



# THE HEALTHY, HUNGER-FREE KIDS ACT OF 2010: NUTRITION STANDARDS

April 2011

**O**N DECEMBER 13, 2010, President Barack Obama signed into law the Healthy, Hunger-Free Kids Act of 2010.<sup>1</sup> The Act strengthens school food nutrition standards, increases access to and funding for school meals, and increases technical assistance to schools. It also strengthens school wellness policies, improves farm to school programs, expands afterschool meals programs for at-risk children, and establishes certification standards for food service personnel. The Public Health Law Center has created a set of fact sheets outlining several key areas of the Act.<sup>2</sup>

**Q** How does the Healthy, Hunger-Free Kids Act impact nutrition standards in schools?

**A** The Act requires the U.S. Department of Agriculture (USDA) to establish science-based nutrition standards for all food available anywhere on

the school campus at any time during the school day. Once finalized, these new standards will revise existing meal standards for the National School Lunch Program and School Breakfast Program, and also apply to all food available a la carte, in vending machines, at snack bars, and at other school locations.

*“The Dietary Guidelines for Americans provide advice to encourage better diet and physical activity”*

**Q** What will the USDA use in creating the new nutrition standards for the school lunch and breakfast programs?

**A** The USDA has proposed a rule that revises the meal patterns and nutrition requirements for the school lunch and breakfast programs.<sup>3</sup> The proposed changes are based on the recommendations from the National Academies’ Institute of Medicine, as reported in “School Meals Building Blocks for Healthy Children.”<sup>4</sup> The changes aim to help meet the nutritional needs of school children within their calorie requirements. These changes increase the availability of fruits, vegetables, whole grains, and fat-free and low-fat fluid milk in school meals and reduce the levels of sodium and saturated fat in meals.

**Q** What will the USDA use in creating the new nutrition standards for competitive foods?

**A** We do not know at this time. The Act instructs the USDA to establish standards consistent with the most recent Dietary Guidelines for Ameri-

cans. The Dietary Guidelines for Americans provide advice to encourage better diet and physical activity, including specific recommendations by age group, and is updated every five years.<sup>5</sup> The most recent guidelines were issued in 2010.

### **Q Are there any specific requirements in the Act?**

**A** There are two specific nutrition requirements included in the Act:

- » Schools are required to make potable water available to students during meals, and
- » Schools offering fluid milk to students may only offer low-fat or fat-free milk.

### **Q Are there any exceptions provided to the nutrition standards in the Act?**

**A** The Act requires the USDA to consider special exemptions for infrequent, school-sponsored fundraisers that are approved by the school. The exemptions cannot apply to the use of school vending machines, stores, snack bars, a la carte sales or other exclusions determined by the USDA.

### **Q When will the nutrition standards take effect?**

**A** Before the nutrition standards take effect, the USDA must propose rules regarding nutritional standards in two areas lunch and breakfast meals and competitive foods sold at schools. The public is allowed to comment on the proposed rules once they are released by the USDA. The Act requires the USDA to release the proposed rules for public comment before the end of 2011. The public comment period for nutritional standards of lunch and breakfast meals ended on April 13, 2011. The USDA is expected to issue a proposed rule on competitive foods later in 2011, at which time the public will be allowed to comment. After the end of the public comment periods the USDA will incorporate any changes it finds necessary and come out with a final rule. Once a final rule is issued, it will take effect the following school year. For example, if the rule is finalized in June of 2011, the standards will take effect for the 2012-2013 school year. However, if the rule is finalized in October of 2011, the standards will not take effect until the 2013-2014 school year.

### **Q How can I monitor what is happening with the USDA's implementation of the law?**

**A** The USDA will release proposed rules, notes and "guidance documents" that describe the agency's thinking on regulatory issues. Following these documents is easy due to an electronic submission system on a federal website called [www.Regulations.gov](http://www.Regulations.gov), which allows people to search, view and comment on rules quickly and efficiently. If the public is allowed to comment on a proposed rule or other guidance document, the agency will give a deadline for submitting a comment. For more information on how to comment, please refer to the Public Health Law Center's fact sheet, *Submitting Comments to the USDA*.<sup>6</sup>



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1 Healthy, Hunger-Free Kids Act of 2010, S. 3307, 111th Cong. (2010), available at <http://www.gpo.gov/fdsys/pkg/BILLS-111s3307enr/pdf/BILLS-111s3307enr.pdf>.

2 The fact sheets can be found at: <http://www.publichealthlawcenter.org/documents/publications/fact-sheets>.

3 76 FR 2494-2570 (proposed Jan. 13, 2011) (to be codified at 40 C.F.R. pts. 210-220), available at <http://www.gpo.gov/fdsys/pkg/FR-2011-01-13/pdf/2011-485.pdf>.

4 INST. OF MED., SCHOOL MEALS BUILDING BLOCKS FOR HEALTHY CHILDREN (2009), available at <http://www.iom.edu/Reports/2009/School-Meals-Building-Blocks-for-Healthy-Children.aspx>.

5 U.S. DEP'T OF HEALTH AND HUMAN SERVICES, DIETARY GUIDELINES FOR AMERICANS (2011), available at <http://www.cnpp.usda.gov/Publications/DietaryGuidelines/2010/PolicyDoc/PolicyDoc.pdf>.

6 See also Tobacco Control Legal Consortium, *Submitting Comments on Tobacco Products to the FDA* (2010), available at <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-fs-submittingcomments-fda-2010.pdf>; Public Health Law Network, *Rulemaking Process and Steps to Comment*, (Feb. 2, 2011), <http://www.publichealthlawnetwork.org/rulemaking-process-and-steps-to-comment/>.