive food standards.

## **Developing Students' Nutrition Literacy Serving Whole Foods**

California's competitive food and beverage standards ended the sale of soda on school campuses, but due to industry innovation and modest changes in preparation techniques and ingredients, modified versions of brownies, chips and Flamin' Hot Cheetos are still widely available for sale. Additionally, the beverage machines that were stocked with sodas are now primarily stocked with electrolyte replacement beverages. These modifications made to meet the state standards may have reduced caloric intake but do not teach students optimal eating habits. Because schools play an important role in shaping students' eating habits, changes to competitive foods are an opportunity to build students' nutrition literacy. Two provisions of the proposed rule represent important steps forward that should be enacted in the final rule:

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

## **Free Drinking Water Should Be More Accessible**

Water is an essential nutrient that is calorie-free and should be the most accessible beverage for students to drink – yet water isn't always readily accessible in schools. In 2009, a survey by California Project LEAN revealed that 40% of responding school districts didn't offer students free drinking water during meal times. CFPA has worked with a variety of California and national stakeholders to increase water availability and consumption in schools, including pursuit of state legislation (SB 1413) in 2010 to make free, fresh drinking water available to students where meals are served and consumed. This law is similar to the Healthy, Hunger-Free Kids Act's provision requiring free drinking water be available where school meals are eaten.

The major lessons learned from CFPA's work to increase water consumption at schools are that multiple strategies are needed, given the myriad features of each school, and no single definition of compliance is universally applicable. A recent study of Bay Area public schools showed that when water was provided by a non-fountain source, the percentage of students who drank free water doubled in secondary schools. More appealing water delivery systems, combined with water promotion, are necessary to increase students' water intake at mealtimes.

While USDA provided guidance to State Agencies in 2011 to explain the water provision of the HHFKA, additional clarity is warranted to strengthen implementation with the letter and spirit of this provision. CFPA encourages USDA to set guidance on how

school administrators and state agencies can assess the availability of free drinking water sources on school campus. The Water Audit Tool, developed by the Harvard Prevention Research Center and put into practice by Massachusetts and Seattle schools, can be good starting point for developing the checklist of key criteria:

- Identification of free, working drinking water source. Examples available at: <http://www.waterinschools.org/>
- Location of each source of free drinking water and its proximity to eating areas.
- Water quality (clarity, smell, color, palatability).
- Appearance and cleanliness of free drinking water source (note any debris, rust, gum, mold, etc.).
- Flow rate (time it takes to fill 8 oz. cup).
- Temperature of water (F).
- Promotion of free drinking water source (signage, early morning announcements, etc.).
- Water safety monitoring and confirmation that the water source doesn't contain contaminants.
- Language in school wellness policies related to the availability of free drinking water. Model policy language: <http://changelabsolutions.org/publications/wellness-policy-water>
- Presence of physical obstacles (e.g., doors blocking the water source) or site policies (e.g., students not being allowed to get out of their seats during meal times) that might prevent students from accessing free drinking water.
- Incorporation of student feedback on how to best encourage water consumption.

### **Increasing Compliance with New Standards Across School Campuses**

California's experience with competitive foods has identified many lessons for consideration during the adoption of national standards, including the challenge of removing unauthorized products - particularly from high schools where competitive foods and beverage sales are often deeply wound into school culture. Numerous factors have limited full compliance with state and local competitive foods legislation. A short list includes deeply ingrained student preferences and demand for unhealthy snacks, powerful industry marketing efforts, fundraising for vital extracurricular programs during lean fiscal times, involvement of multiple school staff, and confusion over computing nutrient calculations, among others. USDA should pay special attention to the integration of monitoring the sale of food and beverages across campuses into the Administrative Review, in order to increase compliance. Specifically, USDA's final rule should require State Agencies to:

- Disseminate a memo to all school district superintendents, principals and food services staff clearly stating what is allowed and what is not allowed; not just nutrient formulae, but product lists, as well. It should be clear to school district leaders that compliance is a shared responsibility that will provide significant health benefits to students.

- In states that enact their own competitive food and beverage standards, USDA should require the Administrative Reviews to include observations of blended state / federal competitive foods compliance.
- Identify a clearer role for school district leadership in corrective actions. Don't depend on School Food Authorities alone to achieve compliance.
- Increase transparency of review findings by using the web and other tools such as Local School Wellness Policy committees to post review findings in order to better empower local leaders to hold non-compliant sites accountable and inform the public.

We thank you for the opportunity to provide comments on USDA's proposed rule on competitive food standards. Swift implementation of the final rule will help safeguard the health of the 32 million students who participate in the school meal programs as well as the other students on school campuses. If I can provide additional information, please contact me at 510.433.1122x103.

Sincerely,

A handwritten signature in blue ink that reads "George" followed by a stylized monogram "ML".

George Manalo-LeClair  
Executive Director