



October 9, 2018

Angela Teixeira
Board of Education
255 Westminster Street
Providence, RI 02903

Rule Identifier: 200-RICR-20-25-3

RE: Comments for Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages; Limitations on Competitive Foods and Beverages at Meal Time

Dear Ms. Teixeira:

Revolution Foods is highly supportive of the state of Rhode Island's efforts to change the conversation around what comprises a healthy meal for students. The additional state requirements are an important step in the right direction for improving child nutrition and reducing childhood obesity. As a provider of healthy school meals committed to serving a range of student populations including areas with low-access to fresh, healthy food, we appreciate and stand behind the impact that these regulations will have on students in Rhode Island.

We applaud many requirements outlined in the proposed regulations, including requiring daily fruit and/or vegetable variety, limiting juice, and prohibiting artificial sweeteners, sugar alcohols, and caffeine. We have a shared vision of promoting student health and have internal policies in place that exceed the federal requirements. These include providing fresh fruit at all meals, limiting juice and flavored milk, restricting certain additives, and standards to limit added sugars in grain items.

Revolution Foods respectfully submits the following comments regarding the proposed grain requirement, *on a weekly basis, at least one-half (1/2) of the "grain servings" in USDA meals must be one hundred (100%) per cent whole grain and the remaining grain servings must be whole grain rich.*

We recommend the grain requirement be modified to, *all "grain servings" in USDA meals must be whole grain rich.* The Healthy Hungry Free Kids Act of 2010 was monumental in child nutrition because it updated the federal nutrition guidelines based on the most current scientific research on healthy eating patterns. The requirement that all grains be whole grain rich aligns with the Dietary Guidelines for

Americans¹, American Heart Association², American Diabetes Association³, and the Canadian Dietary Guidelines⁴ recommendations' that half of your grains are whole grains.

Whole grains are a rich source of fiber, iron, and B vitamins and play an important part of a nutritious diet. Non-whole grains, or refined grains, are lower in fiber, and frequently higher in saturated fat, added sugars, and sodium. However, refined grains are enriched with certain B vitamins and Iron and have been found to help Americans meet nutrient adequacy⁵. Based on food pattern modeling analyses the 2015 Dietary Guidelines Advisory Committee (DGAC) maintained the 2010 recommendation that half of grains come from whole grains⁶.

In 2009, in the absence of strong federal nutrition regulations, increasing the requirements for whole grains served to limit refined grains and provide a safeguard to increase beneficial nutrients (fiber) and limit those known to be associated with increased risk of chronic diseases (sodium, saturated fat, added sugars)⁵. Under HHFKA, the federal meal pattern now addresses these areas of concern through age appropriate calorie requirements, sodium restrictions, and daily requirements for fruits and vegetables. Additionally, since the 2009 passage of the state grain requirement, the 2010 and 2015 DGAC, after thorough review of the most current body of scientific literature, put forth evidence-based recommendations that a healthy dietary pattern includes half of grains as whole grains. We support that federal and state nutrition requirements follow the guidance provided and backed by scientific research.

Revolution Foods looks forward to being a strong partner in implementing the Rhode Island the state regulations. We thank you for consideration of our comments.

With regards,



Kim Doyle
Revolution Foods
Sr Director of Nutrition and Compliance

¹ <https://www.federalregister.gov/documents/2012/01/26/2012-1010/nutrition-standards-in-the-national-school-lunch-and-school-breakfast-programs>

² http://www.heart.org/HEARTORG/HealthyLiving/HealthyEating/Nutrition/Whole-Grains-and-Fiber_UCM_303249_Article.jsp#.W7Yny3tKh0w

³ <http://www.diabetes.org/food-and-fitness/food/what-can-i-eat/making-healthy-food-choices/grains-and-starchy-vegetables.html>

⁴ <http://www.fao.org/nutrition/education/food-based-dietary-guidelines/regions/countries/canada/en/>

⁵ <https://health.gov/dietaryguidelines/2015-scientific-report/PDFs/Scientific-Report-of-the-2015-Dietary-Guidelines-Advisory-Committee.pdf>

⁶ <https://health.gov/dietaryguidelines/2015-scientific-report/PDFs/15-Appendix-E-3.pdf>

October 11, 2018

Dr. Ken Wagner
Commissioner
Rhode Island Department of Education
255 Westminster Street
Providence, RI 02903

RE: Notice of Proposed Rulemaking 200-RICR-20-25-3

Dear Commissioner Wagner:

We, the undersigned organizations, would like to voice strong support for 200-RICR-20-25-3, "Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages; Limitations on Competitive Foods and Beverages at Meal Time," as proposed by the RI Department of Education (RIDE) on September 11, 2018. The new proposed regulation now incorporates by reference, federal nutritional requirements and sets forth only state-specific requirements. Taken together with the federally-imposed nutritional requirements and limitations on competitive foods and beverages, the proposed regulation will maintain high nutrition standards for school meals that are reimbursed by the U.S. Department of Agriculture (USDA) and all other foods and beverages that are sold on the school campus in Rhode Island.

Rhode Island has a long and proud history of providing a healthy school environment for our children and youth. The state standards referenced in the proposed regulation were developed through a collaborative process that included diverse stakeholders from across Rhode Island. Many of our organizations worked with the General Assembly to pass legislation that established guidelines for competitive foods sold in schools more than a decade ago (2006 & 2007). This was followed by our work with RIDE on adoption of the RI Nutrition Requirements 2009 (RINR 2009) Criteria for RI School Food Service Programs. Yet another positive step that ensured a healthy start for our children.

Schools have been implementing the existing Rhode Island standards for the better part of a decade. The competitive foods and RINR 2009 requirements have been written and engrained into district wellness policies. In addition, food service providers and RI food vendors/small businesses (partners throughout this process) reformulated products long ago to meet the state standards.

In 2016, our organizations worked closely with the General Assembly and RIDE staff to update Rhode Island's competitive foods law. The intent among stakeholders, RIDE and legislators was always to align Rhode Island's standards with USDA regulations AND maintain areas where Rhode Island went above and beyond the federal guidelines.

When we give our children healthy foods at school, we're teaching them good eating habits that will help them grow up healthy. Studies have also shown that eating better helps students perform better in school.¹ We need to keep moving forward and take positive steps for the health of our children – they deserve nothing less.

¹ Heller D, Macciah SE, Lopez-Mitnik G, Heller TL, Almon M, and Asatstyan AS. "Effect of a two-year obesity prevention intervention on percentile changes in body

In closing, we urge adoption of 200-RICR-20-25-3 as proposed. Thank you for your commitment to the health of Rhode Island's children.

Sincerely,



Rhode Island



Association for Health, Physical Education, Recreation, and Dance



October 11, 2018

Angela Teixeira
Board of Education
255 Westminster Street
Providence, RI 02903
angela.teixeira@ride.ri.gov

RE: Notice of Proposed Rulemaking 200-RICR-20-25-3

Dear Ms. Teixeira:

We, the Community Nutrition and Childhood Obesity Prevention Research Group at The University of Rhode Island, would like to voice strong support for 200-RICR-20-25-3, "Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages; Limitations on Competitive Foods and Beverages at Meal Time," as proposed by the RI Department of Education (RIDE) on September 11, 2018. The new proposed regulation now incorporates by reference, federal nutritional requirements and sets forth only state-specific requirements. Taken together with the federally-imposed nutritional requirements and limitations on competitive foods and beverages, the proposed regulation will maintain high nutrition standards for school meals that are reimbursed by the U.S. Department of Agriculture (USDA) and all other foods and beverages that are sold on the school campus in Rhode Island.

Schools have been implementing the existing Rhode Island standards for the better part of a decade. The competitive foods and RINR 2009 requirements have been written and engrained into district wellness policies. In addition, food service providers and RI food vendors/small businesses (partners throughout this process) reformulated products long ago to meet the state standards.

In 2016, Rhode Island's competitive foods law was updated. The intent among stakeholders, RIDE and legislators was always to align Rhode Island's standards with USDA regulations AND maintain areas where Rhode Island went above and beyond the federal guidelines.

When we give our children healthy foods at school, we're teaching them good eating habits that will help them grow up healthy. Not only have studies showed that eating better helps students perform better in school but eating a healthy diet is critical for obesity and chronic disease prevention.¹ According to Pearlman et al. researchers at the National Heart Forum estimated that obesity-related health care costs for Rhode Island could increase by 20% from 2010 to 2030, the 11th highest projected increase in the country.² We know that changing the environment is much easier than trying to tell children what to eat and what not to eat. We need to keep moving forward and take positive steps for the health of our children – they deserve nothing less.

In closing, we urge adoption of 200-RICR-20-25-3 as proposed. Thank you for your commitment to the health of Rhode Island's children.

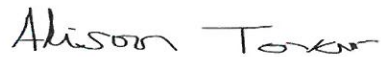
¹ Hollar D, Messiah SE, Lopez-Mitnik G, Hollar TL, Almon M, and Agatston AS. "Effect of a two-year obesity prevention intervention on percentile changes in body mass index and academic performance in low-income elementary school children" *American Journal of Public Health*, 100(4):646–553, April 2011.

² DEBORAH N. PEARLMAN, PhD; DARREN KAW, MPH; SOPHIE O'CONNELL, MA; YONGWEN JIANG, PhD; DONA GOLDMAN, RN, MPH. The Economic Burden of Preventable Chronic Diseases in Rhode Island. AUGUST 2014. RHODE ISLAND MEDICAL JOURNAL

Sincerely,

The Community Nutrition and Childhood Obesity Prevention Research Group

<https://www.tovarresearch.com> led by:

A handwritten signature in black ink that reads "Alison Tovar". The script is cursive and fluid, with the first name "Alison" and the last name "Tovar" clearly distinguishable.

Dr. Alison Tovar

Associate Professor

Department of Nutrition and Food Sciences

The University of Rhode Island

Jon M. Anderson, Esq.
janderson@brscsm.com

October 11, 2018

VIA EMAIL & HAND DELIVERY (angela.teixeira@ride.ri.gov)

Angela Texiera
Liaison to the Board of Education
255 Westminster Street
Providence, RI 02903

Rule Identifier: 200-RICR-20-25-3

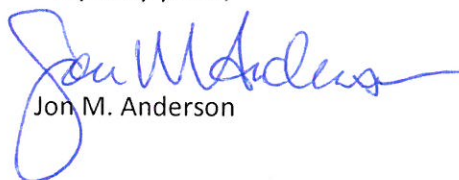
Re: Comments for Regulations Governing Nutritional Requirements for
Reimbursable Meals and Competitive Foods and Beverages: Limitations on
Competitive Foods and Beverages at Meal Time

Dear Ms. Texeira:

This firm represents the Paul Cuffee School. Enclosed please find the Statement of the Paul Cuffee School in Opposition to the Adoption of R.I. Reg. § 200-200-24(3.5)(1) along with the Affidavit of Christopher Haskins, Head of School.

Please call me if you have any questions.

Very truly yours,


Jon M. Anderson

Enclosures

cc: Christopher Haskins

STATEMENT OF THE PAUL CUFFEE SCHOOL

IN OPPOSITION TO THE ADOPTION OF R.I. REG. § 200-20-25(3.5)(A)(1).

Pursuant to the Public Notice of Proposed Rulemaking by the Board of Education, the Paul Cuffee School (PCS) offers this objection and the accompanying affidavit of Christopher Haskins, Head of School, PCS, in opposition to Section 3.5(A)(1) of the proposed Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages: Limitations on Competitive Foods and Beverages at Meal Time ("Proposed Rule 3.5(A)(1)" to be codified at R.I. Reg. § 200-20-25(3.5)(A)(1). PCS also joins the objections of other commenters to the Proposed Rule to the extent appropriate.

Proposed Rule 3.5(A)(1) states:

In addition to the minimum meal requirements for all reimbursable meals set forth in federal regulation (lunches and afterschool snacks established in 7 CFR § 210.10 and school breakfasts established in 7 CFR § 220.8) all reimbursable meals must meet the following additional requirements:

1. On a weekly basis, at least one-half (1/2) of the "grain servings" in USDA meals must be one hundred (100%) per cent whole grain and the remaining "grain servings" must be whole grain rich.

Any decision By the Board of Education to approve Proposed Rule 3.5(A)(1) would be arbitrary, capricious, and contrary to law. PCS advances four bases in support of its objection. First, RIDE has failed to conduct the statutorily mandated analysis of the impact of Proposed Rule 3.5(A)(1) on school districts throughout the State. Second, the regulatory analysis for Proposed Rule 3.5(A)(1) does not satisfy the Rhode Island Administrative Procedures Act ("APA"). Third, Proposed Rule 3.5(A)(1) increases barriers to entry to the Rhode Island market for food services to the detriment of PCS and its students. Finally, Proposed Rule 3.5(A)(1) disproportionately affects the students at PCS. PCS addresses each of these arguments in turn.

I. RIDE HAS FAILED TO CONDUCT THE STATUTORILY MANDATED ANALYSIS OF THE ECONOMIC IMPACT OF PROPOSED RULE 3.5(A)(1) ON SCHOOL DISTRICTS THROUGHOUT THE STATE.

The Rhode Island Department of Education ("RIDE") has failed to perform its statutory duty under Section 45-13-9.1 of the Rhode Island General Laws to conduct an economic impact analysis of the proposed regulation. Section 45-13-9.1 provides that:

No mandate shall be enacted or promulgated after July 1, 2006, unless the body enacting or promulgating the same shall first, after public hearing, determine the cost of the proposed mandate to the city, town or school districts of the state. Any rule, regulation or policy adopted by state departments, agencies or quasi-state departments or agencies which require any new expenditure of money or increased expenditure of money by a city, town, or school district shall take effect on July 1 of the calendar year following the year of adoption. Provided, however, should funding be provided for the said expenditure, then such rule, regulation, or policy shall take effect upon adoption.

R.I. Gen. Laws § 45-13-9.1. Section 45-13-7 defines a “state mandate” in relevant part as:

any state initiated statutory or executive action or rule, regulation or policy adopted by a state department or agency or quasi-public department or agency that requires a local government to establish, expand, or modify its activities in a way as to necessitate additional expenditures from local government revenue sources where the expenditures are not otherwise reimbursed in whole. For the purpose of this chapter, “a state mandate” shall also mean any requirement, rule, or dictate by a regulator of a state agency. When state statutory, executive, or regulator actions or rules, regulations or policies are intended to achieve compliance with federal statutes or regulations or court orders, state mandates shall be determined as follows:

- (1) Where the federal statute or regulations or court order is discretionary, the state statutory, executive, or regulatory action shall be considered a state mandate for the purpose of §§ 45-13-7—45-13-10.
- (2) Where the state statutory, executive, or regulator action or rule, regulation or policy exceeds what is required by the federal statute or regulation or court order, only the provisions of the state action which exceed the federal requirements shall be considered a state mandate for purposes of §§ 45-13-7—45-13-10.

There is nothing in the Public Notice of Proposed Rulemaking to suggest that RIDE has contemplated complying with Section 45-13-9.1, let alone done so. It is indisputable that Proposed Rule 3.5(A)(1) is a “state mandate” as defined in R.I. Gen. Laws § 45-13-9.1. First, as the Public Notice indicates on its face, the action contemplated is rulemaking. Second, as the Affidavit of Christopher Haskins indicates, the imposition of the Proposed Rule will require the increased expenditure of funds by all school districts in the state, including, but not limited to, PCS. It costs PCS an additional ten (10) cents per meal to comply with the cost of providing what RIDE now seeks to mandate as part of the school lunch program. Third, as Proposed Rule 3.5(A)(1) states on its face, the requirement contained therein is “[i]n addition to the minimum meal requirements for all reimbursable meals set forth in federal regulation. . . .” Section 3.5(A)(1), mandates school districts, including charter schools like PCS, expend funds beyond what the United States Department of Agriculture requires. Consequently, RIDE cannot plausibly contend that Section 45-13-9.1 does not extend to Proposed Rule 3.5(A)(1).

There is nothing in the rulemaking file in this case, however, that suggests that RIDE has conducted the economic analysis of the Proposed Rule contemplated by R.I. Gen. Laws § 45-13-9.1. It is indisputable that there is nothing in the Public Notice that references consideration, let alone compliance, with Section 45-13-9.1. The “Authority for this Rulemaking” makes no reference to Section 45-13-9.1. Not only is the Public Notice in this case deficient, there is nothing in the rulemaking file that afforded the public, including PCS, notice and the opportunity to be heard with regard to the “increased expenditure of funds” that Proposed Rule 3.5(A)(1) mandates. If there is “data, factual information, studies, or reports” upon which RIDE is relying, it should be available for review by the public, see R.I. Gen. Laws § 42-35-2.2(b)(7), and there are no such documents in the rulemaking file. Finally, at the public hearing, RIDE offered nothing with regard to the “increased expenditure of funds” it was imposing on school districts.

The best that RIDE can argue here is that it is shooting first and aiming later. The law demands more, and for that procedural reason alone, RIDE should withdraw the Proposed Rule. Thus, at a minimum, the Board of Education must table Proposed Rule 3.5(A)(1) until such time as RIDE performs the economic analysis, includes it in the rulemaking file, and affords the public notice and a meaningful opportunity to be heard.

II. THE REGULATORY ANALYSIS FOR PROPOSED RULE 3.5(A)(1) DOES NOT SATISFY THE APA.

The Administrative Procedures Act mandates that agencies like RIDE prepare a detailed regulatory analysis for a proposed rule. See R.I. Gen. Laws § 42-35-2.9. This regulatory analysis is supposed to be published with the notice of rulemaking. See R.I. Gen. Laws § 42-35-2.9(a). It must contain “an analysis of the benefits and costs of a reasonable range of regulatory alternatives reflecting the scope of discretion provided by the statute authorizing the proposed rule;” a “demonstration that there is no alternative approach among the alternatives considered during the rulemaking proceeding which would be effective. . . ,” and a reasoned determination that the benefits of the regulation outweigh its costs. See R.I. Gen. Laws § 42-35-2.9(b).

Here, the Regulatory Analysis for Proposed Rule 3.5(A)(1) is only two sentences:

The new proposed regulation will remove interoffice policies pursuant to R.I.G.L. 42-35-3.2(19).

For full regulatory analysis or supporting documentation see agency contact person above.

This “Regulatory Analysis” in no way complies with R.I. Gen. Laws § 42-35-9. Directing interested parties to “see agency contact person” above circumvents the publication requirement of R.I. Gen. Laws § 42-35-9(a). In addition, the Regulatory Analysis for Proposed Rule 3.5(A)(1) completely fails to satisfy the requirement of R.I. Gen. Laws § 42-35-9(b). There is no cost-benefit analysis nor the required determination that the benefit of the regulation outweighs the cost.

The Regulatory Analysis is not just deficient; it is deceptive. First, it makes reference to “R.I.G.L. 42-35-3.2(19).” Counsel for PCS has been unable to locate such a provision. Second, it does far more than “remove interoffice policies.” As multiple witnesses testified at the public hearing, it imposes additional mandated costs on schools like PCS. Again, the Board of Education must table Proposed Rule 3.5(A)(1) until such time that RIDE complies with all of the provisions of the Administrative Procedures Act.

III. PROPOSED RULE 3.5(A)(1) INCREASES BARRIERS TO ENTRY TO THE RHODE ISLAND MARKET FOR FOOD SERVICE COMPANIES TO THE DETRIMENT OF PCS AND ITS STUDENTS.

The market for the provision of food service management to school districts in Rhode Island is highly concentrated. As RIDE knows, only two vendors submitted bids in response to RIDE’s recent solicitation to food service companies for the state’s Master Price Agreement list. Other than Revolution Food’s recent attempt to enter the Rhode Island market for food service companies, only three companies compete for food service contracts in the state. All three do not bid on all contracts, thereby reducing competition even further.

Proposed Rule 3.5(A)(1) imposes a new, Rhode Island-only requirement that is inconsistent with the rules in other states and the national standards set by the United States Department of Agriculture. The

impact of this new barrier is to discourage food service companies like Revolution Foods from entering the market in Rhode Island. To enter the Rhode Island market for food service companies, companies like Revolution Food need to use production facilities in Massachusetts. These production facilities create meals that meet the rigorous nutritional requirements of the United States Department of Agriculture but not the “only in Rhode Island” grain standard in Proposed Rule 3.5(A)(1). When firms like Revolution Foods are discouraged from entering the market for food service companies, the result is fewer choices, as demonstrated by the dearth of bidders seeking placement on the Master Price Agreement list, and higher prices, as happened at PCS. The impact of Proposed Rule 3.5(A)(1) adversely impacts schools like PCS that are trying to break the market stranglehold of just three food service companies. RIDE is telling the rest of the country that Rhode Island is not open for business.

IV. PROPOSED RULE 3.5(A)(1) DISPROPORTIONATELY AFFECTS THE STUDENTS AT PCS.

Finally, PCS is deeply concerned that the impact of higher prices and less choices falls disproportionately on schools like PCS that are (1) small, and (2) have a high proportion of children of color.

With regard to school size, PCS has had great difficulty attracting food service companies to bid on its food service contract. Layering on another requirement beyond those imposed by the United States Department of Agriculture is yet another disincentive to food service companies to do business in Rhode Island, let alone with PCS. After passage of the Healthy Hunger-Free Kids Act of 2010, the United States Department of Agriculture updated the federal nutrition guidelines based on the most current scientific research on healthy eating patterns. The federal guidelines should suffice, and RIDE should not be creating new barriers for small schools like PCS.

PCS’s small size compounds the impact of Proposed Rule 3.5(A)(1) on the children at PCS. Over ninety-four percent (94%) of the children attending PCS are children of color, and requiring PCS to spend money above and beyond the United States Department of Agriculture’s requirements to satisfy an unfunded state mandate adversely impacts PCS’s students. PCS is in the business of breaking down educational barriers, and a dollar spent on increased food costs beyond those required by the United States Department of Agriculture detracts from PCS’s educational mission. Other schools in the state may be in a position to afford to implement RIDE’s new requirements even though RIDE is not offsetting the expense through the five (5) cents it collects on every meal. PCS is not, however, in a position to pick up this additional cost without making sacrifices in other areas. Given the community that PCS serves, PCS reserves the right to ask the Office of Civil Rights in the Food and Nutrition Service of the United States Department of Agriculture to review whether imposing additional requirements on PCS disproportionately impacts children of color attending PCS.

In closing, for each and any of the reasons set forth above, the Board of Education should table Proposed Rule 3.5(A)(1) and refer it back to RIDE for further study.

RHODE ISLAND BOARD OF EDUCATION

In Proposed Regulations Governing Nutritional :
Requirements for Reimbursable Meals and :
Competitive Foods and Beverages: Limitations : Rule Identifier: 200-RICR-20-25-3
On Competitive Foods and Beverages at :
Mealtime :

AFFIDAVIT OF CHRISTOPHER HASKINS
HEAD OF SCHOOL, PAUL CUFFEE SCHOOL

I, Christopher Haskins, under oath, do state as follows:

1. I am the Head of School at the Paul Cuffee School, a public charter school located in the City of Providence.
2. I offer this affidavit in my capacity as Head of School and in support of the Paul Cuffee School's Statement in Opposition to the Adoption of R.I. Reg. § 200-20-25(3.5)(A)(1), a copy of which is attached hereto.
3. As part of a consortium led by the Rhode Island League of Charter Schools, the Paul Cuffee School recently awarded a bid to Revolution Foods, a food service management company, to provide food services to students attending three schools operated by the Paul Cuffee School in the City of Providence.
4. After the Paul Cuffee School awarded the bid, the Rhode Island Department of Education ("RIDE") informed the Paul Cuffee School that in order for the Paul Cuffee School to contract with Revolution Foods, Revolution Foods would have to comply with what the Department of Education is proposing to codify at Section 3.5(A)(1) of the Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages: Limitations on Competitive Foods and Beverages at Meal Time.
5. As a consequence of RIDE's mandate, Revolution Foods increased the cost per meal to the Paul Cuffee School by ten cents.

6. The Paul Cuffee School is unable to pass on this additional ten cent per meal cost to meal purchasers.
7. To the extent that the Paul Cuffee School runs a deficit in its school lunch program, the Paul Cuffee School will have to eliminate that deficit by transferring funds from other operating accounts.

Christopher Haskins

CHRISTOPHER HASKINS

STATE OF RHODE ISLAND
PROVIDENCE, SC.
STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

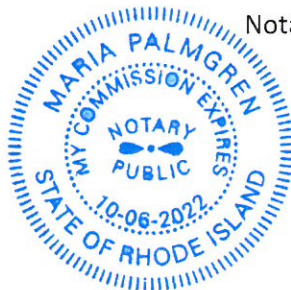
In Providence on the eleventh day of October, 2018, before me personally appeared the above-named Christopher Haskins to me known, and known by me to be the party executing the foregoing instrument and he acknowledged said instrument by him executed to be his free act and deed.

Maria Palmgren

Notary Public:

My Commission Expires: 10/6/2022

Notary Identification No.: 757165



Comments on School Meal Guidelines

Dear RIDE,

I am a registered dietitian and have worked in community health for over 40 years. I have been on the Narragansett School wellness Committee for over 10 years and we have faced a constant battle to promote both high nutritional quality in our school meals and foods that teach students what a healthy diet looks like. Currently, I work for the Washington County Health Equity Zone, Healthy Bodies Healthy Minds, and sit on the Wellness Committees in 5 Washington County towns. There have been successes, but progress is slow and we have experienced frequent setbacks. I have a number of concerns both about what we are feeding our children in the school breakfast and lunch programs in Rhode Island, and what we are teaching them by the foods we provide.

These comments are based on my belief that school meals should be part of the nutrition education of students. It is not just my belief; according to Healthy People 2020 “public primary and secondary schools provide an unparalleled opportunity to influence the eating habits of millions of children. Government action to set strong and specific nutrition standards for school food can increase student fruit and vegetable intake”. Foods should not only meet healthy guidelines, but teach healthy habits. If the food item we are serving looks like an item that does not meet healthy guidelines when bought in the store, it does not help teach healthy eating habits. In fact, it may inadvertently “advertise” the less healthy item. Another concern is that the nutrition guidelines for school meals take into account the nutritional value of the foods as a group, that are available over the course of the week. Ex: the sodium limit is an average, but there may be high sodium foods included. I believe each food item (excluding condiments) should be a healthy choice. This is a teaching opportunity. Foods high in sugar are an issue as well as foods high in sodium. Allowing a sugary item which looks like a dessert or pastry (ex: chocolate chip muffin) does not help teach healthy eating habits.

I’m also concerned about the current guidelines for sodium and sugar set for school breakfast and lunch. The sodium guidelines state that the goal is to insure that students not exceed the 2,300 mg. per day, the daily tolerable upper intake set by the Dietary Guidelines. The school meals allow 575 mg. sodium for breakfast and 1070 for lunch. This adds up to 1645 leaving only 655 mg. for after school snacks and dinner. Should school lunch provide more sodium than is left for after school snack and dinner combined? Is it reasonable to think that children who ate the school breakfast and lunch will not exceed the 2,300 mg. sodium limit?

The World Health Organization and the American Heart Association recommend that children have no more than 6 tsp. (or 25 grams) added sugar per day due to research suggesting the role of added sugar in heart disease and other chronic diseases. The current limit for grain products of 7 grams sugar per ounce seems quite high if the goal is 25 grams or less of added sugar per day. Many of the breakfast “muffins”, “bars” or other “pastry type” items have between 15 and 22 total grams of sugar (for those containing fruit it may not all be added sugar, but not all of them contain fruit) which leaves little room to stay within guidelines. According to the school meal nutrition information provided on line by Aramark and Chartwells, the chocolate milk in the school lunch has between 8 and 11 grams of added

sugar depending on the brand used, coffee and strawberry milk have 6 grams each. If a child eats breakfast and lunch at school (most likely for our lowest income children) and chooses chocolate milk each time, they reach 22 grams of added sugar just from milk. Combine this with a breakfast muffin, pastry type item, or sweetened cereal and they have already exceeded the suggested limit for added sugar. The reduced sugar, sweetened cereals add between 6 and 9 grams of sugar, to the total. French toast sticks with syrup provide 21gms. of sugar, add flavored milk and the total is over the 25 grams for that one meal.

Reducing the requirements for whole grains has also become an issue nationally. As a dietitian I worked with patients to increase their whole grain intake as a part of dietary strategies to lower risk and work to control chronic disease. If our children learn, through school meals, to eat whole grain foods when they are young we can help reduce the risk of chronic diseases which are affecting children at increasingly younger ages. Currently USDA is asking to "relax" guidelines, which includes reducing the requirements for whole grains. If we revert back to the USDA standards we might significantly reduce the amount of whole grains in the food we serve our children.

The last issue I'd like to address is competitive foods. I'm concerned about the low nutritional value of some of the allowed competitive foods and the fact that I have seen vending machines operational during school meal service. I realize the vended items are supposed to be "smart snacks", but the vending companies don't always comply when loading the machines. Also, these foods may be competing with the fruits and vegetables available in the school meals. Fruits and vegetables are a much better choice nutritionally than baked chips. Food service companies cannot hope to teach healthy eating habits when vending items are available right in the cafeteria.

I strongly urge you to strengthen, not weaken our school meal standards. This is a health equity issue. Our lowest income children often eat two meals a day at school and they deserve meals of the highest possible quality and nutritional value. There seems to be a popular belief that healthy food is not appealing to children. In fact, although people have an innate preference for sweet, salty, and fatty foods, many other food preferences are learned. Children who are repeatedly exposed to a variety of fruits and vegetables learn to enjoy them. School meals which are creative, colorful and healthy can teach children to appreciate healthy foods and develop eating habits which will contribute to their long term health and wellness.

Thank you for this opportunity to voice my concerns.

Sincerely,

Cindy Buxton, MS, RDN

Healthy Bodies Healthy Minds
South County Health
14 Woodruff Ave., Suite #9
Narragansett, R.I. 02882
(401)788-2426

December 10, 2018

Dr. Ken Wagner
Commissioner
Rhode Island Department of Education
255 Westminster Street
Providence, RI 02903

RE: Notice of Proposed Rulemaking 200-RICR-20-25-4

Dear Commissioner Wagner:

We, the undersigned organizations, would like to voice strong support for 200-RICR-20-25-4, "Regulations Governing Nutritional Requirements for Reimbursable Meals and Competitive Foods and Beverages; Limitations on Competitive Foods and Beverages at Meal Time," as proposed by the RI Department of Education (RIDE) on November 9, 2018. The new proposed regulation now incorporates by reference, federal nutritional requirements and sets forth only state-specific requirements. Taken together with the federally-imposed nutritional requirements and limitations on competitive foods and beverages, the proposed regulation will maintain high nutrition standards for school meals that are reimbursed by the U.S. Department of Agriculture (USDA) and all other foods and beverages that are sold on the school campus in Rhode Island.

Rhode Island has a long and proud history of providing a healthy school environment for our children and youth. The state standards referenced in the proposed regulation were developed through a collaborative process that included diverse stakeholders from across Rhode Island. Many of our organizations worked with the General Assembly to pass legislation that established guidelines for competitive foods sold in schools more than a decade ago (2006 & 2007). This was followed by our work with RIDE on adoption of the RI Nutrition Requirements 2009 (RINR 2009) Criteria for RI School Food Service Programs. Yet another positive step that ensured a healthy start for our children.

Schools have been implementing the existing Rhode Island standards for the better part of a decade. The competitive foods and RINR 2009 requirements have been written and engrained into district wellness policies. In addition, food service providers and RI food vendors/small businesses (partners throughout this process) reformulated products long ago to meet the state standards.

In 2016, our organizations worked closely with the General Assembly and RIDE staff to update Rhode Island's competitive foods law. The intent among stakeholders, RIDE and legislators was always to align Rhode Island's standards with USDA regulations AND maintain areas where Rhode Island went above and beyond the federal guidelines.

When we give our children healthy foods at school, we're teaching them good eating habits that will help them grow up healthy. Studies have also shown that eating better helps students perform better in school.¹ We need to keep moving forward and take positive steps for the health of our children – they deserve nothing less.

In closing, we urge adoption of 200-RICR-20-25-4 as proposed. Thank you for your commitment to the health of Rhode Island's children.

¹ Hollar D, Messiah SE, Lopez-Mitnik G, Hollar TL, Almon M, and Agatston AS. "Effect of a two-year obesity prevention intervention on percentile changes in body mass index and academic performance in low-income elementary school children" *American Journal of Public Health*, 100(4):646–553, April 2011.