



Feeding Bodies. Fueling Minds.™

September 15, 2017

Mr. Michael Poe
Office of Budget and Program Analysis
U.S. Department of Agriculture
Jamie L. Whitten Building, Room 101-A
1400 Independence Avenue, SW
Washington, DC 20250

RE: Identifying Regulatory Reform Initiatives

Dear Mr. Poe:

On behalf of the 57,000 members of the School Nutrition Association (SNA), we are submitting comments in response to the Federal Register Notice of July 17, 2017, *Identifying Regulatory Reform Initiatives*. We appreciate that the U.S. Department of Agriculture (USDA) is requesting ideas “from the public on how we can provide better customer service and remove unintended barriers to participation in our programs in ways that least interfere with our customers and allow us to accomplish our mission.” Our membership has direct experience with the Department’s regulations as they pertain to the administration and operation of school-based meal programs and well understands the regulatory barriers that present challenges to operating efficiently, effectively, accountably and with integrity. SNA has applied a web-based survey instrument to collect member concerns related to your yearlong effort to identify regulatory reform, and, based on that feedback, this letter outlines priority areas where SNA believes reforms should be directed.

Paid Lunch Equity

As part of the Healthy, Hunger-Free Kids Act (HHFKA) of 2010 (Public Law 111-296) and subsequently written into the National School Lunch Program Regulations at 7 CFR 210.14 (e), there is now a requirement for local school districts to gradually increase the cost of meals served to children who pay for their meals. The requirement to raise meal prices extends until the paying student meal cost is equal to the free reimbursement rate. The determination of paid meal prices has been the responsibility of the local board of education for decades. The Federally-mandated price increases for paying students has gradually eliminated students from working poor families from participating in the school meal programs as many children who live in economically distressed households (between 185% and 220% of poverty and above in some areas of the country with a high cost of living) can no longer afford the cost of a school meal.

In addition, the responsibility to administer and operate a local school nutrition program resides with each local board of education or other governing board. These boards are required to ensure the fiscal solvency of the school nutrition programs for which they are accountable. All schools that participate in the Federally-assisted School Nutrition programs are required to comply with the non-profit status requirements of 7 CFR 210.14. How local governing bodies establish paid meal prices to support their non-profit school nutrition

programs should not be a matter of Federal jurisdiction. Subsequently, there should be no further interference with the local school board's decision on the prices set for paid meals in their local schools. While guidance on maintaining fiscal solvency in the non-profit school nutrition program is appreciated, prescribing the criterion for and process to establish meal prices for paying students, is overstepping the role of the Food and Nutrition Service. Paid meal prices should be established in a manner that ensures students from food insecure households are not "priced out" of the school nutrition program and that these important programs are accessible to **all** students.

Multiple Program Regulations for School Districts Operating Multiple Child Nutrition Programs

The At-Risk After School Meal Program (ARAMP) was recently added to the list of Federal food assistance programs as a component of the Child and Adult Care Food Program (CACFP). This unique program provides access to nutritious meals for students who participate in supplemental education programs after the school day has ended. While the program provides nutritious meals and/or snacks to economically disadvantaged students, the placement of the program in the CACFP, as opposed to the National School Lunch Program (NSLP), has created operational challenges for schools that provide supplemental education programs for students as a means of promoting students' academic success. The operational idiosyncrasies between the NSLP and the CACFP are such that housing a school-based program in the CACFP, which is intended to support child care providers, has created additional burdens and complexities for schools that actually deter many School Food Authorities (SFAs) from administering the CACFP version of the ARAMP. Despite some leeway granted through USDA policy memoranda, SFAs are asked to duplicate efforts, repeat processes and comply with rules which do not take into account the fiscal accountability of a public school system. Further, SFAs are required to implement and track the variances between two (2) sets of parallel regulations [7 CFR 210.9 (c) and 7 CFR 226.15, 7 CFR 226.16 and 7 CFR 226.17a].

Implementing a seamless program design, like the approach offered through the Seamless Summer Option, would generate a streamlined approach. A seamless process for the ARAMP, as a component of the NSLP, would reduce the duplication of effort and eliminate the unnecessary administrative burden to SFAs. A simplified ARAMP would further eliminate meal pattern and recordkeeping differences, utilize a consolidated reimbursement claim, promote uniformity in program operations and ultimately improve the consistency, accountability and integrity of the program.

In addition, a review of the new CACFP meal pattern [7 CFR 226.20 (a), (c)(3) and (d)] leads SNA to further request that USDA allow SFAs to apply the NSLP meal pattern throughout all meal service sites and populations that are under the jurisdiction of a school district, including all sites served by the NSLP agreement. Currently, SFAs are required to comply with two distinct meal patterns in order to serve the Pre-Kindergarten population and the early education population. We would contend the nutritional needs of students in such programs are not so vastly different that there should be any substantial change in the CACFP meal pattern from that which is outlined in the NSLP [7 CFR 210.9 (c) and 7 CFR 210.20]. The administrative burden caused by implementing two distinct meal patterns for one general early childhood population is quite costly.

Flexibility in the Variety of Fruits and Vegetables Offered

Within the NSLP meal pattern established through the HRFKA of 2010 and in regulation at 7 CFR 210.10 (e) (2) (iii), there is a prescribed subcategory of vegetable sub-groups based on the color of the vegetables. While the intent of the regulation was to encourage a variety of vegetables, the mandatory sub-grouping created complexities in menu planning, increased costs and ultimately limited variety given the limited growing season and availability of produce in the school nutrition marketplace. SNA members frequently report the vegetable sub-groups also contribute to student plate waste.

To address this matter and minimize the complexities of menu implementation while subsequently minimizing student plate waste, SNA requests menu planning flexibility for the vegetable component and looks to the USDA to *encourage* the color-based subcategories, without requiring strict adherence and assessing fiscal

sanctions [7 CFR 210.18 (l)] for meals served to students that do not comply with this requirement. SNA finds such penalties to be purposefully punitive, especially when cost, availability, variety and plate waste issues are such challenges.

Impact of Smart Snacks on Fiscal Sustainability

SNA's members continue to express concern regarding inconsistencies and inefficiencies with certain provisions of the Smart Snacks rule (7 CFR 210.11). For many years, members have been concerned about various entities selling non-nutritious competitive foods on the school campus, in competition with the school meal program, and thus we support the good intentions of Smart Snacks to send a consistent message on the school campus to students about the importance of making healthful food choices. After all, schools can play a critical role in the formation of life-long healthful eating habits among students. Consistent messaging to students is important to achieve this important goal.

The NSLP Meal Pattern (7 CFR 210.10) supports providing nutritious food items as part of the reimbursable meal. The Smart Snacks rule reflects an arbitrary set of nutrition standards that are inconsistent with the nutrition standards for reimbursable meals. Currently, the Smart Snacks rules prohibit items approved for a reimbursable meal from being offered as an a la carte item alongside those meals (7 CFR 210.11 (c) (3)). Again, this rule creates an unnecessary and costly administrative burden for SFAs and eliminates many nutritious, appealing, affordable meal options that are consistent with a healthful diet.

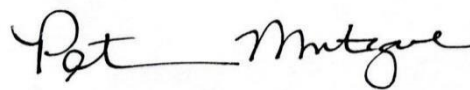
The food industry has worked diligently to develop menu items that are in compliance with the Smart Snacks rule (7 CFR 210.11), but the roll-out and acceptability of these items has had a negative impact on the fiscal sustainability of some school nutrition programs. A small revision to the regulations that would eliminate the restriction on the frequency with which food items may be offered on an a la carte basis should assist in providing students with acceptable nutritious snacks and a la carte items, thus supporting the financial stability of school nutrition operations without placing an unnecessary burden on district appropriations. These minimal revisions should also be consistent with the intent of the Healthy, Hunger-Free Kids Act.

On behalf of our members, thank you again for this opportunity to provide recommendations to address program efficiencies. As SNA members continue to raise additional ideas for change, we will submit them based on the schedule the Department has outlined. Should you desire additional information to support any of the items discussed in this communication, please let us know. We appreciate the opportunity to partner with the USDA to promote healthy meals for our nation's students!

Sincerely,



Dr. Lynn Harvey, RDN, LDN, FAND, SNS
President



Patricia Montague, CAE
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