

William E. Morris Institute for Justice

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May 8, 2023

Sent via Comment Portal

School Meals Policy Division
Food and Nutrition Service
P.O. Box 9233
Reston, Virginia 20195

Re: Proposed Rule - FNS-2022-
0044-0001 Child Nutrition
Programs: Community Eligibility
Provision - Increasing Options for
Schools

Dear School Meals Policy Division:

The William E. Morris Institute for Justice (“MIJ”) is a non-profit organization dedicated to protecting the most basic civil and human rights of low-income Arizonans and other vulnerable Arizonans in historically marginalized communities. Ensuring accessibility, equity, fairness, inclusivity, and decency in safety net programs is extremely important to MIJ and the people in the communities we serve. MIJ prioritizes advocacy on systemic issues, including the administration of National School Meal Plans.

MIJ appreciates the opportunity to comment on the United States Department of Agriculture’s (“USDA”) Proposed Rule on Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools.

The Community Eligibility Provision (“CEP”) has been instrumental in ensuring that all Arizona students in eligible schools have access to the nutritious meals needed to grow and thrive. CEP increases school meal participation, helps eliminate stigma, reduces administrative burdens, and streamlines food service operations, making it a win for students, families, and districts. Most importantly, CEP is a proven strategy for reducing household food insecurity and combatting child hunger.

Throughout the COVID-19 pandemic, schools across the country reported a myriad of benefits of offering free meals to all students, including – but not limited to – the following: reducing student hunger, supporting household finances, improving student behavior and

academic achievement, and easing administration and operations.¹ Conversely, the return to a tiered-eligibility system has been challenging for students, families, and schools, with many districts reporting an increase in school meal debt. When schools participate in CEP, it increases participation by families, reduces paperwork for schools and families, improves dietary intake and reduces obesity rates in children, and eliminates the stigma or “school lunch shaming” of a child who does not have money to pay for the meal.²

The proposed rule lowering CEP’s eligibility threshold to 25 percent Identified Student Percentage (“ISP”) from the current 40 percent minimum ISP threshold will have a positive impact on schools and communities, creating the opportunity for an additional nine million students to have access to free school meals and increasing operational efficiencies for 20,000 more schools³.

By way of illustration, during the 2020–2021 school year, 500 Arizona schools adopted community eligibility.⁴ However, if the minimum ISP threshold had been 25 percent, and all eligible schools in Arizona had adopted community eligibility, at least 1,176 schools – 68 percent of all Arizona schools that participate in the National School Lunch Program and School Breakfast Program – could have used CEP to offer meals to all of their students, approximately 600,000 students as of the 2020-2021 school year.⁵ MIJ urges the USDA to give states the option to implement the 25 percent ISP threshold even if the new rule is finalized after the June 30, 2023, election deadline. This will allow states and schools to benefit from the change in the upcoming 2023-2024 school year.

While expanded CEP eligibility is imperative in the fight against child hunger, districts must ensure CEP is a financially viable option for school food services. Despite an abundance of technical assistance, many schools struggle to adopt CEP at lower ISP levels with the current 1.6 multiplier.

Over the last year, some states have enacted legislation ensuring all students have access to healthy school meals. Currently five states – California, Colorado, Maine, Minnesota, and New

¹ Food Research & Action Center, *Hunger, Poverty, and Health Disparities During COVID-19 and the Federal Nutrition Programs’ Role in an Equitable Recovery*, (Sept. 2011), <https://frac.org/wp-content/uploads/COVIDResearchReport-2021.pdf>

² Crystal FitzSimons, *School Lunch Debt and Lunch Shaming is a Problem that Needs a National Solution*, (Oct. 16, 2019), <https://www.nbcnews.com/think/opinion/school-lunch-debt-lunch-shaming-problem-needs-national-solution-ncna1066461>

³ NFSN Staff, *USDA Proposed Rule Change to Expand the Community Eligibility Provision — What It Is and Why You Should Take Action (Deadline: May 8, 2023)*, (April 25, 2023), <https://www.farmtoschool.org/news-and-articles/usda-proposed-rule-change-to-expand-the-community-eligibility-provision-what-it-is-and-why-you-should-take-action-deadline-may-8-2023>

⁴ Food Research & Action Center and the Center on Budget and Policy Priorities, *The Build Back Better Act Would Transform Child Nutrition in Arizona*, (last visited May 4, 2023), https://frac.org/wp-content/uploads/BBB-Fact-Sheets_AZ.pdf

⁵ *Id.*

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Mexico – have passed policies supporting schools' efforts to offer free meals to all students. State funding will encourage schools with lower ISPs to adopt CEP; however, concern remains for newly eligible schools that lack financial support. In order to further support states that have taken this important step, USDA should approve waivers from states to operate CEP statewide and explore creating statewide CEP demonstration projects to evaluate this approach.

USDA's 2019 School Nutrition and Meal Cost Study shows that districts spend more to produce a school meal than they are reimbursed.⁶ Any administrative savings generated by CEP allows school nutrition departments to combat rising food prices, improve the nutritional quality of meals served, expand nutrition education and farm-to-school initiatives, and invest in operations that ensure long-term program viability.

MIJ commends USDA for its continued work to increase participation in CEP, ensuring that all students have access to nutritious school meals. We urge USDA to explore every opportunity to make CEP financially viable for all eligible schools. Thank you for your consideration of MIJ's comments during your deliberations. Please do not hesitate to contact us with questions or requests for additional Arizona information to inform your planning and implementation of the CEP Proposed Rule.

Sincerely,

MJ Simpson

Michelle J. Simpson

William E. Morris Institute for Justice

⁶ Food and Nutrition Service, *School Nutrition and Meal Cost Study: Volume 3 – School Meal Costs and Revenues Summary*, (April 2019), <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNMCS-Volume3-Summary.pdf>.