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## Commentary: Is Congress About to Undercut Progress Against Childhood Obesity?

By Zoë Neuberger

With congressional committees expected this week to approve the annual Agriculture Department funding bill, which covers the child nutrition programs, industry lobbyists are promoting measures that would undercut reforms designed to improve children's nutrition and combat childhood obesity.

Child obesity has more than doubled in the past 30 years and poses a serious health threat. Obese youth are more likely to have pre-diabetes or risk factors for cardiovascular disease. In addition, children who are obese are likely to be obese as adults, which increases their risk of heart disease, diabetes, stroke, and several types of cancer.<sup>1</sup> Just yesterday, a statement issued by the United Nations Human Rights Commission asserted that “Unhealthy diets are now a greater threat to global health than tobacco.”<sup>2</sup>

Recently, some progress has been made. The rise in child obesity rates has halted, and obesity may even be falling among preschoolers.<sup>3</sup> A multi-pronged response to child obesity by the federal government and health professionals appears to be playing an important role in these developments.<sup>4</sup> The Centers for Disease Control and Prevention have stated that federal policy reforms in child nutrition programs — such as the 2009 revisions to the WIC food package — may

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<sup>1</sup> See “Childhood Obesity Facts,” Centers for Disease Control and Prevention, <http://www.cdc.gov/healthyouth/obesity/facts.htm>.

<sup>2</sup> See United Nations Human Rights Office of the High Commissioner, News Release, “Unhealthy diets greater threat to health than tobacco; UN expert calls for global regulation,” May 19, 2014, [http://www.srfood.org/images/stories/pdf/press\\_releases/20140519\\_diets\\_en.pdf](http://www.srfood.org/images/stories/pdf/press_releases/20140519_diets_en.pdf).

<sup>3</sup> See Asheley Cockrell Skinner and Joseph A. Skelton, “Prevalence and Trends in Obesity and Severe Obesity Among Children in the United States, 1999-2012,” *JAMA Pediatrics*, April 7, 2014, <http://archpedi.jamanetwork.com/article.aspx?articleid=1856480> and “Vital Signs: Obesity Among Low-Income, Preschool-Aged Children — United States, 2008–2011,” *Morbidity and Mortality Weekly Report*, August 9, 2013, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6231a4.htm>.

<sup>4</sup> See Ezekiel J. Emanuel and Andrew P. Steinmetz, “Finally, Some Optimism About Obesity,” *New York Times*, May 4, 2014, [http://www.nytimes.com/2014/05/05/opinion/finally-some-optimism-about-obesity.html?\\_r=4](http://www.nytimes.com/2014/05/05/opinion/finally-some-optimism-about-obesity.html?_r=4).

have contributed to improved diets and the halt in the rise in obesity rates among low-income preschool children.<sup>5</sup>

But these reforms are now in jeopardy. In three areas where the U.S. Department of Agriculture (USDA) has implemented policies to improve children's diets based on recommendations from the National Academy of Sciences' Institute of Medicine — school meals, school snacks, and foods offered by the WIC program — affected industries are seeking to reverse those science-based policies in the upcoming agriculture appropriations bill.

## School Meals

At Congress' direction in the Healthy, Hunger-Free Kids Act of 2010, USDA strengthened nutrition standards for school meals, based on Institute of Medicine recommendations.<sup>6</sup> For example, school lunches must include more whole grains and vegetables. The lunch standards have been in place for two years, and 93 percent of lunches served meet them. (School districts that meet the standards qualify for an extra 6 cents per lunch in federal funds.<sup>7</sup>) The school breakfast standards are now phasing in.

The 2014 agriculture appropriations bill included a non-binding directive for USDA to establish waivers enabling school districts to decline to implement the new breakfast standards if they think that doing so would raise their costs.<sup>8</sup> The directive could have precluded almost any school district from having to meet the new requirements, since those requirements are expected to have some upward effect on costs. Yet, viewing the costs associated with the breakfast improvements in isolation is misleading. The Healthy, Hunger-Free Kids Act of 2010 also included a number of changes — in addition to the increase in per-meal lunch reimbursements — that strengthen financial support for school meal programs and thereby help offset the increased costs.<sup>9</sup>

In any event, the National School Lunch Act prohibits waivers of the federal meal standards, so USDA could not issue such waivers without violating the statute. But that has led some members of Congress who supported the wide-open directive for USDA to issue waivers to look for a way, in this year's appropriations bill, to compel USDA to do so.

The fiscal year 2015 appropriations bill that the House Agriculture Appropriations Subcommittee will consider today includes a provision in the *bill itself* that would override the National School

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<sup>5</sup> See "Vital Signs: Obesity Among Low-Income, Pre-school-Aged Children — United States, 2008-2011," Morbidity and Mortality Weekly Report, August 9, 2013, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6231a4.htm>.

<sup>6</sup> The Healthy, Hunger-Free Kids Act of 2010 is available at <http://www.fns.usda.gov/sites/default/files/HealthyHungerFreeKidsActof2010.pdf>.

<sup>7</sup> See 42 U.S.C. 1753(b)(3).

<sup>8</sup> See "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding the House Amendment to the Senate Amendment on H.R. 3547, Consolidated Appropriations Act, 2014," <http://docs.house.gov/billsthisweek/20140113/113-HR3547-JSOM-FM-B.pdf>.

<sup>9</sup> See Zoë Neuberger, "Using School Lunch Subsidies for Low-Income Students as Intended," *Off the Charts* blog, June 13, 2011, <http://www.offthechartsblog.org/using-school-lunch-subsidies-for-low-income-students-as-intended/>.

Lunch Act prohibition and allow waivers.<sup>10</sup> Under these waivers, any school district that shows a net loss in its food service program for a six-month period could be approved for a waiver of *all* the new breakfast and lunch standards.

Proponents of waivers sometimes say that they seek flexibility with regard to specific requirements, such as those related to sodium and whole grains, with which a small number of districts have had difficulty complying.<sup>11</sup> But there is no need for such statutory waivers to address such concerns; USDA provides extensive technical assistance to school districts that are having difficulty meeting the new standards, and USDA has demonstrated willingness to offer flexibility administratively.<sup>12</sup> If there are additional areas where flexibility is warranted, USDA can provide it without congressional intervention.

Moreover, as drafted, these waivers could do away with the new standards *entirely in vast numbers of school districts across the country*, jeopardizing progress in combatting obesity and improving children's nutrition and health. Many school food programs routinely operate at a loss that is filled in with school-district funds or in-kind contributions, such as payroll or procurement services for which the school food program is not charged. Districts may or may not report those in-kind contributions as part of the school food account.<sup>13</sup> To qualify for a waiver, a district could simply stop reporting its in-kind contributions. Even districts already complying with the new standards could apply for a waiver. Allowing sweeping waivers doesn't address specific concerns regarding to the new rules but instead rolls back significant progress that the nation is making in improving children's diets.

## School Snacks

Under the Healthy, Hunger-Free Kids Act of 2010, USDA has also established new rules for foods sold in schools that are not part of the school lunch or breakfast program, which are known as "competitive" foods.<sup>14</sup> The rules cover *a la carte* sales in school cafeterias and vending machine sales. Scheduled to take effect for the 2014-2015 school year, they aim to reduce the sales of foods high in fat, sugar, or sodium, like candy and soda.

The non-binding directive described above that accompanied last year's appropriations law also sought to create a waiver process for school districts that expect these new competitive food standards to reduce their revenues, enabling schools to ignore these rules, as well. It's true that if students purchase fewer unhealthy items in vending machines and *a la carte*, and do not fully replace

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<sup>10</sup> See General Provision 739 of the fiscal year 2015 agriculture appropriations bill, available at <http://appropriations.house.gov/uploadedfiles/bills-113hr-sc-ap-fy2015-agriculture-subcommitteedraft.pdf>.

<sup>11</sup> See "House GOP bill would roll back school lunch rules," *Washington Post*, May 19, 2014, [http://www.washingtonpost.com/politics/congress/house-gop-bill-would-roll-back-school-lunch-rules/2014/05/19/365e7ba8-df69-11e3-9442-54189bf1a809\\_story.html](http://www.washingtonpost.com/politics/congress/house-gop-bill-would-roll-back-school-lunch-rules/2014/05/19/365e7ba8-df69-11e3-9442-54189bf1a809_story.html).

<sup>12</sup> See, for example, USDA, Food and Nutrition Service Memorandum, "Extending Flexibility in the Meat/Meat Alternate and Grains Maximums for School Year 2013-14," February 25, 2013, <http://www.fns.usda.gov/sites/default/files/SP26-2013os.pdf>.

<sup>13</sup> Zoë Neuberger and Tina Fritz Namian, "Who Benefits From Federal Subsidies for Free and Reduced Price School Meals?" Center on Budget and Policy Priorities, January 9, 2010, p. 5, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3071>.

<sup>14</sup> See 42 U.S.C. 1779. A summary of the snack rules is available at [http://www.fns.usda.gov/sites/default/files/allfoods\\_summarychart.pdf](http://www.fns.usda.gov/sites/default/files/allfoods_summarychart.pdf).

such sales with other food purchases, then schools' revenue from competitive foods would fall. But so would schools' costs in providing those foods, so a decline in competitive food sales wouldn't necessarily leave schools worse off financially.<sup>15</sup> And it would leave children better off nutritionally if they opt instead for school meals, which provide more balanced nutrition, or if they simply consume less of foods like soda and candy.

Nonetheless, manufacturers of less healthy competitive foods could see their sales and profits decline. At their urging, members of Congress who are frustrated that the 2014 directive didn't result in a waiver process may try to force the establishment of one in the 2015 agriculture appropriation bill.

## WIC Foods

White potatoes have never been part of the limited list of foods that WIC provides, and for a sound reason.<sup>16</sup> WIC provides what is known as a "prescription food package," consisting of foods needed but lacking in adequate quantities in the diets of low-income pregnant women, infants, and young children. The food consumption data on which the WIC food packages are based indicate that the low-income women and young children whom WIC serves already consume enough starchy vegetables — the most popular of which is the white potato — while *under*-consuming other vegetables. Accordingly, a 2009 overhaul of the WIC food package, based on Institute of Medicine recommendations, added a modest \$8 to \$10 monthly voucher for the purchase of fresh vegetables and fruits other than white potatoes.

Potato industry lobbyists have tried ever since to get Congress to take the unprecedented step of dictating changes in the WIC food package by overriding the scientific recommendations and ordering WIC to offer white potatoes. They've now set their sights on the 2015 agriculture appropriations bill. The bill that the House Agriculture Appropriations Subcommittee will consider today includes a provision dictating that WIC must allow the purchase of white potatoes.<sup>17</sup>

Forcing WIC to add white potatoes would be a serious mistake, for two principal reasons. First, USDA has already engaged the Institute of Medicine to embark on a new review of the latest nutrition recommendations and food consumption data. Until a science-based recommendation has been made, WIC participants' limited fruit and vegetable vouchers should be reserved for items we know are lacking in their diets. Every dollar that participants would use from their small WIC fruit and vegetable vouchers to buy white potatoes would be one *less* dollar available to buy foods that they do *not* eat enough of, like dark green leafy vegetables.

Second, it would set a dangerous precedent. Congress has never required WIC to include (or exclude) any particular food, wisely leaving that to experts in nutrition science and child and maternal health. Abandoning that commitment could open the floodgates for food industry

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<sup>15</sup> Zoë Neuberger and Tina Fritz Namian, "Who Benefits From Federal Subsidies for Free and Reduced Price School Meals?" Center on Budget and Policy Priorities, January 9, 2010, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3071>.

<sup>16</sup> Zoë Neuberger, "Rampell's Right: 'You Say Potato, I Say Precedent,'" *Off the Charts* blog, May 9, 2014, <http://www.offthechartsblog.org/rampells-right-you-say-potato-i-say-precedent/>.

<sup>17</sup> See General Provision 738 of the fiscal year 2015 agriculture appropriations bill, available at <http://appropriations.house.gov/uploadedfiles/bills-113hr-sc-ap-fy2015-agriculture-subcommitteedraft.pdf>.

lobbyists to pressure Congress to add any number of other products produced in key senators' and members' states and districts, with that pressure greased by campaign contributions, irrespective of the food products' nutritional value for the women, infants, and young children whom WIC services. That could jeopardize WIC's success at improving participants' nutrition and health.

## **Conclusion**

If members of the House and Senate Appropriations Committees want to continue the recent progress against childhood obesity, they should reject changes that would weaken the new school food standards or override the science-based process for determining WIC foods.