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Vegan Finance LLC



March 31, 2023

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

Director Tina Namian
School Meals Policy Division
Food and Nutrition Service
P.O. Box 9233
Reston, VA 20195

Re: FNS-2022-0043, Proposed Rule: Child Nutrition Programs – Revisions to Meal Patterns Consistent with the 2020 Dietary Guidelines for Americans

Submitted online at <https://www.regulations.gov>

Dear Secretary Vilsack and Director Namian,

On behalf of Vegan Finance LLC, I commend the U.S. Department of Agriculture Food and Nutrition Service for its efforts to improve the nourishment school meals provide and thus to support our nation's children both today and – given the vital role food and nutrition plays in our health, wellbeing, and environment – into the future.

I. Introducing Vegan Finance LLC

Vegan Finance LLC's mission is to end animal exploitation and promote veganism. In the 21st century, so many plant-based alternatives exist so we can save animals' life. Switching to a plant-based lifestyle generates a great number of other advantages for humans too: mitigating climate change, increasing health and food security, preserving our environment and all the free services it gives, giving the opportunity to create a new category of jobs that are more eco-conscious.

Our analysts are ESG certified from the CFA or the SASB and we have developed an expertise in animal-related criteria and engagement with corporations and institutions.

In alignment with and in service of our mission, vision, and core values, enclosed are Vegan Finance's comments on the USDA Food and Nutrition Service (FNS) Proposed Rule: Child Nutrition Programs (CNPs) – Revisions to Meal Patterns Consistent with the 2020 Dietary Guidelines for Americans (DGA), published in the Federal Register on February 7, 2023 under the agency/docket number FNS-2022-0043.

II. Aligning with USDA's Mission, Vision, and Core Values

Vegan Finance LLC is advocating for maintaining several changes in the Proposed Rule – as well as making updates to what USDA is proposing – so that the Final Rule will not only support FNS in its endeavors to best nourish our nation's children but also support USDA's broader mission and vision to spur economic development and preserve our environment as well as align with its core values, including respect and dignity; equity and inclusion; and science leadership.¹ Our proposals are not only evidence-based and equity-centered but also holistic in nature. We aim to nourish children while at the same time consider child nutrition programs in the context of the broader systems in which they exist and the myriad impacts they have on our children, communities, agricultural producers, and the environment. Thus, our comments are essential both for nourished children and also for a healthy planet and thriving communities, all bolstered by emphasizing plant-based and plant-forward menus that center respect, dignity, equity, and inclusion.

Our recommendations are in alignment with and service of USDA's mission "To serve *all* Americans by providing effective, innovative, *science-based* public policy leadership in agriculture, food and nutrition, natural resource protection and management, rural development, and related issues with a commitment to deliver *equitable* and climate-smart *opportunities that inspire and help America thrive*."² [emphasis added] Additionally, our recommendations align with USDA's vision "to provide economic opportunity through innovation...to promote agriculture production that better nourishes Americans...and to preserve our Nation's natural resources through conservation..."³ Lastly – and of utmost importance – our recommendations align with USDA's core values, including prioritizing equity in everything it does. As the Agency explains, "USDA can only succeed in its mission to help America thrive – and can only live up to President Lincoln's description of it as the 'People's Department' – if it ensures that the Americans who need its services most receive them. Equity is not an add-on or extra."⁴ USDA's other core values – along with equity and inclusion – are centered in our recommendations, including: "Respect and Dignity: We treat all people with courtesy and respect, and we value the inherent dignity of every individual."; "Equity and Inclusion: We seek to end discrimination in all forms, wherever it exists, and expand services and opportunities to underserved people and communities across America, starting with our workforce."; and "Science Leadership: We base

¹ U.S. Department of Agriculture. Strategic Plan Fiscal Years, 2022-2026. March 2022, p.3

² U.S. Department of Agriculture. Strategic Plan Fiscal Years, 2022-2026. March 2022, p.3

³ U.S. Department of Agriculture. About the U.S. Department of Agriculture. Retrieved from <https://www.usda.gov/our-agency/about-usda>

⁴ U.S. Department of Agriculture. Equity at USDA. Accessed online at: <https://www.usda.gov/equity>

our decisions and policy on science and data that are reliable, timely, relevant and free from political interference.”⁵

At present, there are aspects of the meal patterns that do not do everything possible within the Agency’s purview to inclusively nourish our children and respect our differences; protect our precious resources; and support a fair and sustainable agricultural economy.

III. Achieving USDA’s Goals by Facilitating Plant-Based and Plant-Forward Options

To achieve USDA’s goals – broadly as an Agency and specifically in updating the CNP meal patterns to align with the DGA – USDA must foster the inclusion of plant-based⁶ and plant-forward⁷ menu options. Not only do plant-based and plant-forward options support alignment with the DGA, they also meet student and operator demand; advance the Agency’s core values of equity and inclusion; and support USDA’s climate and conservation goals. Borrowing from the DGA, plant-based meals maximize the ability to “make every bite count”⁸ by holistically fostering nourished children, a healthy planet, and thriving communities.

a. Plant-Based Options Align with the Dietary Guidelines for Americans

Leading public health organizations all encourage fiber-rich, plant-forward diets.⁹ Expanding plant-based and plant-forward options will foster greater alignment with the DGA, which recommend increasing consumption of beans, peas, and lentils and of nuts and seeds;¹⁰ increasing dietary fiber (which comes from plants);¹¹ replacing processed meats (e.g., hot dogs, sausages, and bacon) with beans, peas, and lentils to reduce sodium and saturated fat;¹² and diversifying sources of protein.¹³

i. Plant-Based Options Increase Intake of Beans, Peas, and Lentils – As Well As Nuts and Seeds. Increasing the availability of plant-based and plant-forward options will support achievement of the DGA recommendations to increase intake of beans, peas, and lentils – as well as nuts and seeds – both of which are lower for youth than the DGA recommended intakes.¹⁴ In contrast, the DGA notes that “youth typically meet or exceed

⁵ U.S. Department of Agriculture. Strategic Plan Fiscal Years, 2022-2026. March 2022, p.3

⁶ We use the term “plant-based” to refer to entrees or meals that contain no animal products; these options could also be called “vegan.”

⁷ We use the term “plant-forward” to refer to entrees or meals that feature plant-based sources of protein but may still contain some animal products (e.g. a bean and cheese burrito or a taco salad made with beans and chicken).

⁸ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020, p. V.

⁹ Friends of the Earth. Public Health Consensus on Eating More Plant-based Foods and Less Meat. Retrieved from <https://foe.org/wp-content/uploads/2021/03/Public-Health-Consensus-for-Reduced-Meat-Consumption-kh-final.pdf>

¹⁰ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020, p. 30

¹¹ Id, p. 101

¹² Id, p. 34

¹³ Id, p. 33

¹⁴ Id, p. 86

recommendations for meat, poultry, and eggs.”¹⁵ The DGA specifically recommends replacing some processed meat consumption with beans, peas, and lentils to better align with recommended intakes and to support reduced sodium and saturated fat.¹⁶

ii. *Plant-Based Options Increase the Intake of Dietary Fiber.* More than 90 percent of children and adolescents consume a fiber-deficient diet, with a majority consuming just half of their needs.¹⁷ This near-universal deficiency is due to a dietary pattern low in minimally-processed plant foods like beans, peas, and lentils; 100-percent whole grains; nuts and seeds; vegetables; and fruits. Although school meals contain relatively more of these fiber-rich foods than do other meals a typical child eats in a day, school meals still do not go far enough in improving children’s fiber intake. The most recent peer-reviewed analyses of fiber in school meals have consistently demonstrated that the School Breakfast Program (SBP) and the National School Lunch Program (NSLP) fall short of meeting children’s dietary fiber needs by a significant margin.^{18,19,20} In fact, school meals may be falling short of fiber adequacy by roughly 30 percent, or 3-5 grams per 1,000 kilocalories,²¹ based on the Dietary Reference Intake (DRI) of 14 grams per 1,000 kilocalories.²² USDA’s *2021 School Nutrition and Meal Cost Study* found that fiber intake of both NSLP and non-NSLP participants was significantly lower than the DGA recommended intakes.²³

Dietary fiber is essential for optimal health in childhood and across the lifecycle. A low intake of dietary fiber is associated with many life-threatening and debilitating chronic conditions, including cardiovascular disease,²⁴ diabetes,²⁵ certain cancers,²⁶ and allergic

¹⁵ Id, p. 76

¹⁶ Id, p. 34

¹⁷ Agricultural Research Service. Usual nutrient intakes from food and beverages, by gender and age. What we eat in America, NHANES 2015–2018. 2021. Retrieved from www.ars.usda.gov/nea/bhnrc/fsrg

¹⁸ Cummings PL, Welch SB, Mason M, Burbage L, Kwon S, Kuo T. Nutrient content of school meals before and after implementation of nutrition recommendations in five school districts across two U.S. counties. *Preventive Medicine*. 2014 Oct;67(1 Suppl):S21-27.

¹⁹ Hopkins LC, Gunther C. A Historical Review of Changes in Nutrition Standards of USDA Child Meal Programs Relative to Research Findings on the Nutritional Adequacy of Program Meals and the Diet and Nutritional Health of Participants: Implications for Future Research and the Summer Food Service Program. *Nutrients*. 2015 Dec 4;7(12):10145-67.

²⁰ Adams EL, Raynor HA, Thornton LM, Mazzeo SE, Bean MK. Nutrient Intake During School Lunch in Title I Elementary Schools With Universal Free Meals. *Health Educ Behav*. 2022 Feb;49(1):118-127.

²¹ Bennett M and Biazzo C. Closing the Fiber Gap in School Meals [White Paper]. Balanced. 2022. Retrieved from https://www.balanced.org/_files/ugd/9d0f12_3615bcd02eb946249d4c0b8cde997da5.pdf

²² U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2020-2025*. 9th Edition. Accessed online at: DietaryGuidelines.gov

²³ U.S. Department of Agriculture Food and Nutrition Service. *School Nutrition and Meal Cost Study*. Volume 4. Student Participation, Satisfaction, Plate Waste, and Dietary Intakes. April 2019, p. 44. Accessed online at: <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNMCS-Volume4.pdf>

²⁴ Threapleton DE, Greenwood DC, Evans CEL, Cleghorn CL, Nykjaer C, Woodhead C et al. Dietary fiber intake and risk of cardiovascular disease: systematic review and meta-analysis. *BMJ*. 2013;347:f6879

²⁵ Yao B, Fang H, Xu W et al. Dietary fiber intake and risk of type 2 diabetes: a dose–response analysis of prospective studies. *Eur J Epidemiol*. 2014. 29, 79–88.

²⁶ Murphy N, Norat T, Ferrari P, Jenab M, Bueno-de-Mesquita B, Skeie G et al. Dietary Fiber Intake and Risks of Cancers of the Colon and Rectum in the European Prospective Investigation into Cancer and Nutrition (EPIC). *PLoS ONE*. 2012. 7(6):e39361.

diseases.²⁷ Poor diet has also been linked to poor mental health.²⁸ These conditions are manifesting at young ages. By enhancing the school nutrition standards around whole grains, legumes, and other fiber-rich foods, the USDA can help reverse concerning health trends and lessen health disparities.

In light of extensive fiber deficiency and the associated negative health consequences, the DGA explicitly names dietary fiber as a “dietary component of public health concern.”²⁹ The recommended course of action is “to increase the intake of vegetables, fruits, beans, [and] whole grains,”³⁰ an inevitable and urgently necessary path our country must take. USDA must consider the importance of dietary fiber in the current context of widespread fiber deficiency, both in children’s diets and in school meals. Therefore, the Final Rule must prioritize regulations that make fiber-rich whole grains, plant proteins, and whole fruits and vegetables more abundant and accessible in school meals. To support USDA in this effort, many of the items in our comments will help with increasing fiber consumption.

iii. Plant-Based Options Diversify Protein Intake. Increasing availability of plant-based and plant-forward options is important to diversify protein intake. A recent Friends of the Earth analysis of California school lunch menus found that only four percent of entree options were plant-based (and half of those were nut butter and jelly) in contrast to 94 percent of entree options that featured animal-sourced proteins.³¹ This finding suggests a misalignment with the DGA “key dietary principle” to “choose a variety of options from each food group.”³²

b. Plant-Based Options Meet Student and Operator Demand

As the K-12 student population grows increasingly racially and culturally diverse as well as environmentally conscious and concerned for animal welfare, the demand for plant-based^{33,34}

²⁷ Venter C, Meyer, RW, Greenhawt M, Pali-Schöll I, Nwaru B, Roduit C et al. Role of dietary fiber in promoting immune health—An EAACI position paper. *Allergy*. 2022. 77(11):3185-98.

²⁸ O’Neil, A., Quirk, S. E., Housden, S., Brennan, S. L., Williams, L. J., Pasco, J. A., Berk, M., & Jacka, F. N. (2014). Relationship Between Diet and Mental Health in Children and Adolescents: A Systematic Review. *American Journal of Public Health*, 104(10), e31–e42. <https://doi.org/10.2105/AJPH.2014.302110>

²⁹ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. Page 36. Accessed online at: [DietaryGuidelines.gov](https://www.dietaryguidelines.gov)

³⁰ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. Page 36. Accessed online at: [DietaryGuidelines.gov](https://www.dietaryguidelines.gov)

³¹ Hamerschlag, K. and Kraus-Polk, J. Friends of the Earth. The State of School Lunch in California. March 2021, p. 6. Accessed online at: https://foe.org/wp-content/uploads/2021/03/SchoolFoodReport_No-Execsummary.pdf

³² U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020, p. 25

³³ Singh, S. *Plant-Based Food Market Size, Trends, Share, and Forecast to 2030*. Retrieved from <https://www.marketresearchfuture.com/reports/plant-based-food-market-8578>

³⁴ Fera, L. (2022, September 27). *Gen Z is leading a generational shift in plant-based food purchasing*. Supermarket News. <https://www.supermarketnews.com/health-wellness/gen-z-leading-generational-shift-plant-based-food-purchasing>

and plant-forward^{35,36} meals have grown. Importantly, providing more plant-based and plant-forward options could increase meal participation rates: A 2022 Chartwells poll found that 37 percent of students said they would eat school lunch more often if there were more vegetarian and vegan choices.³⁷ Unfortunately, most K-12 school menus have not been able to keep up with this demand, due in part to the regulatory barriers we discuss in these comments. Facilitating plant-based options throughout the meal patterns via the Final Rule will meet both the needs of students and program operators relying on USDA.

c. Plant-Based Options Advance Equity and Inclusion

Along with students' environmental and animal welfare concerns, there are also a variety of cultural, ethnic, religious, and physiological reasons that make including plant-based options imperative. For example, many religions encourage vegetarianism, and some restrict certain animal products. Students who follow plant-based or vegetarian diets have reported going hungry at school because there was not enough they could eat.³⁸

There is also an important racial justice and equity case for ensuring the availability of plant-based options: Black, Indigenous, and other People of Color (BIPOC) are three times as likely to follow a plant-based diet than white people,³⁹ and a 2020 Gallup poll revealed that 31 percent of BIPOC Americans reported reducing meat consumption in the last year compared to 19 percent of white Americans.⁴⁰ According to the National Institutes of Health, 95 percent of Asian Americans, 60-80 percent of African Americans, 80-100 percent of American Indians, and 50-80 percent of Hispanic people are unable to process lactose.⁴¹ Especially because BIPOC are also more likely to be food insecure – and therefore reliant on free and reduced-price school meals – it is imperative that our child nutrition programs accommodate the dietary needs and preferences of BIPOC students.⁴² The Final Rule must comprehensively foster plant-based and dairy-free options to better meet the dietary needs of *all* children – the ultimate beneficiaries of child nutrition programs – and to uplift USDA's core values of respect and dignity and advance its values of equity and inclusion.⁴³

³⁵ Cobe, P. & 2022. (n.d.). *The rise in plant-forward eating continues post-pandemic*. Restaurant Business. Retrieved from <https://restaurantbusinessonline.com/consumer-trends/rise-plant-forward-eating-continues-post-pandemic>

³⁶ Jed, E. (2018, August 12). *Aramark Brings Gen Z Food Trends To Life On College Campuses Nationwide*. Wwww.Vendingtimes.Com. <https://www.vendingtimes.com/news/aramark-brings-gen-z-food-trends-to-life-on-college-campuses-nationwide/>

³⁷ *8 Veg Out treats from Chartwells K12 | Food Management*. (2022, November 8). Retrieved from <https://www.food-management.com/k-12-schools/8-veg-out-treats-chartwells-k12>

³⁸ Healthy, Climate-Friendly School Food Campaign. (2022, February 21). *Support the Healthy Future Students & Earth Act—Full Version*. <https://www.youtube.com/watch?v=ui1jVKE6DzQ>

³⁹ Gallup. (2019, September 27). *What Percentage of Americans Are Vegetarian?* <https://news.gallup.com/poll/267074/percentage-americans-vegetarian.aspx>

⁴⁰ Gallup. (2020, January 27). *Nearly One in Four in U.S. Have Cut Back on Eating Meat*. Gallup.Com. <https://news.gallup.com/poll/282779/nearly-one-four-cut-back-eating-meat.aspx>

⁴¹ National Institutes of Health, Lactose Intolerance: Information for Health Care Providers (2006).

⁴² Myers, A. M. C., & Painter, M. A. (2017). Food insecurity in the United States of America: an examination of race/ethnicity and nativity. *Food Security*, 9(6), 1419–1432. <https://doi.org/10.1007/s12571-017-0733-8>

⁴³ USDA Strategic Plan Fiscal Years 2022-2026. Retrieved from <https://www.usda.gov/sites/default/files/documents/usda-fy-2022-2026-strategic-plan.pdf>

d. Plant-Forward Menus Support Climate and Conservation Goals

When the National School Lunch Act was passed in 1946, it established the goal of the school meal program to “safeguard the health and well-being of the Nation’s children.”⁴⁴ Today, living up to that intention means leveraging the seven million school meals each year to help combat the greatest threat facing this and future generations of children: climate change.

Students are bringing their conservation mindsets and climate activism to the cafeteria, and plant-rich diets are a crucial solution to the climate crisis that they face.⁴⁵ Reams of scientific studies show that industrial animal agriculture plays a major role in driving climate change and that plant-rich diets are a highly effective way to reduce our impact on the climate.⁴⁶ Plant-rich diets also require less land⁴⁷ and fewer water resources.⁴⁸ Therefore, facilitating more plant-forward menus is a key strategy to achieve USDA’s climate and conservation goals.

IV. Finalizing the Meal Patterns and Ensuring Successful Implementation

Fostering plant-based options and more plant-forward menus in the Final Rule is necessary to ensure successful implementation of the updated meal patterns. Our priorities – some of which maintain and others of which update the Proposed Rule – will advance USDA’s priorities and core values by supporting the DGA, ensuring evidence-based nutrition, and protecting our planet.

a. Maintain in the Final Rule

Some of Vegan Finance LLC’s priorities are included in the Proposed Rule, and we express our advanced appreciation for maintaining these in the Final Rule:

Section 6: Menu Planning Options for American Indian and Alaska Native Students

- Expand the option to serve vegetables to meet the grains component to include the Child and Adult Care Food Program and Summer Food Service Program.

⁴⁴ 42 U.S.C. 1751

⁴⁵ Intergovernmental Panel on Climate Change, Climate Change and Land. (Jan. 2020). Available at https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf; See also, Drawdown, Farming Our Way out of the Climate Crisis (Dec. 2020). Available at https://drawdown.org/sites/default/files/pdfs/DrawdownPrimer_FoodAgLandUse_Dec2020_01c.pdf.

⁴⁶ Id. See also Schiermeier, Q. (2019). Eat less meat: UN climate-change report calls for change to human diet. *Nature*, 572(7769), 291–292. <https://doi.org/10.1038/d41586-019-02409-7>; See also Sun, Z., Scherer, L., Tukker, A., Spawn-Lee, S. A., Bruckner, M., Gibbs, H. K., & Behrens, P. (2022). Dietary change in high-income nations alone can lead to substantial double climate dividend. *Nature Food*, 3(1), Article 1. <https://doi.org/10.1038/s43016-021-00431-5>; See also United Nations. *Food and Climate Change: Healthy diets for a healthier planet*. United Nations; United Nations. Retrieved from <https://www.un.org/en/climatechange/science/climate-issues/food>

⁴⁷ Poore, J., & Nemecek, T. (2018). Reducing food’s environmental impacts through producers and consumers. *Science*, 360(6392), 987–992. See also Hayek, M. N., Harwatt, H., Ripple, W. J., & Mueller, N. D. (2020). The carbon opportunity cost of animal-sourced food production on land. *Nature Sustainability*, 1–4.

⁴⁸ Kim, B. F., Santo, R. E., Scatterday, A. P., Fry, J. P., Synk, C. M., Cebon, S. R., Mekonnen, M. M., Hoekstra, A. Y., de Pee, S., Bloem, M. W., Neff, R. A., & Nachman, K. E. (2020). Country-specific dietary shifts to mitigate climate and water crises. *Global Environmental Change*, 62, 101926. <https://doi.org/10.1016/j.gloenvcha.2019.05.010>

- Expand the option to serve vegetables to meet the grains component to include all schools.

Section 7: Traditional Foods

- Explicitly state in regulation that traditional foods may be served in reimbursable school meals.
- Commit to supporting efforts to incorporate plant-based traditional foods into school meals, including by addressing barriers to doing so.

Section 10. Nuts and Seeds

- Allow nuts and seeds to credit for 100 percent of the meat/meat alternate component in all child nutrition programs and meals.

Section 11. Competitive Foods – Hummus Exemption

- Add hummus to the list of foods exempt from the total fat standard in the regulations, which will allow hummus to be sold as a Smart Snack.

Section 15: Miscellaneous Changes

- Change the name of the meat/meat alternate component to “protein sources.”

Section 17. Proposals from Prior USDA Rulemaking

- Allow legumes offered as a meat alternate to count toward the weekly legume vegetable requirement.

b. Update in the Final Rule

Vegan Finance LLC’s comments also include provisions to strengthen the Final Rule:

Section 3: Milk

- Modify the Serve model for middle and elementary schools such that milk is always an optional meal component.
- Clarify that SFAs are authorized and encouraged to provide a non-dairy beverage that meets the USDA standards to any student with a special medical or dietary need whose parent or guardian makes a request.
- Clarify that plant-based diets can qualify as a special medical or dietary need, whether the diet is due to religious, cultural, physiological, philosophical, or other reasons.
- Clarify that lactose intolerance can be considered both a disability and a special medical or dietary need.
- Provide a model parental notice and form for milk substitution requests that SFAs can use on their websites and mail to families.
- Allow additional healthcare professionals to write a note to support meal modifications that do not meet the meal pattern requirements.

- Amend regulations and policy memoranda for all school meal programs other than the NSLP such that disability-related substitutions must be made available upon request of a parent or legal guardian.
- Eliminate access to flavored milk and facilitate access to non-dairy substitutes instead.

Section 4: Whole Grains

- Require that all grains in school meals be whole grain-rich; or Require that 90 percent of grains in school meals be whole grain-rich *and* adopt a minimum fiber standard of 14 grams per 1,000 kilocalories per day.

Section 5: Sodium

- Encourage schools to prioritize reductions in sodium via eliminating processed meats.

Section 6: Menu Planning Options for American Indian and Alaska Native Students

- Expand the option to serve vegetables to meet the grains component to include schools primarily serving Native Samoan, Puerto Rican, Virgin Islander, Guamanian, and Hawaiian – as well as other populations including African Americans, Asian Americans, and Latin Americans who use starchy vegetables as grains – children living in the mainland U.S.
- Expand the list of allowable vegetables to substitute for grains to include squash, cassava (yuca), and taro, in addition to USDA’s proposal to add prairie turnips.
- Require vegetables allowed to be substituted for the grains component to be prepared in ways that align with traditional cultural preparations.

Section 7: Traditional Foods

- Consider and support additional populations for whom standard school meals are not reflective of their traditions and cultures.

Section 10. Nuts and Seeds

- Align the nutritional equivalency FNS has set for nuts and seeds – as well as nut and seed butters – with the DGA.

Section 15: Miscellaneous Changes

- Include quinoa and other grains high in protein in the new “protein sources” meal component.
- Phase out processed meats.
- Encourage schools to offer daily plant-based options beyond a nut butter sandwich.
- Allow beans, peas, and lentils – as well as tofu and soy products – to qualify as a meat alternate even if they are not visually recognizable.

- Allow red lentil pasta to credit as a meat alternate regardless of whether it is served alongside a visually recognizable meat/meat alternate, and allow beans, peas, and lentils to credit as a meat alternate in smoothies.
- Clarify that beans, peas, and lentils can credit as both a vegetable and meat alternate on the same day if served in sufficient quantities.
- Allow a single legume dish to credit as a vegetable *or* meat alternate on the same day.

Additionally, across all of the changes made to the meal patterns, we urge USDA to do everything possible to best support the child nutrition program professionals leading implementation of the changes. Doing so will look like USDA providing program operators with comprehensive training and technical assistance and streamlining the regulations across the myriad programs wherever possible. In combination, these steps will foster successful implementation of the changes. CNP professionals will be able to invest less of their time in navigating needed menu planning differences across various programs and more time into achieving the new standards, all with support from USDA.

Section 2: Added Sugars

Vegan Finance LLC strongly supports the USDA's proposals to limit added sugars in school meals. There is extensive research linking consumption of added sugars to myriad diet-related chronic diseases, including obesity, metabolic diseases including type 2 diabetes and fatty liver disease, cardiovascular disease, and dental decay.

Section 3: Milk

Vegan Finance LLC commends USDA for seeking to improve children's access to fluid milk substitutes, given, as the proposed rule affirms, "the disproportionate rates of lactose intolerance among communities of color." We understand that its statutory authority limits what the Department can change, however, there are a significant number of modifications that can be made within its current authority that would improve equity in child nutrition programs. To assure that children who cannot or choose not to consume fluid milk still receive the same value as those who can consume fluid milk, Vegan Finance LLC proposes the following:

- **3a. Update in Final Rule: Modify the Serve model for middle and elementary schools such that milk is always an optional meal component.**

USDA regulations require the default school lunch to consist of five components: meat/meat alternates, fruits, vegetables, grains, and fluid milk.⁴⁹ The NSLP statute introduces some flexibility, however, instituting a policy known as "offer versus serve" under which "[s]tudents in senior high schools...shall not be required to accept offered foods which they do not intend to

⁴⁹ 7 C.F.R. § 210.10(c)(2).

consume.”⁵⁰ By statute, schools below that level may participate in offer versus serve during lunch if their school food authority (SFA) allows them to do so.⁵¹

Child nutrition programs implement offer versus serve as follows:

National School Lunch Program: USDA regulations state that “[u]nder offer versus serve, students must be allowed to decline two components at lunch, except that the students must select at least 1/2 cup of either the fruit or vegetable component.”⁵² By statute, senior high schools must participate in offer versus serve at lunch, but schools below that level may participate only if their SFA allows them to do so.⁵³

School Breakfast Program: USDA regulations require the default school breakfast to include at least these three components: fruits, grains, and fluid milk.⁵⁴ The regulations further state that “[t]o exercise the offer versus serve option at breakfast, a [SFA] or school must offer a minimum of four food items daily as part of the required components.”⁵⁵ Then “students are allowed to decline one of the four food items, provided that students select at least 1/2 cup of the fruit component for a reimbursable meal. If only three food items are offered at breakfast, [SFAs] or schools may not exercise the offer versus serve option.”⁵⁶ Schools may participate in offer versus serve if their SFA allows them to do so.⁵⁷

Summer Food Service Program: USDA regulations allow, but do not require, operators that are SFAs to implement the offer versus serve standards available under NSLP.⁵⁸

Daycare Institutions: USDA regulations allow a limited offer versus serve option under which an “at-risk afterschool program” may, at its discretion, allow children to decline “[t]wo of the five food components required at supper (fluid milk, vegetables, fruit, grain, and meat/meat alternate).”⁵⁹ Relatedly, USDA regulations allow parents and guardians of children in daycare to provide their own substitute for fluid milk if the institution approves of the substitute and all other statutory and regulatory requirements are met.⁶⁰

As explained above, participation in offer versus serve is mandatory for senior high schools participating in NSLP and at the discretion of operators for other age groups and in other CNPs.

⁵⁰ 42 U.S.C. § 1758(a)(3).

⁵¹ *Id.*; 7 C.F.R. § 210.10(e).

⁵² 7 C.F.R. § 210.10(e).

⁵³ 42 U.S.C. § 1758(a)(3); 7 C.F.R. § 210.10(e).

⁵⁴ 7 C.F.R. § 220.8(c), (e).

⁵⁵ 7 C.F.R. § 220.8(e).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ 7 C.F.R. § 225.16(f)(1)(ii) (citing 7 C.F.R. § 210.10).

⁵⁹ 7 C.F.R. § 226.20(o)(1)(ii).

⁶⁰ 7 C.F.R. § 226.20(g)(1)(ii), (2)(ii).

Because meals served under offer versus serve are reimbursable,⁶¹ schools have no financial incentive to refuse participation in offer versus serve. Nevertheless, participation is far from universal. For the 2004-2005 school year, 71 percent of elementary schools and 90 percent of middle schools used “offer versus serve” during lunch.⁶² For the 2009-2010 school year, those percentages dropped to 69 percent and 77 percent respectively.⁶³

Despite the flexibility afforded by offer versus serve, there are circumstances under which a student still may not be able to avoid receiving fluid milk. For example, a student who declines the grain component of a breakfast cannot also decline fluid milk because USDA regulations allow students to decline a maximum of one item during breakfast.⁶⁴

In the Final Rule, USDA should modify the Serve model for middle and elementary schools such that students are required to take all four food components of the meal, but milk is always an optional component. This will allow students who cannot digest milk to receive a reimbursable meal. It will also address milk waste and help elementary and middle school students with philosophical or religious objections to cow’s milk live in alignment with their values. Additionally, this would address the operational challenges that deter many elementary schools from using offer versus serve because “take all the food options offered and choose whether or not you want milk” is much simpler to understand and implement than “choose at least three of these five items and make sure at least one is a fruit or a vegetable.”

The appeal of the Serve model for some elementary schools is that they can pre-load trays, either at a central facility or at individual facilities, however, it is less common for schools to pre-load trays with milk. Schools can preserve the convenience of pre-loading trays with the four food options, have students take a tray, and then decide whether to put milk on it or not. This would reduce milk waste – the most wasted food in schools by volume⁶⁵ – and it would not force students with philosophical, religious, or non-disability medical reasons for not consuming cow’s milk to take it.

→ 3b. Update in Final Rule: Clarify that SFAs are authorized and encouraged to provide a non-dairy beverage that meets the USDA standards to any student with a special medical or dietary need whose parent or guardian makes a request.

The NSLP statute allows for discretionary substitutions in the case of a special medical or dietary need that can be documented by a “written statement of a medical authority or by a student’s parent or legal guardian that identifies the medical or other special dietary need that

⁶¹ See, e.g., 7 C.F.R. § 225.16(f)(1)(ii); USDA Memo SP 07-2010 at Attach. p. 3 (“Under OvS, a meal without fluid milk can be reimbursable.”).

⁶² USDA Food & Nutrition Serv., School Nutrition Dietary Assessment Study - III 28, 31 (2007), <https://www.fns.usda.gov/school-nutrition-dietary-assessment-study-iii>.

⁶³ USDA Food & Nutrition Serv., School Nutrition Dietary Assessment Study-IV xxxiv (2012), <https://www.fns.usda.gov/school-nutrition-dietary-assessment-study-iv>.

⁶⁴ See 7 C.F.R. § 220.8(c), (e).

⁶⁵ U.S. Department of Agriculture Food and Nutrition Service. School Nutrition and Meal Cost Study. Volume 4. Student Participation, Satisfaction, Plate Waste, and Dietary Intakes. (April 2019). Retrieved from <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNMCS-Volume4.pdf>

restricts the student's diet."⁶⁶ Many SFAs that do allow for discretionary substitutions will only provide one based on a note from a medical authority. We are aware of several cases where SFAs believe the law requires them to have a note from a medical authority in order to provide a substitute. In these cases, SFAs are likely conflating non-disability substitutions with disability substitutions, which, by statute, *do* require a note from a physician.⁶⁷

For example, D.C. Public Schools (DCPS) previously required a note from a medical authority for students to get a non-dairy substitute and were not convinced federal law did not require this. Ultimately, this required advocates to pass a law that prohibits schools from requiring a medical note for non-disability fluid milk substitutions.⁶⁸

While USDA's proposal to reorganize the regulatory text related to fluid milk substitutes for non-disability reasons – by moving the text explaining the fluid milk substitute requirements from paragraph (m) of 7 C.F.R. § 210.10 to paragraph (d) – is a start, that change will be insufficient to alter SFAs' widely held belief that a note from a medical authority is required. USDA should clarify in the Final Rule and accompanying guidance memoranda to SFAs that SFAs are authorized and encouraged to provide a non-dairy beverage that meets the USDA regulations to any student with a special medical or dietary need whose parent or guardian makes a request. The SFA guidance should include examples of special medical or dietary needs that would fall under this authorization, including lactose intolerance, allergies, and/or following a diet that excludes animal products (e.g., a vegan diet) for any reason.

→ 3c. Update in the Final Rule: Clarify that plant-based diets can qualify as a special medical or dietary need, whether the diet is due to religious, cultural, physiological, philosophical, or other reasons.

Some SFAs will accommodate only religious diets. There are a wide range of reasons other than religion – including cultural, physiological, and philosophical reasons – that fall under the broad umbrella of special medical or dietary need. USDA should encourage SFAs to provide substitutes, including milk substitutes, for plant-based/vegan diets regardless of a student's motivation.

→ 3d. Update in the Final Rule: Clarify that lactose intolerance can be considered both a disability and a special medical or dietary need.

FNS's recent guidance has rightly said that lactose intolerance is considered a disability for the purposes of mandatory disability-related substitutions.⁶⁹ FNS should also make clear that a parent or guardian's request on this basis is sufficient to request a discretionary substitution. As

⁶⁶ 42 U.S.C. § 1758(a)(2)(B)(i)

⁶⁷ 42 U.S.C. § 1758(a)(2)(A)(iii)

⁶⁸ D.C. Law 22-240. Healthy Students Amendment Act of 2018. Retrieved from <https://code.dccouncil.gov/us/dc/council/laws/22-240>

⁶⁹ Modifications to Accommodate Disabilities in the School Meal Programs at page 5, available at <https://fns-prod.azureedge.us/sites/default/files/cn/SP59-2016os.pdf>

discussed in the previous paragraph, we have observed widespread confusion about the source of notes for discretionary substitutions (e.g., some SFAs incorrectly believe they are only authorized to make discretionary substitutions based on a note from a doctor). In the Proposed Rule, USDA acknowledges “the specific nutrition and paperwork requirements and cost burden associated with fluid milk substitutes” as well as the time and resource barriers families must overcome to obtain a note from a medical authority as statutorily required to receive a disability-related substitution. If a parent or guardian cannot overcome those barriers, FNS should at the very least lower the hurdles to receiving a discretionary substitution for lactose intolerance by clarifying that a parent or guardian note will suffice.

→ **3e. Update in Final Rule: Provide a model parental notice and form for milk substitution requests that SFAs can use on their websites and mail to families.**

In Washington, D.C., DCPS reduced confusion by having an easy-to-understand form for parents to request a non-dairy milk option.⁷⁰ FNS should provide SFAs with a model form for parents to use to request milk substitutions. FNS could also encourage schools to use the same form to allow parents to request vegan or other types of restricted diet meals, encouraging SFAs to accommodate these dietary preferences. FNS should encourage SFAs to disseminate information on milk substitutions along with other information the SFA sends directly to families.

→ **3f. Update in Final Rule: Allow additional healthcare professionals to write a note to support meal modifications that do not meet the meal pattern requirements.**

Clarifying USDA’s guidance to more directly allow additional healthcare professionals to write notes supporting disability-related substitutions will lower the financial and logistical barriers families face to obtain disability-related substitutes to fluid milk. Licensed dietitians, nutritionists, nurse practitioners, and nurses are capable of identifying reasonable meal modifications for individuals with disabilities.

USDA guidance⁷¹ and USDA’s daycare institution regulations⁷² broaden the “licensed physician” category, stating that the written statement must come from a licensed physician or licensed healthcare professional who is authorized by State law to write medical prescriptions. One USDA guidance document explains that the term physician “includes osteopathic physicians or doctors of osteopathic medicine. These are fully trained physicians who are licensed by the State to prescribe medication or to perform surgery.”⁷³ Another USDA guidance document takes a broader view, stating: “The medical statement must include the signature of an individual who is authorized to write medical prescriptions under State law. This may include a doctor, a nurse

⁷⁰ Milk Substitution and Philosophical Dietary Accommodations Form.
https://enrolldcps.dc.gov/sites/dcpsenrollment/files/page_content/attachments/FNS-Milk-Substitution--Philosophical-Dietary-Accommodations-Form-2021-2022.pdf

⁷¹ USDA Memo SP 59-2016 at 4–5; USDA Memo CACFP 14-2017 at 3–4.

⁷² 7 C.F.R. § 226.20(g)(1)(i).

⁷³ Food & Nutrition Serv., USDA, School Meals FAQs (2017), <https://www.fns.usda.gov/school-meals/faqs>.

practitioner, or a physician's assistant."⁷⁴ Other USDA guidance confirms that a nurse practitioner who is authorized to write medical prescriptions may meet the "licensed physician" standard.⁷⁵ In defining "State licensed healthcare professional," USDA should include those additional professions and characterize "authorized to write medical prescriptions under State law" as a qualification but not a requirement.

→ 3g. Update in Final Rule: Amend regulations and policy memoranda for all school meal programs other than the NSLP such that disability-related substitutions must be made available upon request of a parent or legal guardian.

Although a note from a healthcare professional is mandated by statute in the context of disability modifications in NSLP,⁷⁶ there is no analogous statutory mandate for the Child and Adult Care Food Program (CACFP), School Breakfast Program, Special Milk Program, and Summer Food Service Program (SFSP). USDA has imposed such a mandate in these programs by regulation or guidance documents, thereby unnecessarily increasing the burdens imposed on BIPOC and under resourced populations. FNS should bring its regulations and guidance documents in line with the less stringent statutory requirements.

→ 3h. Update in Final Rule: Eliminate access to flavored milk and facilitate access to non-dairy substitutes instead.

The Proposed Rule suggests two alternatives for flavored milk: one that would restrict flavored milk at breakfast and lunch to high school students, and another that would maintain the status quo of allowing all schools to offer flavored milk, subject to the proposed added sugar limits. The Proposed Rule also requests public input on flavored milk for children in grades 6-8.

Instead of focusing on flavored dairy milk, the Final Rule should facilitate access to non-dairy beverages as suggested above. Whether plain or flavored, high-fat or low-fat, dairy milk can cause digestive symptoms for those unable to digest lactose. Expanding flavored milk will not advance the Proposed Rule's goal to address "the disproportionate rates of lactose intolerance among communities of [C]olor."

Additionally, while the dairy industry touts milk as an essential source of calcium and potassium, these nutrients can be gained from other foods that do not come with the trade-off of high sugar content and saturated fat in flavored milk. For example, rich sources of calcium include kale, broccoli, tofu, nuts, beans, and fortified soy milk.⁷⁷ Potassium is similarly available in a wide range of plant foods.⁷⁸

⁷⁴ USDA Memo SP 40-2017 at 15.

⁷⁵ See USDA Memo SP 59-2016 at 6; USDA Memo CACFP 14-2017 at 3-4, 6.

⁷⁶ 42 U.S.C. § 1758(a)(2)(A)(iii).

⁷⁷ Dietary Guidelines for Americans. "Food Sources of Calcium." Retrieved from: <https://www.dietaryguidelines.gov/food-sources-calcium>

⁷⁸ Dietary Guidelines for Americans. "Food Sources of Calcium." Retrieved from <https://www.dietaryguidelines.gov/food-sources-potassium>

Vegan Finance LLC urges USDA to eliminate flavored milk to the greatest extent possible.

Section 4: Whole Grains

- **4a. Update in Final Rule: Require that all grains in school meals be whole grain-rich; or Require that 90 percent of grains in school meals be whole grain-rich and adopt a minimum fiber standard of 14 grams per 1,000 kilocalories per day.**

The Final Rule should:

- Mandate that 100 percent of grain products in school meals meet the definition of whole grain-rich, as originally mandated following the passage of the Healthy, Hunger-Free Kids Act (HHFKA); or
- Mandate that 90 percent of grain products meet the definition of whole grain-rich in conjunction with a minimum daily standard for dietary fiber of 14 grams per 1,000 kilocalories.

In the Proposed Rule, the whole grain-rich⁷⁹ requirement is 80 percent, which Vegan Finance LLC acknowledges is a marked improvement on the rolled-back standard that preceded it (that 50 percent of grains be whole-grain rich). This proposal, however, ultimately does not go far enough to align with the DGA recommendation that half of all grains consumed be *whole* (not whole grain-rich).⁸⁰ The original standard following the passage of HHFKA – that *all* grain products meet the definition of whole grain-rich – is the policy that most closely aligns with the whole grains recommendation in the DGA; if all grain products were whole grain rich, then at least 50 percent of grains would be whole, comporting with DGA’s 50 percent standard.

From a nutrition standpoint, it is better to consume more whole grains and fewer refined grains; according to the DGA, “healthy dietary patterns” are ones that “limit the intake of refined grains.”⁸¹ Despite this framing suggesting that the intake of refined grains should be minimized, the DGA grains recommendation includes a large degree of latitude around whole and refined grains in stating that as few as half of all grains consumed can be whole in a healthy dietary pattern. The Proposed Rule introduces an even lower standard for whole grains that sharply contrasts with the language in the DGA. A standard in which only 80 percent of grain products must be *whole grain-rich* (meaning 40 percent whole grain) is markedly lower than the DGA recommendation of 50 percent whole grains (100 percent whole grain rich). Vegan Finance LLC urges USDA to correct this inconsistency in the Final Rule.

As we explain in Section III(a), school meals often do not contain adequate levels of dietary fiber, a nutrient “of public health concern.” Grain products are the number one source of dietary

⁷⁹ FNS defines “whole grain-rich as “foods that contain 100-percent whole grain or contain a blend of whole-grain meal and/or flour and enriched meal and/or flour of which at least 50-percent is whole grain.” 7 CFR Parts 210 and 220

⁸⁰ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020, p. 13

⁸¹ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. Page 32. Accessed online at: [DietaryGuidelines.gov](https://www.dietaryguidelines.gov)

fiber in school meals, contributing over half of all the fiber in a typical meal.⁵ Considering that grains contribute the majority of fiber in school meals⁸² and given that school meals frequently lack this vital and widely under-consumed nutrient, the whole grains standard should be strengthened to the level encouraged in the DGA. This requires a policy that sets “whole grain-rich” as a floor, not a ceiling. The most straightforward way to ensure this outcome is to reinstate the rule mandating that 100 percent of grains products in school meals meet the definition of whole grain-rich.

While we reject the framing that refined grains are a cultural imperative, we acknowledge that processed grains can be a part of an overall health-promoting dietary pattern. Therefore, we can envision a scenario in which up to 10 percent of grains may be refined and enriched, but only if the USDA also implements a broader dietary specification for dietary fiber of 14 grams per 1000 kilocalories, as recommended by the DGA and per the DRI for fiber. In other words, if the USDA allows flexibilities for refined grains, then the Agency must commit to additional efforts to ensure that the concomitant loss in dietary fiber due to such flexibilities – *on top of* preexisting deficits in fiber – is corrected by other policies such as a fiber specification and/or policy that facilitate more beans, peas, and lentils.

Section 5: Sodium

→ 5a. Update in the Final Rule: Encourage schools to prioritize reductions in sodium via eliminating processed meats.

USDA requested feedback from stakeholders on specific products for which USDA should develop best practice sodium limits. We support this approach and recommend that USDA focus on processed meats because of the myriad reasons we discuss in detail in Section 15(c). Furthermore, eliminating processed meats is not only a key strategy for sodium reduction but also has co-benefits for reducing saturated fats, lowering cancer risk, and reducing greenhouse gas emissions.

Section 6: Menu Planning Options for American Indian and Alaska Native Students

Vegan Finance LLC appreciates that the Proposed Rule includes an explicit acknowledgment from USDA that “for decades, the [U.S.] government actively sought to eliminate traditional American Indian and Alaska Native ways of life [which] separated indigenous children from their families and heritage, and disrupted access to traditional foods, altering indigenous children’s relationship to food.”⁸³ The erasure, oppression, and exclusion of traditional foodways is but one aspect of the myriad racist policies and practices on which our nation’s food system was built and persists.

⁸² U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. Page 36. Accessed online at: [DietaryGuidelines.gov](https://www.dietaryguidelines.gov)

⁸³ National Museum of the American Indian, *Struggling with Cultural Repression, Chapter 3: Boarding Schools*. Available at: <https://americanindian.si.edu/nk360/code-talkers/boarding-schools/>.

Both historically and still today, BIPOC populations are harmed by our food and farm system's injustices. From a history of stolen land from Native peoples and enslaved African peoples, colonization, detribalization, and destruction of traditional foods – to present-day unsafe working conditions on farms and in slaughterhouses; inequitable access to land, capital, and other resources; and economic disparities in food and farm worker pay (majority BIPOC professions) – USDA regulations contribute to perpetuating this system, and with profound impacts.

Crops grown underground by Native populations, such as certain root vegetables, are still in need of regulations to be included in federal food programs. BIPOC represent a disproportionate percentage of frontline, low-wage food chain workers that prop up a system that intentionally, systematically suppresses power and causes harm.⁸⁴ There are massive disparities in rates of chronic diet-related diseases for BIPOC compared to white people, including for youth.⁸⁵

Current regulations encourage schools to “consider ethnic and religious preferences when planning and preparing meals.”⁸⁶ To put this into practice, proposed regulations allow for specific instances in which vegetables are allowed to be substituted for the grains component. Vegan Finance LLC appreciates that the Proposed Rule expands on these allowances, however, additional changes must be made to the Final Rule to best support the breadth of communities, cultures, and preferences that exist in the U.S. *All* children – across all origins, cultures, ethnicities, ages, places, ethnicities, and seasons – must be supported in alignment with USDA's core values to uplift both respect and dignity and to advance equity and inclusion – through child nutrition programs that align with their needs. USDA should not exclude from the Final Rule children attending schools that are not tribally or Bureau of Indian Education operated, nor children from an array of diverse cultures that are not the “majority” ethnicity in their schools across the U.S.

Vegan Finance LLC is concerned that USDA's proposal of “finalizing a process by which these schools could request, on a case-by-case basis, menu planning options for USDA approval, provided the requests reasonably align with meal pattern requirements” would put an undue burden on schools. The Final Rule must comprehensively address the imperative of inclusive, equitable menu planning options while not placing undue burden on already unjustly burdened and harmed BIPOC and island communities.

What follows is a list of appropriate allowances to maintain or update in the Final Rule. Additionally, Vegan Finance LLC encourages USDA to incorporate into the Final Rule comments from organizations and individuals representing our children's diverse cultures and communities regarding how CNPs can better meet all children's needs.

⁸⁴ HEAL Food Alliance. *Food, Race and Labor: A Brief Explainer*. <https://healfoodalliance.org/a-brief-explainer-on-food-and-labor/>

⁸⁵ Centers for Disease Control and Prevention. (2019). *Prevalence of Childhood Obesity in the United States, Childhood Obesity Facts*. CDC. <https://www.cdc.gov/obesity/childhood/index.html>

⁸⁶ [7 CFR 210.10\(m\)\(3\)](#)

- **6a. Maintain in Final Rule: Expand the option to serve vegetables to meet the grains component to include the Child and Adult Care Food Program and Summer Food Service Program.**

Vegan Finance LLC appreciates that the Proposed Rule includes an expansion of the current regulation allowing substitutions of vegetables to meet the grains component – applicable at present only for school lunches and breakfasts⁸⁷ – to include CACFP and SFSP. Children of all ages, and across all seasons, are due culturally appropriate and inclusive menu items.

- **6b. Maintain in Final Rule: Expand the option to serve vegetables to meet the grains component to include schools that are tribally or Bureau of Indian Education operated, schools primarily serving American Indian or Alaska Native children, and schools in Guam and Hawaii.**

Vegan Finance LLC is grateful that the Proposed Rule includes an expansion of the current regulation allowing substitutions of vegetables to meet the grains component – applicable at present only to schools in American Samoa, Puerto Rico, and the U.S. Virgin Islands – to include schools that are tribally or Bureau of Indian Education operated, schools primarily serving American Indian or Alaska Native children, and schools in Guam and Hawaii. As USDA notes, this “option is intended to accommodate cultural food preferences and to address product availability and cost concerns in these areas.”

- **6c. Update in Final Rule: Expand the option to serve vegetables to meet the grains component to include all schools.**

All schools should be able to serve vegetables to meet the grain component in order to benefit the American Indian and Alaskan Native population since 90 percent of students within these ethnic groups attend public schools that are not tribally operated or majority Native American.⁸⁸ Additionally, African Americans, Asian Americans, and Latin Americans also use starchy vegetables as grains. Expanding the option only to schools located in Guam and Hawaii does not align with where these populations currently live, nor does it inclusively support our nation’s many cultures and traditional food ways. For example, there are 5.8 million Puerto Ricans living in the mainland U.S., compared to 3 million living in the territory itself.⁸⁹ The Final Rule should expand the option to allow starchy vegetables as grains in all schools in order to ensure equity across American Indian and Alaskan Native populations in addition to all other populations and cultures that use starchy vegetables as grains. Otherwise, USDA will be omitting a large percentage of these populations and thus not doing everything it can to advance equity.

⁸⁷ [7 CFR 225.16\(f\)\(3\)](#) and [226.20\(f\)](#)

⁸⁸ *Status and Trends in the Education of American Indians and Alaska Natives: 2008* (NCES 2008-084). Washington, DC: Government Printing Office.

⁸⁹ U.S. Census Bureau. (2018) Retrieved from <https://data.census.gov/table?q=B03001:+HISPANIC+OR+LATINO+ORIGIN+BY+SPECIFIC+ORIGIN>

- **6d. Update in Final Rule: Expand the list of allowable vegetables to substitute for grains to include squash, cassava (yuca), and taro, in addition to USDA's proposal to add prairie turnips.**

Vegan Finance LLC appreciates the proposal to add prairie turnips to the list of allowable vegetables to substitute for grains, which currently includes yams, plantains, and sweet potatoes.⁹⁰ While we understand USDA's acknowledgement that "the proposed list of specific vegetables is not exclusive," we do request that winter squash, cassava (yuca), and taro also be added.

- **6e. Update in Final Rule: Require vegetables allowed to be substituted for the grains component to be prepared in ways that align with traditional cultural preparations.**

In instances where vegetables are allowed to be substituted for the grains component, require that these vegetables be prepared in ways that align with traditional cultural preparations, such as baking or boiling. This is imperative to ensure that the intent of the regulations is upheld and to ensure alignment of the Final Rule with the DGA. If culturally relevant foods – and their preparation – are not addressed in combination, a sweet potato could be served in the form of tater tots, for example, and not align with narrowing the gap between child nutrition programs and DGA recommendations.

Section 7. Traditional Foods

- **7a. Maintain in Final Rule: Explicitly state in regulation that traditional foods may be served in reimbursable school meals.**

Encouraging and supporting the incorporation of traditional foodways into child nutrition programs is essential to USDA upholding its commitment to serve *all* Americans with dignity and inclusion. Based on current guidance (but not regulations), traditional foods – defined by the Agriculture Improvement Act of 2014 as "food that has traditionally been prepared and consumed by an [American] Indian tribe" – may be served in reimbursable schools meals. Vegan Finance LLC applauds USDA; the Proposed Rule includes explicitly stating in regulation that traditional foods may be served in reimbursable school meals.

- **7b. Update in Final Rule: Commit to supporting efforts to incorporate traditional plant-based foods into school meals, including by addressing barriers to doing so.**

Vegan Finance LLC supports the idea to add the plant-based criterion to traditional meals.

⁹⁰ 7 CFR 210.10(c)(3)

- **7c. Update in Final Rule: Consider and support additional populations for whom standard school meals are not reflective of their traditions and cultures.**

Section 10. Nuts and Seeds

- **10a. Maintain in Final Rule: Allow nuts and seeds to credit for 100 percent of the meat/meat alternate component in all child nutrition programs and meals.**

Under current federal regulations, nut and seed *butters* can be served as a meat/meat alternate (M/MA) and can credit for 100 percent of the M/MA component.⁹¹ Nuts and seeds can also be served as a M/MA, however, unlike their *butters* and regardless of serving size, they can only credit for 50 percent of the component at breakfast, lunch, and supper and must be served alongside another M/MA in order to achieve the standard two ounce equivalent.⁹² The Proposed Rule would allow nuts and seeds to credit for 100 percent of the M/MA component in all CNPs and meals. (At present, this is only allowable for snacks.⁹³) Vegan Finance LLC supports this change and looks forward to seeing it maintained in the Final Rule.

Considering nutrition science, the imperative to provide our children balanced and nourishing meals, and the mandate to align the meal patterns with the DGA, maintaining this change in the Final Rule is incontestable. The nutritional content of nuts and seeds does not change when these foods are blended or pureed into butter form, and nuts and seeds (as well as their butters) listed in FNS guidance are nutritionally comparable to meat and other meat alternates based on available nutritional data.⁹⁴ Furthermore, the DGA notes that more than half of Americans do not meet the recommendation for nuts and seeds.⁹⁵ Specific to children, while youth meet or exceed the recommended servings for meats, poultry, and eggs, they are under consuming nuts and seeds.⁹⁶

Exemplifying the additional meal options the change will allow, schools could serve options that credit as one or two M/MA such as:

- Salad with one ounce of sunflower seeds;
- Lunchable style snack pack that includes sunflower seeds;
- Walnut and mushroom-based “taco meat”;
- Gado-gado peanut butter sauce over steamed vegetables;
- Rice pilaf with one ounce of pistachios; and
- Chia seed pudding.

⁹¹ 7 CFR 210.10(c)(2)(i)(B).

⁹² Id.

⁹³ 7 CFR 210.10(o)(2)

⁹⁴ 7 CFR § 225.16(e)(5).

⁹⁵ USDA, Dietary Guidelines for American 2020-2025, available at https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf.

⁹⁶ USDA, Dietary Guidelines for American 2020-2025, available at https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf.

Implementation of this change will not only be straightforward but also advantageous to CNP operators, providing more flexibility to serve a nutritious, under-consumed, shelf-stable option that accommodates vegetarian students. As noted in the Proposed Rule: “This change is intended to reduce complexity in the requirements by making the requirements consistent across programs and by removing the discrepancy between nut and seed crediting and nut and seed butter crediting. It also provides more menu planning flexibility for program operators.”

→ 10b. Update in Final Rule: Align the nutritional equivalency FNS has set for nuts and seeds – as well as nut and seed butters – with the DGA.

Furthermore, the Final Rule should align the nutritional equivalency FNS has set for nuts and seeds – as well as nut and seed butters – with the DGA. The ounce equivalents in NSLP for meat, poultry, tofu, and legumes (beans, peas, and lentils) are all aligned with these recommendations, but the equivalency for nuts and seeds (and their butters) – which are offered as a M/MA – are *not*. Specifically, NSLP requires 1 ounce of nuts/seeds for a 1 ounce equivalent serving, however, according to the DGA, the requirement should be that 1/2 ounce of nuts/seeds = 1 ounce.⁹⁷ Along these lines, NSLP requires 2 tablespoons of nut/seed butter for a 1 ounce equivalent serving, however, according to the DGA, the requirement should be that 1 tablespoon nut/seed butter = 1 ounce and 2 tablespoons nut/seed butter = 2 ounces.⁹⁸ Making this correct is within the purview of FNS and needs to be addressed in the Final Rule.

Under the current NSLP equivalency for nuts and seeds (and their butters), a 1 ounce equivalent in the M/MA component for peanut butter is 2 tablespoons, which is approximately 7 grams of protein. Requiring 4 tablespoons of nut/seed butters to meet 2 M/MA components is unnecessary and can deter CNP operators from serving nuts, seeds, and their butters due to the expense and unpalatability of such large serving sizes. Such high serving sizes are simply unappealing; stakeholders report of nut butter sandwiches filled with an inedible amount of nut butter being difficult to chew and swallow. For example, Austin Independent School District noted that they serve their nut butter on top of an already protein-rich, seed-filled bread, so offering 4 tablespoons of nut butter on top is far too dense. Other school districts reported choosing to serve a sandwich containing 2 ounces of nut butter alongside a cheese stick to get to 2 M/MAs, which includes more protein than is necessary and adds extra expense.

Section 11. Competitive Foods – Hummus Exemption

→ 11a. Maintain in Final Rule: Add hummus to the list of foods exempt from the total fat standard in the regulations, which will allow hummus to be sold as a Smart Snack.

⁹⁷ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020, p. 146 “Protein Foods (1 ounce eq): 1 ounce lean meats, poultry, or seafood; 1 egg; ¼ cup cooked beans or tofu; 1 *tbsp nut or seed butter*; ½ *ounce nuts or seeds*.” [italics added]

⁹⁸ *Id.*

Under current federal regulations, competitive foods must meet nutrient standards for calories, sodium, fats, and total sugars.⁹⁹ Specific to fat, the total fat content of a competitive food must not exceed 35 percent of total calories and the saturated fat must be less than 10 percent of total calories, though there are some exceptions. The Proposed Rule maintains the current competitive food nutrient standards for calories, sodium, fats, and total sugars. It also adds hummus to the list of foods exempt from the total fat standard in the regulations, which will allow hummus to be sold as a Smart Snack. Vegan Finance LLC supports this change. Allowing hummus to be sold as a Smart Snack will give program operators more flexibility to serve a nutritious, fiber-rich option that accommodates vegetarian students. With ongoing supply chain challenges, it is a no-brainer to enable operators to offer a new option that is available from a wide variety of mainline distributors in a pre-packaged form.

Section 14. Geographic Preference

Vegan Finance supports the locally grown preference only.

Section 15. Miscellaneous Changes

→ 15a. Maintain in Final Rule: Change the name of the meat/meat alternate component to “protein sources.”

The Proposed Rule includes changing the name of the meat/meat alternate meal component in NSLP, SBP, and CACFP regulations to “protein sources.”¹⁰⁰ The foods within this meal component would remain unchanged. Vegan Finance LLC supports this change. The term “Meat/Meat Alternate,” which does not appear in the DGA, creates a negative perception of plant-based sources of protein and is confusing to CNP professionals, parents, and students. As one program operator put it, “Most people think I’m referencing the ultimate fighting championships when I use the term ‘M/MA.’”

→ 15b. Update in the Final Rule: Include quinoa and other grains high in protein in the new “protein sources” meal component.

While Vegan Finance LLC supports changing the name of the M/MA component to protein sources, we also believe that if USDA is creating a novel meal component distinct from the Protein Foods Group in the DGA by including cheese and yogurt in the “protein sources” category, then USDA should include quinoa and other complete grains high in protein in the “protein sources” component. Quinoa is classified as a whole grain, with one cup cooked providing about 8 grams of protein. The protein in quinoa – like that of beef, pork, eggs, fish, dairy, and soy – is complete; it contains all nine essential amino acids the human body needs. Insofar as FNS allows for other foods that are not within the Protein Foods Group in the DGA, such as cheese, to be used to meet all or part of the protein sources component, the Agency

⁹⁹ 7 CFR 210.11(f)

¹⁰⁰ 7 CFR parts 210, 220, and 226

should also allow foods from other food groups, including certain grains with complete protein, such as quinoa, amaranth, and buckwheat.

Examples of dishes that CNP operators noted they will serve when quinoa counts as an M/MA (or, in the future, “protein source”) component include:

- Moroccan Tagine over Quinoa bowl;
- Quinoa and Roasted Mixed Vegetable Wrap;
- Quinoa and Edamame Fried Rice; and
- Tex Mex Salad with Beans and Quinoa.

This flexibility will enable school chefs and menu planners to be more creative while still ensuring students receive a sufficient amount of protein.

→ **15c. Update in Final Rule: phase out processed meats.**

The World Health Organization classifies processed meat as a Group 1 carcinogen, in the same category as tobacco.¹⁰¹ The DGA states that “most intake of meats and poultry should be from fresh, frozen, or canned, and in lean forms (e.g., chicken breast or ground turkey) versus processed meats (e.g., hot dogs, sausages, ham, luncheon meats).”¹⁰² The DGA also concluded that “dietary patterns characterized by higher intake of red and processed meats, sugar-sweetened foods and beverages, and refined grains are, in and of themselves, associated with detrimental health outcomes.”¹⁰³

These recommendations to limit processed meat are not reflected in current CNP regulations. A 2019 Friends of the Earth analysis of California lunch menus found that 16 percent of entrees contained processed meat (per the WHO definition).¹⁰⁴ The public health organization Balanced analyzed 20 days of menus from the 15 largest school districts in 2019 and found that 87 percent of the meat items offered were red or processed meat.¹⁰⁵ They repeated this analysis in 2021 and found that number dropped to 68 percent.¹⁰⁶ All of these findings are inconsistent with DGA recommendations to limit intake of processed meat.

For the wellbeing of our children, the USDA should align school menus with DGA recommendations by phasing out the availability of processed meats.

¹⁰¹ Bouvard, V., Loomis, D., Guyton, K. Z., Grosse, Y., Ghissassi, F. E., Benbrahim-Tallaa, L., Guha, N., Mattock, H., & Straif, K. (2015). Carcinogenicity of consumption of red and processed meat. *The Lancet Oncology*, 16(16), 1599–1600. [https://doi.org/10.1016/S1470-2045\(15\)00444-1](https://doi.org/10.1016/S1470-2045(15)00444-1)

¹⁰² U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020–2025. 9th Edition. December 2020, p.33.

¹⁰³ Id., p.33.

¹⁰⁴ Hamerschlag, K. and Kraus-Polk, J. Friends of the Earth. The State of School Lunch in California (March 2021). Available at <https://foe.org/resources/the-state-of-school-lunch-in-california/>.

¹⁰⁵ Bennett, M. (2021, July 7). *Pandemic Menus: Are changes to school meals here to stay?* Balanced. <https://www.balanced.org/post/pandemic-menus-are-changes-to-school-meals-here-to-stay>

¹⁰⁶ Id.

→ **15d. Update in Final Rule: Encourage schools to offer daily plant-based options beyond a nut butter sandwich.**

Daily plant-based meal options would foster greater alignment with the DGA, provide healthy choices for all students, and accommodate students who follow a strict plant-based diet. While we encourage schools to offer nut butter sandwiches, a broader array of plant-based options are needed for students who choose or need to eat plant-based often or always.

We recognize that for some CNP operators, switching to providing daily plant-based options could present significant cost and operational challenges. We urge FNS to encourage operators to provide daily plant-based options beyond a nut butter sandwich in the Final Rule. FNS can also provide technical assistance and support to achieve this goal, including by:

- Hosting webinars and creating fact sheets;
- Publishing more plant-based recipes;
- Publishing a template meal substitutions request form;
- Working with USDA's Agricultural Marketing Service to add more plant-based ingredients and products (e.g., lentils, tofu, a black bean burger, soy nuggets) to the USDA Foods Available List; and
- Leveraging its Healthy Meals Incentive Initiative to support SFAs and food companies to expand nutritious plant-based offerings.

→ **15e. Update in Final Rule: Allow beans, peas, and lentils – as well as tofu and soy products – to qualify as a meat alternate even if they are not visually recognizable.**

CNPs are a crucial point of leverage to instill nutritious eating habits at a young age and combat diet-related disease, especially for the many children who rely on free and reduced-price meals as their primary source of nutrition. USDA has rightly recognized that these meals not only need to be nutritious but also need to help children recognize what nutritious food looks like beyond CNP settings.¹⁰⁷ However, current FNS regulations requiring plant-based protein foods to be “visually recognizable” to qualify as a meat alternate (M/MA) create barriers for program operators to serve nutritious, plant-based sources of protein. In August 2016, FNS published guidance requiring tofu and soy products to be “visually recognized” as a MA to fully credit in school meal programs and CACFP.¹⁰⁸ FNS expanded the scope of this requirement in recent guidance¹⁰⁹ to include all food components, providing that if a “dish does not contain at least 1/8 cup of a recognizable component then the blended foods do not contribute to the meal requirements.”¹¹⁰

¹⁰⁷ USDA, FNS, [SP53 CACFP 21-2016](#).

¹⁰⁸ USDA, FNS, [SP53 CACFP 21-2016](#).

¹⁰⁹ Hamerschlag, K. and Kruas-Polk, J. Friends of the Earth, The State of School Lunch in California (March 2021). Available at <https://foe.org/resources/the-state-of-school-lunch-in-california/>.

¹¹⁰ USDA, FNS Memo SP 05-2022, Meal Requirements Under the National School Lunch Program and School Breakfast Program: Questions and Answers for Program Operators Updated to Support the Transitional Standards for Milk, Whole Grains, and Sodium Effective July 1, 2022 (March 2, 2022), 41. Available at <https://www.fns.usda.gov/cn/sp052022-questions-answers-program-operators>

By updating these regulations, FNS will allow greater variety in nutritious choices while also moving closer to its goal to teach children how to build a nutritious plate. FNS should provide program operators flexibility to offer beans, peas, and lentils as MA in forms that are attractive and familiar to students, such as legume-based pastas, burgers, dips, and pureed soups. Examples of nutritious options that program operators indicated they would like to serve if this regulation were not in place include:

- Veggies with a dip made of soft tofu;
- Mung bean fritters;
- Pureed bean and lentil soups and dips;
- Pasta with red lentil bolognese;
- Lasagna with tofu “ricotta;”
- Sweet potato and chickpea tots;
- Fruit smoothies with silken tofu; and
- Chickpea or lentil patties.

In addition to these barriers, the “visually recognizable” requirement may inadvertently disincentivize scratch cooking. A result of operating within a complex set of regulations is that many schools have turned from scratch cooking to CN-labeled processed foods that they know will meet the guidelines. This consequence – whether intended or not – is in direct contradiction to USDA’s role to ensure nourishing meal programs. The current “visually recognizable” requirement results in the overexposure of children to processed food items that mimic fast food. While the processed foods children see in schools – such as pizza – may be reformulated to have fewer calories, saturated fat, and sodium than restaurant or store-bought pizza,¹¹¹ students – unaware of the difference – may be inadvertently conditioned to choose processed items outside of school. Allowing school culinary professionals more flexibility to serve whole plant-based ingredients in a variety of forms will make scratch cooking more approachable for some schools, and exposing kids to delicious scratch-cooked foods in CNP settings will inspire them to seek those same foods outside of school.

Children can learn that nutritious food comes in various forms. Food recognition for children is generally gained through experience.¹¹² If children can learn that chicken nuggets contain protein, children can learn that protein can come in the form of a legume-based pasta as well. In fact, we want to teach kids is that plant-based sources of protein are highly versatile and come in many forms. If a student does not like the texture of whole black beans in a taco, they may still love a black bean dip. A student might not care for a lentil salad but would love a lentil bolognese sauce that reminds them of the beef bolognese they have tried before. Exposing students to more plant-based options in school will foster them walking away with knowledge on how to incorporate a greater variety of nutritious foods into their diets in delicious and appealing

¹¹¹ Masset G, et al, Modeled Dietary Impact of Pizza Reformulations in US Children and Adolescents. PLoS One. 2016 Oct 5;11(10):e0164197, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5051708/>.

¹¹² Slyter K, 8 Proven Tips on How to Get Kids to Eat Healthy (April 1, 2019), Rasmussen University, available at <https://www.rasmussen.edu/degrees/education/blog/how-to-get-kids-to-eat-healthy/>.

ways. In turn, this would be a success not only for our school and CACFP meal programs but also for USDA's overarching vision and core values.

USDA can allow “unrecognizable” beans, peas, and lentils and tofu products while still teaching children how to build a nutritious plate. Vegan Finance LLC acknowledges that USDA understandably wants to avoid “hiding” nutritious foods or reverting to nutrient-based menu planning. Consulting with stakeholders, Friends of the Earth developed four options for USDA to offer program operators more flexibility to credit plant-based sources of protein in different forms while still achieving its goals around nutrition education:

- Allow whole foods to be served in forms that are not visually recognizable. Blended or pureed whole foods retain valuable macronutrients,¹¹³ as opposed to extracts or supplements, which can lose vital nutrients during processing.¹¹⁴
 - Require that menu items – including foods that are not visually recognizable – be labeled to include the name of the food that is not visually recognizable. For example, the chickpeas in USDA's tasty tots recipe could credit toward a MA if the dish is labeled “sweet potato and chickpea tots.”
 - Allow schools to serve foods that are not visually recognizable if the food is likely to be found in that form outside of the cafeteria. For example, students are likely to encounter pureed bean soups and dips outside the cafeteria.
 - Allow foods to credit when served in forms that are not visually recognizable only when the dish does not contain more than a de minimis amount of added sugar and saturated fat. This would prevent “hiding” nutritious foods in desserts, where the benefits of increasing consumption of whole plant-based foods could be outweighed by the cost of increasing consumption of foods that negatively impact health, like sugar and saturated fats.
- **15f. Update in Final Rule: Allow red lentil pasta to credit as a meat alternate regardless of whether it is served alongside a visually recognizable meat/meat alternate, and allow beans, peas, and lentils to credit as a meat alternate in smoothies.**

We are grateful that FNS has already relaxed guidance to permit pureed beans, peas, and lentils added to smoothies¹¹⁵ and red lentil pasta to credit as vegetables towards the weekly 1/2 cup legumes requirement¹¹⁶ to increase options for operators to meet this vegetable subgroup

¹¹³ Mayo Clinic, Supplements: Nutrition and healthy eating (Nov. 17, 2020), available at <https://www.mayoclinic.org/healthy-lifestyle/nutrition-and-healthy-eating/in-depth/supplements/art-20044894?p=1>.

¹¹⁴ Better Health Channel, Food processing and nutrition (6/30/2022) available at <https://www.betterhealth.vic.gov.au/health/healthyliving/food-processing-and-nutrition#bhc-content>.

¹¹⁵ USDA, FNS Memo SP 05-2022, Meal Requirements Under the National School Lunch Program and School Breakfast Program: Questions and Answers for Program Operators Updated to Support the Transitional Standards for Milk, Whole Grains, and Sodium Effective July 1, 2022 (March 2, 2022), 41. Available at <https://www.fns.usda.gov/cn/sp052022-questions-answers-program-operators>; See also USDA, FNS Memo SP40 CACFP17 SFSP17-2019, Smoothies Offered in Child Nutrition Programs (Sept. 23, 2019). Available at <https://www.fns.usda.gov/cn/smoothies-offered-child-nutrition-programs>.

¹¹⁶ USDA, FNS Memo SP26 CACFP13 SFSP12-2019 Revised, Crediting Pasta Products Made of Vegetable Flour in the Child Nutrition Programs (Apr. 17, 2019). Available at <https://www.fns.usda.gov/cn/crediting-pasta-products-made-vegetable-flour-child-nutrition-programs>.

requirement. FNS was right to provide the flexibilities for beans, peas, and lentils in smoothies and for red lentil pasta to count toward the vegetable requirement, but there is nothing in the DGA that would justify FNS' disparate treatment of beans, peas, and lentils crediting in these circumstances as vegetables but not as MA. Beans, peas, and lentils must be extended the same flexibility to be served as a MA in smoothies and red lentil pasta. To illustrate this point, it is illogical that a red lentil pasta served with broccoli *would not* be creditable as MA and a vegetable, but a red lentil pasta served with beef *would* be creditable as a MA and a vegetable. In fact, the former option is more likely to support DGA recommended intakes of vegetables and fiber-rich proteins, both of which are under-consumed by children.¹¹⁷

→ 15g. Update in Final Rule: Clarify that beans, peas, and lentils can credit as both a vegetable and meat alternate on the same day if served in sufficient quantities.

CNP operators have expressed confusion as to whether and when it is permissible to offer beans, peas, and lentils to satisfy both the M/MA and the vegetable component if served in a sufficient quantity such that the beans, peas, and lentils are not “double counted.” Beans, peas, and lentils – when served in quantities to provide sufficient calories and nutrients and so that double-counting does not occur – should be allowed to credit as a M/MA and a vegetable in the same meal, regardless of whether the pulses are contained in a single dish or two dishes. For example, a chili that includes 1/4 cup of black beans, 1/4 cup of lentils, and 1/4 cup of tomatoes should fulfill both the M/MA and vegetable requirements. If 1/2 cup of refried pinto beans and a salad containing 1/4 cup of black beans are both taken by a student, that should fulfill both the M/MA and vegetable requirements. Vegan Finance LLC urges FNS to ensure this is clearly allowable in the Final Rule and corresponding guidance.

→ 15h. Update in Final Rule: Allow a single legume dish to credit as a vegetable or meat alternate on the same day.

Under current guidance, a CNP operator must choose in advance whether a dish featuring beans, peas, and lentils will credit as a vegetable or M/MA on a given day.¹¹⁸ In other words, a lentil salad containing 1/2 cup of lentils cannot credit as a vegetable for Mary but a M/MA for Paul on the same day.

This is an unnecessary barrier for students who follow plant-based or vegetarian diets. For example, suppose a district utilizing the offer versus serve model is offering baked beans, broccoli, a whole grain roll, orange slices, chicken nuggets, and milk. Under the current rules, a school must decide if beans will count as a vegetable or M/MA. If a school decides in this example that the baked beans are a vegetable, that means that if a student wanted to take the baked beans, broccoli, and the roll, the meal would not be reimbursable because the meal

¹¹⁷ USDA, The Dietary Guidelines for Americans 2020-2025, 34. Available at https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf.

¹¹⁸ The response to Question 33 in the most recent guidance (SP-05-2022) includes: “Dry/mature beans and peas may be offered either as a meat alternate or as a vegetable, but not as both in the same meal. *Menu planners must determine in advance how to count beans/peas in a meal.* For example, refried beans can be offered as a vegetable in one meal, and as a meat alternate in a different meal. (emphasis added)”

contains two vegetables and no M/MA. Rather, if the school decides to count the baked beans as a M/MA, then a student could not choose chicken, beans, and orange slices as a reimbursable meal because the meal contains two M/MA and no vegetable. Both of these meals should be reimbursable.

In the Final Rule, Vegan Finance LLC urges USDA to include guidance that allows the same dish containing legumes to credit as a vegetable or M/MA on the same day. Providing this flexibility will help accommodate students who follow plant-based, dairy-free, and vegetarian diets in creating reimbursable meals out of the few components on the menu on any given day that they are able to eat.

Section 17. Proposals from Prior USDA Rulemaking.

→ 17a. Maintain in Final Rule: Allow legumes offered as a meat alternate to count toward the weekly legume vegetable requirement.

Vegan Finance LLC supports USDA's proposal to allow legumes offered as a MA to count toward the weekly legume vegetable requirement. Doing so will allow menu planners who offer at least 1/2 cup of legumes as a MA to also count the same 1/2 cup of legumes toward the weekly vegetable legume subgroup requirement. USDA rightly points out in the proposed rule that "even though the legumes would be included on the menu as a [MA], children would still be exposed to legumes and the nutrients they provide."

CNP operators have reported that when legumes are served as a side to meet the weekly vegetable subgroup requirement, students are less likely to choose them than when legumes are incorporated into entrees. This is counter to the needed direction for the meal patterns given that all vegetable subcategories are under consumed relative to DGA recommendations.¹¹⁹ When legumes are served as a MA, however, they typically displace animal proteins, for which youth are typically already meeting or exceeding DGA recommendations.¹²⁰ Thus, this change will help to incentivize beans, peas, and lentils to be served as MAs and to better align with DGA recommended intakes of legumes and animal proteins. This proposal will also support the DGA recommendation to diversify protein intake and reduce the carbon footprint of CNPs.

V. Looking Ahead

Vegan Finance LLC again would like to express appreciation to USDA for its efforts to comprehensively update child nutrition program meal patterns to best align with the Dietary Guidelines for Americans. We applaud the proposed updates that will better nourish our children – who are our future – and better support CNP culinary professionals – who are our superheroes making this all possible. To ensure successful implementation, we urge USDA to

¹¹⁹ U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2020-2025. 9th Edition. December 2020, p. 80, 83, 86

¹²⁰ Id.

provide comprehensive training and technical assistance to CNP operators and to ease their burden by streamlining regulations across programs wherever possible.

Furthermore, we urge USDA to facilitate plant-forward menus and plant-based options that will maximize the impact of the updated regulations on alignment with the DGA, child nutrition, our environment, our economy, and equity and inclusion. USDA must center its full set of core values into the Final Rule so that *all* people are respected, valued, and included and thus will thrive.

With gratitude and in partnership,



Van Dinh TRAN
CFA ESG, FSA SASB
Founder of Vegan finance LLC

