**CALIFORNIA DEPARTMENT OF EDUCATION**

TONY THURMOND

State Superintendent of Public Instruction

 **CALIFORNIA STATE BOARD OF**

 **EDUCATION**

 LINDA DARLING-HAMMOND

 President

November 19, 2024

# 15-Day Notice of Modifications to Text of ProposedRegulations Regarding Amendment to California Code of Regulations, Title 5, Regarding School Nutrition Programs

Pursuant to the requirements of Government Code section 11346.8(c), and California Code of Regulations, title 1, section 44, the State Board of Education (SBE) is providing notice of changes made to the above-referenced proposed regulation text which was the subject of a regulatory hearing on May 28, 2024.

## **Changes to the text:**

On April 25, 2024, the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) published the final rule titled, *Child Nutrition Programs: Meal Patterns Consistent With the 2020-2025 Dietary Guidelines for Americans*. This rulemaking process proposes to incorporate associated changes to the noticed regulations, as California must follow federal and California laws and USDA standards when establishing regulations for federal Child Nutrition Programs, in compliance with Education Code, sections 49431.5, 49531 and 49531.1.

Changes to the proposed regulator action are denoted by **bold underline** for additions, and **~~bold strikethrough~~** for deletions. In addition to general changes made to the regulations to include grammatical edits, the following changes are submitted for an additional 15-day comment period:

**Section 15560(a) of Article 4** is amended to change the units of measure for Vitamin A and Vitamin D requirements for fluid milk substitutes provided as a part of all Child Nutrition Programs. Instead of 500 International Units (IU), the unit for the vitamin A requirement is now 150 micrograms (mcg) retinol activity equivalents (RAE) per 8 fluid ounces and instead of 100 IUs, the unit for Vitamin D is now 2.5 mcg per 8 fluid ounces.

**Section 15560(b) of Article 4** is amended to add registered dietitians to the list of health care professionals that can provide documentation of the need for a fluid milk substitution on behalf of child with disabilities for service in the school lunch and breakfast programs. The section is also amended to reduce the specificity of the documentation provided by removing the form title, providing greater operational flexibility.

**Section 15562(b) of Article 4** is amended to specify that federal and state reimbursement may be claimed for meals containing substituted food components made, due to medical reasons, as a result of a written recommendation by a registered dietitian.

**Section 15575(h) of Article 6** is amended to update terminology to align with the language used in the Child Nutrition Programs and to clarify the requirement that for whole grain rich grain or bread products prepared by schools, the grains not considered whole grains must be enriched.

**Sections 15576(e)(2) and (e)(3)** **of Article 6** are amended to incorporate the limits for added sugar into the definition of milk sold as a competitive food which, in July 2025, will replace the previous limit of total sugars.

**Sections 15576(f)(2) and (f)(3) of Article 6** are amended to align the limits for sugar in fluid milk alternatives sold as a competitive food with that for fluid milk sold as a competitive food.

If you have any comments regarding the proposed changes that are the topic of this

15-Day Notice, the SBE will accept written comments between November 19, 2024, and December 4, 2024, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-322-2549, emailed to regcomments@cde.ca.gov, or mailed and received at the following address prior to or on December 4, 2024, and addressed to:

Lorie Adame, Regulations Coordinator
Legal, Audits and Charters Branch
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814

All written comments received prior to or on December 4, 2024, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

**Please Note:** Any written comments are to be restricted to the recent modifications as shown in the enclosed language. The SBE is not required to respond to comments received in response to this notice on other aspects of the proposed regulations.

11-13-2024 [California Department of Education]