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May 8, 2023

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

RE: Child Nutrition Programs: Community Eligibility Provision – Increasing Options
for Schools (RIN 0584–AE93)

Dear Secretary Vilsack:

As Ranking Member of the House Committee on Education and the Workforce and Ranking Member of the Subcommittee on Early Childhood, Elementary, and Secondary Education, we write to offer our comments regarding the proposed rule entitled *Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools* (the Proposed Rule) published in the Federal Register on March 23, 2023.¹ We commend the U.S. Department of Agriculture (USDA or the Department) for its efforts to ensure that students in high poverty areas have access to nutritious and free school meals. The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) provide multiple benefits to students, ranging from improved attendance and educational outcomes to reduced rates of food insecurity.² Additionally, students who participate in school meal programs receive half of their daily energy intake from school, making access to these meals instrumental in ensuring students do not go hungry while in the classroom.³

¹ Child Nutrition Programs: Community Eligibility Provision – Increasing Options for Schools, 88 Fed. Reg. 17406 (March 23, 2023) (to be codified at 7 C.F.R. pt. 245).

² *School Meals are Essential for Student Health and Learning*, FOOD RSCH. & ACTION CTR. (August 2019), https://frac.org/wp-content/uploads/School-Meals-are-Essential-Health-and-Learning_FNL.pdf.

³ *The Importance of School Meals*, NO KID HUNGRY (last visited April 17, 2023), <https://state.nokidhungry.org/new-york/wp-content/uploads/sites/16/2020/08/Importance-of-School-Meals.pdf>; Cullen, Karen Weber, and Tzu-An Chen, *The Contribution of the USDA School Breakfast and Lunch Program Meals to Student Daily Dietary Intake*, PREV. MED. REP. 5, 82-85 (2017), <https://doi.org/10.1016/j.pmedr.2016.11.016>.

The Community Eligibility Provision (CEP) allows schools and districts to serve school meals at no cost to all students, without the need to collect household applications.⁴ CEP has been linked to several positive outcomes for students, including lower disciplinary rates and healthier body mass indexes.⁵ CEP helps fight the stigma of receiving free and reduced price meals by providing universal benefits without having to prove eligibility. CEP also reduces barriers for families as it allows families to forgo filling out time consuming meal applications, which can be a particularly high barrier for immigrant families.⁶ Additionally, a more streamlined process reduces administrative burden and paperwork for school personnel.⁷ A USDA-led study looking at participation in School Year (SY) 2016-2017 found that CEP positively impacted schools' finances and decreased administrative burden.⁸

CEP is currently available for schools and school districts with an identified student percentage (ISP) of 40 percent or higher. The ISP is the percentage of students automatically certified for free school meals due to their participation in certain federal benefits programs, such as the Supplemental Nutrition Assistance Program (SNAP). In the 117th Congress, the Committee advanced the *Healthy Meals, Healthy Kids Act*,⁹ which proposed to lower the participation threshold for schools from 40 percent to 25 percent of identified students. A reduced threshold of 25 percent would provide more schools and districts the option to ensure all children are able to receive a meal at no cost. The *Healthy Meals, Healthy Kids Act* also increased the multiplier used to determine school reimbursement rates from 1.6 to 2.5. An increased multiplier would encourage CEP participation in school districts that have high costs for producing meals, such as rural districts that often have smaller economies of scale and limited food purchasing and transportation options.¹⁰

The Proposed Rule seeks to provide additional options for schools and districts to use CEP by lowering the participation threshold from 40 to 25 percent, in line with provision included in the *Healthy Meals, Healthy Kids Act*. Lowering the threshold provides schools or districts that have slightly fewer than 40 percent of identified students the opportunity to consider participating in CEP. We appreciate USDA's recognition that choosing to participate in CEP requires careful

⁴ *Community Eligibility Provision*, U.S. DEPT. OF AGRICULTURE, FOOD AND NUTR. SERV. (April 6, 2023), [https://www.fns.usda.gov/cn/community-eligibility-provision#:~:text=The%20Community%20Eligibility%20Provision%20\(CEP,districts%20in%20low%20income%20areas.](https://www.fns.usda.gov/cn/community-eligibility-provision#:~:text=The%20Community%20Eligibility%20Provision%20(CEP,districts%20in%20low%20income%20areas.)

⁵ Amelie A. Hecht et.al., *Impact of The Community Eligibility Provision of the Healthy, Hunger-Free Kids Act on Student Nutrition, Behavior, and Academic Outcomes: 2011–2019*, 110 AM. J. OF PUB. HEALTH, 1405, 1407 (2020), <https://doi.org/10.2105/a.jph.2020.305743>.

⁶ Cecibel Henriquez, *New Report Shows that Fear in Immigrant Communities Kept Children from Getting the Food They Needed*, NO KID HUNGRY (Dec. 9, 2021), <https://www.nokidhungry.org/blog/new-report-shows-fear-immigrant-communities-kept-children-getting-food-they-needed>.

⁷ Murdoch, J., Nisar, H., Wallace-Williams, D., Vachon, M., Enver, A., Logan, C. W., Shivji, A., Villarreal, M., *Community Eligibility Provision Characteristics Study*, U.S. DEPT. OF AGRICULTURE, FOOD AND NUTRITION SERV. (March 2022), <https://fns-prod.azureedge.us/sites/default/files/resource-files/CEPSY2016-2017.pdf>.

⁸ *Supra* note 7.

⁹ *Healthy Meals, Healthy Kids Act*, H.R. 8450, 117th Cong. (2022).

¹⁰ Zoë Neuberger, *American Families Plan Could Substantially Reduce Children's Food Hardship*, CTR. ON BUDGET & POL'Y PRIORITIES (May 2020), <https://www.cbpp.org/sites/default/files/5-21-21pov.pdf>.

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consideration as student health, educational, administrative, and financial factors must be weighed.¹¹ In fact, USDA's *Community Eligibility Provision Characteristics Study* found that School Food Authorities (SFAs) reported financial concerns as the most significant barrier to CEP participation.¹² While the Proposed Rule would provide an opportunity for more schools and districts to utilize the streamlined CEP option, the Proposed Rule would have a significantly greater impact if the multiplier was increased. It is our hope that Congress takes action to increase the multiplier in order to encourage CEP participation.

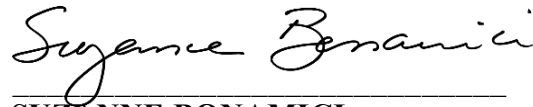
Again, we appreciate that the Department has taken this important step to expand access to CEP. As this Proposed Rule is in alignment with some of the provisions included in the *Healthy Meals, Healthy Kids Act*, we support the Department's Proposed Rule and the attention to expanding access to nutritious meals for students across the country.

Sincerely,



ROBERT C. "BOBBY" SCOTT

Ranking Member



SUZANNE BONAMICI

Ranking Member

Subcommittee on Early Childhood, Elementary,
and Secondary Education

¹¹ *Supra* note 1, at 17411.

¹² *Supra* note 7.