



April 25, 2014

Julie Brewer
Chief, School Programs Branch
Child Nutrition Programs
Food and Nutrition Service (FNS)
U.S. Department of Agriculture (USDA)
P.O. Box 66740
Saint Louis, MO 63166-6740

Re: Child Nutrition Programs, Local School Wellness Policy Implementation and School Nutrition Environment Information under the Healthy, Hunger-Free Kids Act of 2010 (RIN 0584-AE25)

Dear Ms. Brewer:

Trust for America's Health (TFAH), a nonprofit, nonpartisan organization dedicated to saving lives by protecting the health of every community and working to make disease prevention a national priority, strongly supports your efforts to finalize a rule to promote school policies that create healthy learning environments towards the shared goals of promoting student health and improved educational achievement in the classroom. We are pleased to have the opportunity to submit the following comments on the proposed rule published on February 26, 2014 for your consideration.

In May 2012, TFAH and the Healthy Schools Campaign released *Health in Mind*, a series of policy recommendations aimed at supporting schools in addressing health and wellness. The report identified a number of priorities towards the goal of improving school health that overlap considerably with a number of the content areas that have been proposed in this rulemaking, including: preparing principals, teachers, and other school employees to identify and address health issues; providing schools with strategies to partner with parents as agents of change; and incorporating health and wellness into school metrics and accountability systems.

TFAH likewise supports the proposed rule to strengthen local wellness policies and assure schools have measurable goals for promoting school wellness. It also will help engage parents and communities in these goals by ensuring that wellness committees have representation from key stakeholders and requiring public reporting to promote transparency to the community on schools' implementation, progress, and review of wellness policies.



We respectfully offer the following comments on various provisions of the proposed rule where we believe further revision could help schools to improve their wellness policies:

Local School Wellness Policy Leadership

We strongly support the requirement that there be one or more local education agency (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) publicly available by all means possible. We further recommend that the accountable person be at the leadership level (e.g., a district superintendent) to ensure broad and accountable oversight of wellness policies.

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 also applaud language in the preamble that refers to coordinating with SNAP-Ed coordinators and educators, and per the new Farm Bill, these educators should be prepared to incorporate physical activity into SNAP-Ed resources and technical assistance. We also encourage USDA to include references to other 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) and other Centers for Disease Control and Prevention (CDC) chronic disease prevention funds, 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 also respectfully urge you to consider materials and resources related to CDC's Coordinated School Health strategy as you develop these resources for schools.

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. 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.

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 in line with the HHS Physical Activity Guidelines for Americans. USDA should include recommendations to limit screen time and long periods of sedentary behavior during the school day.

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 also appreciate that USDA mentions shared use as a possible component of the local wellness policy. 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.

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 also should recommend that school wellness policies clearly state that food should not be used as a reward or incentive for performance or behavior.

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. We agree that the Smart Snack standards should be used as the minimum standard for school food marketing. 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.

We refer you to a later section in our comments that provides a model definition of food marketing and advertising that we urge USDA to adopt to help clarify school wellness policies. 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 and clarify in guidance which limited types of marketing would be exempt from the standards. For example, 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.

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.

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. 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.

We also offer the following as additional provisions that we urge USDA to include in the final rulemaking:

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, with the goal that this rule be implemented by school year 2015-16. We also encourage USDA to incorporate the helpful guidance and details in the preamble of the proposed rule into the actual toolkits and resources that USDA provides LEAs to assist in implementation.

Additional Definitions

In the rule itself, we encourage USDA to expand the definitions section [210.30 (b)] to include the following definitions. We respectfully offer the following model language as well:

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.

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 hope that our comments will assist the USDA and LEAs as you work collectively to fully implement updates for local school wellness policies. If you have any questions, please do not hesitate to contact our Senior Government Relations Manager, Jack Rayburn, at (202) 223-9870 ext. 28, or via email at jrayburn@tfah.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Levi". The signature is fluid and cursive, with the first name "Jeffrey" written in a larger, more prominent script than the last name "Levi".

Jeffrey Levi, Ph.D.
Executive Director