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October 31, 2019

SNAP Program Design Branch,
Program Development Division
Food and Nutrition Service
3101 Park Center Drive
U.S. Department of Agriculture
Alexandria, VA 22302

Re: Notice of Proposed Rule Making -- Revision of Categorical Eligibility
in the Supplemental Nutrition Assistance Program (SNAP); Reopening of
Comment Period RIN 0584-AE62

Dear SNAP Program Design Branch:

On behalf of California Food Policy Advocates, we appreciate the opportunity to comment on USDA's Notice of Proposed Rule Making on a Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP) during the reopening of the comment period. Our organization previously submitted broader comments to the originally posted proposed rule, but is submitting comments in response to the new data released by USDA. USDA's recently released analysis of the impact of the proposed rule on access to school meals underscores the significant harm of the proposed rule and highlights that the Department has only brushed the surface at measuring the many negative rippling effects the proposed rule would have on our nation. CFPA strongly opposes the proposed rule and urges the Department to withdraw the proposal. If enacted, the proposed rule would cause serious harm to California, our students, their families, and millions of vulnerable individuals across the nation.

About California Food Policy Advocates

California Food Policy Advocates (CFPA) is a statewide policy and advocacy organization dedicated to improving the health and well-being of low-income Californians by increasing their access to nutritious, affordable food. For over twenty-five years, we have advocated improvements in the operation of federal nutrition programs, including CalFresh, the state's largest food assistance program, known federally as the Supplemental Nutrition Assistance Program (SNAP). Our organization pays very close attention to SNAP because the program plays a critical role in addressing food insecurity and poverty in California,ⁱ and is the first line of defense against hunger for the majority of our low-income residents. For the past decade, we have also worked closely with the California Department of Education to improve access to school meals by establishing and enhancing a state-level direct certification system that certifies school-age recipients

of SNAP benefits as eligible for free school meals without requiring students to complete a separate application. Together, these two resources, school meals and SNAP, have been critical to reducing food insecurity in our state.

Across California, 4.7 million adults and 2.0 million children live in low-income households affected by food insecurity.ⁱⁱ Food insecurity means having limited, uncertain, or inconsistent access to the quality and quantity of food that is necessary to live a healthy life. While food security is tied to positive social, physical, and mental health outcomes, food insecurity is associated with an increased likelihood of chronic disease, hospitalizations, poorer disease management, developmental and mental health problems, as well as increased health care spending.^{iii,iv,v,vi,vii,viii} SNAP plays a critical role in addressing hunger and food insecurity in our state. It is the first line of defense against hunger for 3.9 million low-income Californians and 36 million Americans.^{ix} USDA's proposed rule would worsen hunger in California and across the nation by stripping households from necessary SNAP's benefits.

The proposed rule would take us backward by removing states' longstanding option to eliminate SNAP asset tests and use a higher income test to serve more working households that have significant expenses for shelter and child care.^x The current policy option is known as Broad-based Categorical Eligibility or "Cat EI." According to USDA's initial Regulatory Impact Analysis, the proposed rule would eliminate SNAP benefits for 3.1 million households nationally.^{xi}

The Proposed Rule Would Cause a Negative "Ripple Effect" On Access to School Meals

The lately released Department's analysis of the proposed rule's impact on access to the School Breakfast and National School Lunch Program further highlights the serious harm the proposed change would cause to children across the United States and here within California. The proposed rule would sever the seamless connection to free school meals for students in households directly certified for participation in the federal Free and Reduced Price Meal Program (FRPM). According to the newly released USDA analysis, the proposed rule will jeopardize nearly one million children's access to free school meals. Even assuming that their families could navigate the school meals application process successfully, the majority would no longer qualify for free school meals: 497,000 children would qualify only for reduced-price school meals and another 40,000 children would receive school meals only by paying regular price.

Cutting kids off from free school meals and forcing families to pay for reduced or full-priced meals would have far reaching negative impacts on the health, wellbeing, and academic achievement of California's students. More than 2 million California children are already at-risk for hunger and severing their connection to school meals would cause further harm as school meals are linked to reductions in food insecurity.^{xii} School meals are sometimes the only nutritious meal participating students eat each day. School meals are also a critical resource for getting students the food they need to concentrate and focus on what's ahead instead of what's missing. Research tells us that healthy and well-nourished children are more likely to attend class, be ready to learn, stay engaged, and perform well in school.^{xiii} School meals are also linked to reductions in poverty.^{xiv} Free school meals provide a major support for families struggling to make ends meet.

Given the current serious issues in many school districts with low-income working families struggling to pay for school meals even at reduced prices, the proposed rule would likely exacerbate the incidences of “lunch shaming” (occurring when families accumulate school meal debt and children are not provided the regular school meal) and/or cause the children to forgo getting the school meal entirely. Indeed, already one in four school districts are dealing with unpaid school meals fees. We have heard many stories of children across California being impacted by lunch shaming, including kindergarteners who have gone home hungry because they were denied access to a meal.

The Proposed Rule Would Have an Unmeasured Impact on High Poverty Schools Ability to Offer Free Meals to All Students

Cutting off SNAP for families with school-age children would also mean hundreds of California K-12 schools that serve, or are planning to serve, universally-free meals under universally free meal provisions such as the Community Eligibility Provision (CEP) could lose eligibility for the program or make it financially unsustainable to do so. CEP is a non-pricing meal service option for schools and school districts in low-income areas. As the USDA website states, CEP “allows the nation’s highest poverty schools and districts to serve breakfast and lunch at no cost to all enrolled students without collecting household applications. Instead, schools that adopt CEP are reimbursed using a formula based on the percentage of students categorically eligible for free meals based on their participation in other specific means-tested programs, such as the Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF).”^{xv} Universally free school meals are particularly important in California where the cost of living and operating a business are extraordinarily high. When breakfast and lunch are served free to every student, the entire school will benefit. The benefits extend from the elimination of school meal debt, to the supportive meal environment that eliminates stigma, and the increase in federal resources that can be put back into the quality of the school meal programs.

The new analysis from USDA fails to consider the impacts of the proposed rule on community eligibility for free school meals. In California, over 3,033 high poverty schools in California take advantage of universally free school meal provisions such as CEP to serve free meals to all students.^{xvi} Many of these schools will find that they no longer qualify for community eligibility or that it is no longer financially viable given the significant number of children that will lose access to free school meals with the proposed rule. In this regard, the proposed rule also would take free school meals away from additional children.

The proposed rule would also cause a ripple effect on California school districts’ budgets under the state’s Local Control Funding Formula, which targets supplemental funding to high-need schools based partly on the percentage of students receiving free or reduced priced meals.^{xvii} Not only would these schools lose state funding, the shift from direct certification to individual application processing would create barriers to free or reduced-price school meals for children, and schools would have to process many more school meal applications. The proposed rule creates a significant administrative cost for schools, which the new analysis fails to adequately address.

USDA Has Not Provided Enough Time to Review and Comment on this Proposed Rule

The Department has not provided sufficient time to develop comments. The Department waited more than 75 days after it published the proposed rule and 16 days after the initial 60-day comment period had closed to release its analysis of the impact on access to school meals, yet has provided the public only 14 days to review and assess the Department's analysis.

The Department also has not adequately explained why it omitted analysis of the impact on school meals from the Regulatory Impact Analysis it posted during the initial 60-day comment period. The lack of the original Regulatory Impact Analysis to include information on the proposed rule's estimated impact on access to the School Breakfast Program and the National School Lunch Program is especially concerning given that the Congressional Budget Office (CBO) has included analyses of impacts on access when it has provided cost estimates to Congress regarding proposed legislative changes to SNAP Cat EI. Indeed, such CBO estimates were before Members of Congress when they were considering changes to Cat EI in the 2018 Farm Bill. [See, e.g., Cost Estimate of H.R. 2, Agriculture and Nutrition Act of 2018 As Ordered Reported by the House Committee on Agriculture on April 18, 2018, Congressional Budget Office, May 2, 2018, available at https://www.cbo.gov/system/files/2018-07/hr2_1.pdf (in analyzing a proposal to change Cat EI, "There would be an additional effect on children who are categorically eligible for free meals at school because of their eligibility for SNAP. If their households lost SNAP eligibility because of the revised threshold and their families were not otherwise eligible for free meals, those children would be eligible only for reduced-price or paid meals. Those meals have smaller reimbursement rates to the meal providers and thus the federal costs of the child nutrition program would decline.")]

USDA Has Not Taken into Account the Proposed Rule's Full Harm

The Department has not provided sufficient analysis of the proposed rule's impact on access to school meals nor has it taken into account the proposed rule's full harm. Before implementing the proposed rule additional analyses should be conducted in order to thoroughly assess at a national and state level the proposed rule's impacts, including:

- The number and location of schools that would no longer qualify for the Community Eligibility Provision as a result of the proposed rule change and the number of enrolled students at those schools that would lose access to free meals as a result of those schools no longer qualifying for CEP;
- The number of schools and the number of enrolled students at those schools that would experience a decrease in Title I funding because of the reduction in the number of students who would no longer qualify for free or reduced price meals because of the proposed rule change;
- Demographics and characteristics of schools and enrolled students that would experience a change in Title I funding as a result of a reduction in the number of students who would no longer qualify for free or reduced price meals because of the proposed rule change;
- The economic effects of changes in school meal enrollment and participation because of the proposed rule change, including but not limited to effects on tax revenue and overall economic activity and additionally the economic effects of changes in the SNAP program;

- The effects of changes in school meal enrollment and SNAP enrollment and participation on employment and the workforce, including but not limited to local and state public employees that would result from the proposed rule change.
- The effects of changes in school meal participation and SNAP participation on students' food security and overall household food security that would result from a reduction in the number of students who qualify for free or reduced price meals and SNAP because of the proposed rule change;
- The effects of changes in school meal participation and SNAP participation on students' health outcomes, including but not limited to risk for diabetes and obesity, that would result from a reduction in the number of students who qualify for free or reduced price meals and SNAP because of the proposed rule change
- The effects of changes in school meal enrollment and participation on students' short and long-term academic and developmental outcomes, including but not limited to standardized test performance, school attendance, disciplinary suspensions, educational attainment, classroom behavior, and socioemotional development, that would result from a reduction in the number of students who qualify for free or reduced price meals and SNAP because of the proposed rule change.
- The number of students who would experience a change in eligibility for free or reduced-price meals served through other federal meal and snack programs due to the rule change, including the Child and Adult Care Food Program which provides snacks to students at many elementary and high schools, Summer EBT, and other summer nutrition programs;
- The number of young children who would lose access to meals served in child care or preschool through the Child and Adult Care Food Program because of the rule change's impact on their eligibility or their provider's eligibility for the program.

Conclusion:

Cat EI works in California. It helps families as they strive to get back on their feet. Financially responsible choices like establishing modest savings and owning a reliable car to get to and from work help Californians climb the economic ladder towards self-sufficiency. Cat EI for SNAP allows people to make those choices and still afford healthy food. It also increases administrative efficiency by streamlining enrollment into SNAP. Cat EI also provides our low-income students with a more streamlined connection to free school meals.

Congress has consistently rejected efforts to gut Cat EI. Cat EI policies have been in place for more than two decades. Congress rejected efforts to gut Cat EI, including during its consideration of 2005 budget reconciliation, the 2014 Farm bill, and the 2018 Farm Bill. This USDA rulemaking is another attempt to circumvent Congress and is outside USDA's authority. For this reason, and those described above, the proposed rule should be immediately withdrawn.

CFPA strongly opposes the proposed rule that would jeopardize our students' access to free school meals, while at the same time reducing the amount of food available to them at home.

Sincerely,



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- ⁱ Public Policy Institute of California, “Improving California Children’s Participation in Nutrition Programs”, available at <https://www.ppic.org/publication/improving-california-childrens-participation-in-nutrition-programs/#fn-2>
- ⁱⁱ CFPA Factsheet, “Struggling to Make Ends Meet: Food Insecurity in CA,” available at <https://cfpa.net/GeneralNutrition/CFPAPublications/FoodInsecurity-Factsheet-2019.pdf>
- ⁱⁱⁱ Seligman, Laraia, Kushel. (2010) Food insecurity is associated with chronic disease among low-income NHANES participants. *J Nutrition*, 140(2), 304–310.
- ^{iv} Stuff, Janice E., Patrick H. Casey, Kitty L. Szeto, Jeffrey M. Gossett, James M. Robbins, Pippa M. Simpson, Carol Connell, and Margaret L. Bogle. 2004. “Household Food Insecurity Is Associated with Adult Health Status.” *Journal of Nutrition*, 134:2330–2335.
- ^v Tarasuk, Cheng, de Oliveira C, Dachner, Gundersen, Kurdyak. (2015) Association between household food insecurity and annual health care costs. *CMAJ*, 187(14), E429-E436
- ^{vi} Seligman, Davis, Schillinger, Wolf. (2010) Food insecurity is associated with hypoglycemia and poor diabetes self-management in a low-income sample with diabetes. *J Health Care Poor Underserved*, 21(4), 1227–1233.
- ^{vii} Berkowitz, Seligman, Basu. (2018) Food insecurity, healthcare utilization, and high cost: A longitudinal cohort study. *Am J Manag Care*. 24(9):399-404
- ^{viii} World Health Organization, <https://www.who.int/hia/evidence/doh/en/index3.html>, see also Craig Gundersen and James P. Ziliak, “Food Insecurity and Health Outcomes,” *Health Affairs*, November 2015
- ^{ix} USDA Food and Nutrition Service SNAP Data Tables, available at <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>
- ^x USDA Food and Nutrition Service Fact Sheet, Broad Based Categorical Eligibility, June 2019, available at <https://fns-prod.azureedge.net/sites/default/files/resource-files/BBCE2019.pdf>
- ^{xi} Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP), 84 FR 35570 (proposed July 24th 2019), to be codified at 7 CFR part 273, 35575
- ^{xii} Food Research and Action Center. The Role of the Federal Child Nutrition Programs in Improving Health and Well-Being. <https://frac.org/wp-content/uploads/hunger-health-role-federal-child-nutrition-programs-improving-health-well-being.pdf>
- ^{xiii} California Food Policy Advocates. Research Summary School Nutrition and Academic Achievement. https://cfpa.net/ChildNutrition/Education%20Reform/CFPA_LCAP_Research%20Summary%20and%20Overview_FINAL_16_12_06.pdf
- ^{xiv} Food Research and Action Center. The Role of the Federal Child Nutrition Programs in Improving Health and Well-Being. <https://frac.org/wp-content/uploads/hunger-health-role-federal-child-nutrition-programs-improving-health-well-being.pdf>
- ^{xv} USDA Community Eligibility Provision webpage, <https://www.fns.usda.gov/school-meals/community-eligibility-provision>
- ^{xvi} California Department of Education 2018-2019 school year data.
- ^{xvii} California Department of Education, Local Control Funding Formula Overview, available at <https://www.cde.ca.gov/fg/aa/lc/lcfoverview.asp>