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May 30, 2013

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Dear Secretary Vilsack:

As the school year comes to an end, states, school districts, parents, students, the Department of Agriculture (USDA), and Congress have now had a full year to examine the effects of the updated meal pattern standards on the National School Lunch and Breakfast Programs. After closely monitoring the implementation of the new requirements, we remain concerned about the overall financial viability of local programs and the challenges facing school food service operators.

Additionally, USDA is currently considering new regulations regarding "competitive foods," which impact all foods sold on elementary and secondary school campuses. This latest regulatory effort has further exacerbated our concerns. The proposed rule, entitled the "National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010," would impose new requirements on foods sold in schools other than those foods provided under the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act."¹

The stated purpose of these changes is to improve the health and well-being of the nation's children, increase consumption of healthy foods during the school day, and create an environment that reinforces the development of healthy eating habits.² These are noble goals, but as with all policy and regulations, there are real-world cost implications that must be taken into account before adding new requirements.

¹ National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, Federal Register, February 8, 2013, Page 9530.

² Id.

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For example, the American Association of School Administrators (AASA) has indicated the proposed rule would impose significant record keeping and monitoring requirements on school districts, which will have adverse implementations on personnel and fiscal resources. As AASA stated, "School Superintendents simply request that the role of the federal government as it relates to competitive foods in schools be proportional to the amount of resources it provides to support the regulations."³ This is a guiding principle that all policymakers should keep in mind, but the proposed rule seems to dismiss any consideration of cost.

Schools nationwide are battling declining revenues in their school meal programs due to decreased lunch participation rates and increased operating costs. According to USDA's own data, school lunch participation is down 3.2 percent overall and 9.4 percent in the paid meal category so far this year.⁴ This clearly poses a challenge for school food service operators. We are worried about how this decline, combined with impending costly breakfast requirements and the prospective requirements on competitive foods, will affect the long-term stability of the programs.

The added economic impact of the competitive foods rule is, by USDA's own admission, a big unknown.⁵ USDA highlights programs that have seen increases in revenues, but also admits that not all programs have fared as well. At a time when schools are spending more money to comply with new regulations in their school lunch programs as well as planning for additional increases in cost to operate their breakfast programs, it is alarming that USDA would issue new rules for which they cannot anticipate the cost impact. We urge you and the Food and Nutrition Service to carefully evaluate the comments received on this proposed rule and examine how the regulatory changes over the past year are affecting school meal programs, before proceeding with new, potentially costly and onerous requirements that may compound the difficulty faced by these programs.

Mr. Secretary, while we may disagree on the level of control USDA should exercise over the school meal programs, we all want successful programs that serve nutritious food to our children. Should you move forward with the proposed rule, we urge USDA to heed the requests from the Council of Great City Schools and the National School Boards Association and advance an interim final rule that will more easily allow for adjustments as unknown and projected problems arise during implementation.

³ American Association of School Administrators, Comments on the National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, April 8, 2013.

⁴ United States Department of Agriculture, National School Lunch Participation Data, April 2013.
<http://www.fns.usda.gov/data-and-statistics>

⁵ National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, Federal Register, February 8, 2013, Page 9531-2.

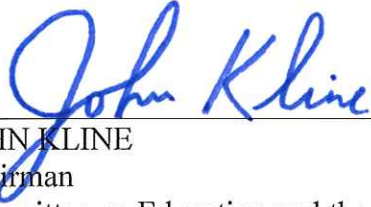
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We look forward to working with you to ensure the continued success of the National School Lunch and Breakfast Programs. If you have any questions on this letter, please contact Mandy Schaumburg on the committee staff at (202) 225-6558.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



JOSEPH J. HECK
Member of Congress