



Flunking Lunch

HOW SEGREGATED LUNCH LINES AND MISUSED SUBSIDIES ARE UNDERMINING THE
NATIONAL SCHOOL LUNCH PROGRAM

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A Note About This Revision

This revised *Flunking Lunch* report was published in March 2010 after the initial December 2009 publication. Some of the revisions include adding references to Michelle Obama's Let's Move initiative to end the childhood obesity epidemic in a generation and additional explanation in a few areas.

The substantive change is in the competitive food underpricing estimates, which were reworked using *median reported* costs instead of *average full* cost from the USDA Meal Cost Study. Full cost accounting is the best assessment of the overall financial picture of school food program revenues and costs. Our goal, however, is to show the effect of the competitive food underpricing on NSLP meal quality. Reported costs are those charged to the food service budget. The differences in full versus reported costs [full cost – reported cost] are expenses incurred by the program but not charged to it, such as the value of the time the superintendent's secretary might spend on the program. Such expenses usually are covered by other areas of the education budget and not allocated to the food service department budget. Because of this, correcting the underpricing of competitive foods for the difference in full and reported costs would not result in more money for meals but more money for the other areas of the education budget to which these costs were actually allocated.

We chose *median* reported cost because there is so much variation from one school district to another that we felt median gave a better picture of what is happening at actual school sites as opposed to the *mean*, which may not represent any one site. For comparison, at times we still offer the average numbers in addition to the median.

The charts and appendix 1 are adjusted as noted in the report.

About Campaign for Better Nutrition

CBN is a nonprofit organization that operates under the fiscal sponsorship of Community Initiatives, which was created by The San Francisco Foundation. CBN's mission is to improve the nutrition children receive in public programs and at home so they can be healthier, learn more, and better achieve their dreams. We do this through research, analysis, and advocacy. We also provide direct information to families through nutrition presentations to parents, offer affordable, quick-to-make recipes for parents to help them provide healthier meals at home, and consult with individual schools on how to improve their meal programs. Nutrition forms the base for childhood learning and health and can provide strong threads in the fabric that knits families and communities together. Poor nutrition decreases the ability of children to benefit from their education. It inhibits working memory, attention, and the ability to set goals, correctly evaluate options, and prioritize. At CBN, we believe that nutritious food is key to a healthy childhood and a productive adulthood.

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About the Author

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Abstract

Competitive food sales and electronic payment systems in school lunch programs can make it obvious which students in the cafeteria are low income and siphon federal funds appropriated for National School Lunch Program (NSLP) meals to offset losses in competitive food sales, typically candy, cookies, and pizza. The combined result is (1) segregated, unequal meals and sometimes dining areas for students with different economic means; (2) students skipping lunch to avoid the stigma of being labeled as poor, and (3) less money, and therefore, lower quality NSLP meals. According to our analysis of USDA data, the typical school district diverts 25% of the federal cash subsidies it receives for NSLP lunches to offset competitive food losses. If this loss were eliminated, in our model this would increase the funds spent on NSLP lunches by an estimated 38 cents per meal. The average district also under prices the full-price charged for NSLP meals by 32%. If districts had information so that they could base the price charged for these meals on price elasticity data instead of educated guesswork, they likely could better optimize participation and revenue, which could bring in additional funds for NSLP meals as well. The impact of these additional funds on food quality would be meaningful. Ending competitive food losses alone would pay at a minimum for an extra piece of fresh fruit and a salad bar serving for students as well as an upgrade from refined to whole grains in most districts.

Separate and unequal services have no place in lunch lines in public schools. The NSLP serves over 31 million students daily and could be a powerful tool for improving public health and education. If left uncorrected, however, these problems will significantly inhibit current efforts by the Obama Administration and Congress to use the NSLP to improve the health of children and to eliminate childhood hunger by 2015 as well as First Lady Michelle Obama's Let's Move initiative to stop the epidemic of childhood obesity within a generation.

This report calls for Congress and USDA to enforce the National School Lunch Act more vigorously and assist school districts in providing low-income students with the privacy protection and benefits the Act is supposed to guarantee. It also calls on Congress and the Obama Administration to provide administrative support and sufficient funding so these changes can be made by 2015.

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THE FOLLOWING RESEARCH PAPERS ARE BEING PUBLISHED SIMULTANEOUSLY WITH THIS REPORT AND ARE AVAILABLE ON OUR WEB SITE WWW.CAMPAIGNFORBETTERNUTRITION.ORG:

Segregated Lunch Lines & Payment Methods for NSLP Reimbursable Meals VS. a la Carte Food: a Legal Analysis, Public Advocates, October 2009.

Reimbursable Meal Participation Study, CBN, November 2009.

Stolen Lunch Money, CBN, November 2009.

Section 1: Executive Summary

Background

In 2008, a *New York Times* (NYT) article, “Free Lunch Isn’t Cool so Some Kids Go Hungry” (March 1, Pogash), and a report from the United States Department of Agriculture (USDA), *School Lunch and Breakfast Cost Study-II* (Meal Cost Study), on the National School Lunch Program (NSLP) raised a number of important questions about the school lunch program. Two of the main questions that were identified are:

- 1) As the NSLP has evolved over the past 30 years, has the program been serving and protecting low-income children as intended by Congress?
- 2) Are students who are receiving NSLP meals receiving the full funding level of the benefit to which they are entitled in the statute?

Listed below are a number of key findings from these reports and our own survey and legal research that underscore our recommendations.

Low-income students risk being stigmatized as poor when schools sell food in competition with the NSLP. On March 1, 2008, the NYT reported that some low-income students are faced with a “Hobson’s choice” at lunch time: either go hungry or risk being stigmatized as poor by lining up in the NSLP lunch line to receive a free or reduced-price (FRP) school meal. In some schools this line consists of mainly low-income students and, depending on local demographics, sometimes mostly students of color. At the same time, their peers who are able to afford alternatives are purchasing lunches in another area of the cafeteria, or another room in the school altogether. They choose from an array of more appealing “competitive” foods, also known as à la carte foods, available for purchase only at full price. Also in 2008, data collected by Campaign for Better Nutrition (CBN) revealed that this is not an uncommon practice. In all, 34% of high schools surveyed reported having separate competitive food and reimbursable school meal service areas, which in many of these schools resulted in clear overt identification problems (see the *Reimbursable Meal Participation Study*, “RMPS,” published with this report and available at www.campaignforbetternutrition.org).

Students often skip meals to avoid stigma of being identified as “poor.” From the initial passage of the NSLA in 1946 and most notably in the amendments of 1970 and 1975, Congress recognized that students could suffer social harm if their peers knew that under the NSLP they were defined as “low-income” or, as students would say, “poor.” To avoid this stigma, students sometimes choose not to eat the free meals available to them at school. One former student in San Francisco told CBN that she never ate lunch during high school because she did not have enough money to buy or bring food and did not want the other students to think she

was poor by taking a free school lunch. Numerous studies and recorded conversations with students and school officials echo this for other students as well.

- The cafeteria was for the poor kids. . . . Kids who did not eat in the cafeteria were embarrassed to go into it during lunch for fear that others would think they were getting free or discount lunch.
- My son asked me not to apply [for free meals] because other students made fun of him

Electronic payment systems can make it obvious which students are poor when cash is also accepted as payment. In addition to the issue of having separate service areas for NSLP and competitive foods, most schools CBN and USDA surveyed had an electronic point of sale payment system (POS system) in the cafeteria so students can pay for meals or receive free meals by using a swipe card or personal identification number (PIN). If a school requires all students to use a prepaid account to pay for meals, POS systems remove all cash payments from the cafeteria. In some schools, however, most of the students not eligible for free meals are paying for the meal in cash (RMPS, Meal Cost Study). This differentiated payment system makes it obvious to students who of their peers are in the lowest income tier in the school. The effect is best described by a parent of a high school student.

I could never send in a check and have [my daughter] prepay. That would be so humiliating to her because she says, ‘When you do that they are going to think I’m poor . . . I need to have money in my hand; I need to pay.’

Federal law requires schools protect the identity of students eligible for free and reduced-price meals. Public Advocates, a public interest law firm in San Francisco, analyzed the legality of having separate lines for NSLP and competitive food service as well as differentiating payment options in POS systems (see *Segregated Lunch Lines & Payment Methods For NSLP Reimbursable Meals vs. a la Carte Food: A Legal Analysis* published with this report and available at www.campaignforbetternutrition.org).

Those analyses reveal the following:

- In the original National School Lunch Act (NSLA) of 1946 and most notably in the amendments of 1970 and 1975, Congress made it clear that low-income students entitled to benefit from free and reduced-price (FRP) meals available under the Act must be protected in real and meaningful ways from having their income status revealed to other students by the school (known as “overt identification” of income status).

- Congress has provided no exemptions for this privacy protection for any reason without the written consent of the student's parent. The privacy protection applies broadly to the student and is not restricted by time or place.

Districts are underpricing competitive foods and full-price NSLP meals, negatively impacting NSLP meal quality. The Meal Cost Study also shows that the typical school district surveyed underpriced competitive foods by 42% compared to the reported cost of providing those foods for sale. The average full-price charged to students ineligible for FRP meals is 32% short of the reported cost of producing the meal. The ensuing budget shortfalls are covered most often by federal funds mostly targeted to subsidize low-income students' meals, resulting in less money, and therefore, lower quality food for NSLP meals for all students. At the typical school, districts use 25% of federal cash NSLP subsidies (*i.e.*, reimbursements) to offset competitive food losses.

Estimating the amount of funds that would become available for improving NSLP meals if an individual district's food services department accurately prices its competitive food and full-price NSLP meals involves many factors, and not all districts have competitive food service and not all underprice their food. But estimating or modeling the fiscal impact of underpricing is important to understanding the magnitude of the problem and the imperative to fix it. CBN's analysis (see Section 4 of this report) of a typical school in 2005 from USDA's Meal Cost Study reveals the following.

- By accurately pricing competitive foods, the typical school could have had 38 cents more to spend on each reimbursable meal.
- By increasing paid meal prices from the average of \$1.60 to \$2.00 (still 36 cents short of reported cost of production and 80 cents lower than full cost), the school district in our model would have had 18 cents more to spend on each reimbursable meal.

In the world of school food, where many food service directors report having little more than a dollar to spend on food due to high labor and administrative costs, the additional funds from correcting competitive food underpricing alone could make a big difference in food quality and variety. To illustrate, it would likely take far less than 38 cents per meal in most districts to give each student an extra piece of fruit, offer a salad bar, and upgrade all grain products from refined to whole grains.

Using NSLP funds to offset competitive food losses violates the National School Lunch Act. CBN analyzed the legality of diverting funds from reimbursable meals to support losses in competitive food and paid reimbursable meals (see *Stolen Lunch Money*, published with this report and available at www.campaignforbetternutrition.org). According to CBN analysis:

- The NSLA does not permit federal funds to be used to pay for costs associated with foods that are not made available to low-income students for free or reduced price or for foods that do not meet the Dietary Guidelines for Americans (DGAs). Thus, districts may not divert federal funds designated to competitive food sales—regardless of whether the diversion is intended or the result of inaccurate accounting.
- It appears the statute allows for districts to use FRP reimbursements to support underpricing the meal price charged for students not eligible for FRP meals but districts need assistance from the USDA to help them set prices that appropriately balance the need for maximizing revenues and participation.

Recommendations

Currently, there is significant pressure on Congress and the Obama Administration to provide more funding to districts in order to improve school meal quality by adding more fresh fruits and vegetables, more whole grains, and fewer overly-processed foods. New funding is critical to improving nutrition in and quality of federal school meals, most importantly in areas with high cost of living, and the changes recommended in this report should *not* be considered a substitute for providing new funding for the NSLP. It is folly, however, to try to improve the quality of reimbursable meals if existing federal funding for them is not being used as Congress intended and if some low-income students are being shamed into not eating the meals.

The USDA needs to review and update its regulations in the context of today's schools, where competitive food sales and POS systems are nearly ubiquitous and budgeting and pricing are complex.

Based on the letter of the law, this report recommends that the USDA immediately move to enable and enforce the following changes.

1. Differentiating payment systems in the cafeteria should be prohibited.
2. Unequal food service, separate service areas and the separate lines should be prohibited. Any additional food sold should be limited to foods that complement the NSLP meal, not compete with it—for example, seconds of the NSLP entrée, extra fruit, water, and milk.
3. Accounting procedures for all school food service should be standardized; the diversion of funds from NSLP meals for competitive food should be explicitly prohibited.

4. The USDA should assist districts in setting their optimal NSLP full price charge by establishing district cohort price elasticities and developing acceptable pricing ranges based on that information.

In addition, Congress should play an important role in overseeing these changes:

5. Congress should use the 2010 reauthorization of the NSLA and Child Nutrition Act to reaffirm its intent that these laws be followed and it should direct USDA to issue and begin enforcing new regulations within 12 months.
6. Congress should fund a USDA task force to support resolution of these issues by 2015.
7. Congress should provide district-level grants to facilitate corrective action.

Finally, on the local level,

8. School districts should not wait for the USDA to direct them but should fix these problems as quickly as possible to protect and reclaim benefits for low-income students.

Conclusion

Separate and unequal services have no place in public education, whether in lunch lines or classrooms. Students receive the same textbooks, teachers, and computers regardless of income and should be offered the same food as well. Unfortunately, our research has found that segregated, two-tiered meal services are a widespread practice in public high schools and are often subsidized with public funds. Putting an end to these practices is necessary for fairness, fiscal health of school lunch programs, and adherence to federal law.

Providing healthy school lunches that benefit all children is consistent with current priorities to improve public education, control health care costs, and end childhood hunger. With appropriate management and funding, the NSLP could be a very powerful tool for legislators and the Obama Administration to achieve the goal of ending child hunger by 2015 and First Lady Michelle Obama's Let's Move initiative to curb the childhood obesity epidemic in a generation.

Because nationwide food and labor costs have skyrocketed in the past five years, Congress should provide significant additional funding for school meals in the 2010 reauthorization of the NSLA, particularly in areas with high cost of living. A precursor to this must be to prevent the siphoning of NSLP funds that lowers the quality of NSLP meals. This will require federal administrative and grant funding to enable technical assistance at the school district level. These fixes are fiscal strategies at the local level and though they have national implications, they will not increase funding available for NSLP meals across the board. But proper accounting and more revenue alone won't solve some of the clear inequities found in this

report. Schools and regulators must enforce statutory protections for low-income students prohibiting overt identification, and Congress should ensure that our schools are not violating the NSLA.

When Congress passed the NSLA, it envisioned the program would “safeguard the health and well-being of students” (NSLA) and “provide(s) . . . aid . . . to school lunch programs as permanent and integral parts of (states’) school systems” to support a “properly chosen diet” (1946 House Committee on Agriculture Report). Ideally, all school meals would be free to all students, just like books and desks. Absent that, this report offers a number of concrete steps to improve this program. Taking these steps would re-affirm our nation’s commitment to schoolchildren and to the intent and policy of the National School Lunch Act.

The recommendations of this report are based, in part, on the findings of three papers being published simultaneously: *Segregated Lunch Lines & Payment Methods For NSLP Reimbursable Meals vs. a la Carte Food: A Legal Analysis* by Public Advocates; *Stolen Lunch Money* by Campaign for better Nutrition; and *Reimbursable Meal Participation Study* by Campaign for Better Nutrition. These individual reports provide additional, in-depth research on these topics and are available on our web site at www.campaignforbetternutrition.org.

Section 2: NSLP Background

It is important to understand the original purpose of the NSLP and what it looks like today in order to evaluate its effectiveness in meeting the program's intent. This section provides background information on the program and its non-agricultural policy objectives and highlights major changes to program operations in the past three decades.

Program Basics

Congress created the National School Lunch Program (NSLP) during World War II to improve school children's health and ability to learn as well as to support the domestic agriculture industry. The federal government provides schools financial support to pay for students' lunches and breakfasts. The amount the school receives per meal depends on the income level of the student's family. To be eligible for reimbursement, the meals served must meet dietary standards set by the federal government and meet other criteria set in the statute.

The NSLP offers lunch for free to any student whose family income falls at or below 130% of the federal poverty line (\$27,560 in 2009 for a family of four). A family with income between 130-185% of the poverty line (between \$27,560 and \$39,220) may receive school lunch for a reduced price of not more than 40 cents. Over 31 million students received lunches subsidized through the NSLP each day, and the annual federal cost of NSLP lunches in FY 2007 was \$8.7 billion.¹

Most of the funding for these meals, which often are referred to as "reimbursable meals," "school lunch," or "NSLP meals," comes from the federal government. Some states, localities, and school districts also contribute to paying the cost of the meals. In the 2008-2009 school year, the federal government reimbursed districts \$2.57 for each free meal served and \$2.17² for each reduced-price meal served. Students eligible for reduced-price meals usually pay the 40 cent difference but sometimes the school district pays for some or all of that. Students who do not meet those income guidelines may purchase the lunch at "full price," also known as the "paid price" (set by each district and averaging \$2.00 in 2008³), which is actually subsidized by a 24 cent federal reimbursement.

Nutrition and Academic Achievement

Studies show that students who do not eat a nutritious meal do not succeed in school as well as their better-nourished peers. For example, a Canadian research team reported in Spring of 2008 that in a study of 5,000 students in fifth grade, the one-third of students they identified as having the highest quality diets were 41% more likely to pass a literacy test than the one-third with the lowest nutrition

¹ USDA Food and Nutrition Service (FNS) web site, September 2009.

² Ibid.

³ School Nutrition Association, *School Food Operations Report: The State of School Nutrition 2009*.

profile, independent of socio-economic status.⁴ Better nutrition can help students to raise their academic achievement levels and boost their executive function, *i.e.*, their ability to set goals and achieve them.⁵ High school students who eat NSLP lunches consume more key nutrients than those who do not.⁶ This suggests that, generally, consumption of healthy NSLP lunches could help improve academic achievement, and certainly lends credence to the current work by the Administration, Congress, the Institute of Medicine, and a broad array of advocates to improve the nutrition in NSLP meals.

Students from low-income families (those with incomes under 185% of the federal poverty level) generally have diets lower in key nutrients than other students and are more likely to be from “food insecure” homes, defined those in which the primary caregiver does not know if there will be enough income to feed his or her family through the end of the month.⁷ Ensuring that low-income students have healthy meals at school will help them not only get more out of their education but also be healthier and better able to integrate socially. For students who do not eat enough food or eat unhealthy food at school, the NSLP can help to narrow the part of the achievement gap due to inadequate nutrition and help improve the health profile of students by increasing their intake of vitamins and minerals.

Program Change: Overt Identification and Competitive Foods

In 1970 and 1975 the NSLA was amended to strengthen its prohibition against schools revealing (or “overtly identifying”) which students come from families with incomes low enough to qualify them for free or reduced-price meals under the NSLP. Cuts to the program during the Carter and Reagan Administrations in the late 1970s and early 1980s put severe financial strain on school districts.⁹ At the same time a series of amendments, regulatory changes, and court rulings loosened USDA’s regulatory control over when, what, and where foods could be sold for profit in

⁴ Veugelers, Paul J., *Journal of School Health: “Children’s Lifestyle and School-Performance Study,”* April 2008. For more cites, see footnote 7 in *Segregated Lunch Lines & Payment Methods for NSLP Reimbursable Meals VS. a la Carte Food: a Legal Analysis* (Public Advocates Analysis), October 2009.

⁵ Ludwig, D., *Ending the Food Fight: Guide Your Child to a Healthy Weight in a Fast Food/ Fake Food World*, reprinted 2008: p. 60, highlights several studies linking improved mental function with nutrition, specifically low-glycemic (low in refined grains, sugars, and juice) meals, “Eating well helps us think clearly”

For a more technical scientific analysis, see Gomez-Pinilla, F., “Brain foods: the effects of nutrients on brain function,” NR Neuroscience 9, 568-578, July 1, 2008 .

⁶ Gordon, A., Crepinsek, J.K., Nogales, R., Condon, E. for USDA Food and Nutrition Service (FNS), *School Nutrition Dietary Assessment Study-III (SNDA III)*, November 2007. (*High school NSLP participants consumed more vitamin C, vitamin B6, niacin, thiamin, iron, magnesium, and zinc at lunch than nonparticipants.*)

USDA FNS, *Diet Quality of American School-Age Children by School Lunch Participation Status: Data From the National Health and Nutrition Examination Survey*, Summary, July 2008.

⁷ USDA Economic Research Service, *Household Food Security in the United States, 2005/ ERR-29*: p. 14.

⁹ Poppendieck, J. *Free for All: Fixing School Food in America*, 2010: p. 72 and 174.

Levine, S. *School Lunch Politics, The Surprising History of America’s Favorite Welfare Program*, Princeton University Press 2008: p. 174-175.

competition with the NSLP program.¹⁰ As a result of the loosened regulatory control and the need to bring in more revenues to balance the Carter and Reagan cuts, many school districts now offer two meal services—one with foods eligible for reimbursement under NSLP and the other with foods not eligible for reimbursement for which students pay cash, known as à la carte or competitive food. In some schools, these two services are offered in separate areas, lines or rooms and, in some cases, students dine in the area in which they receive their food, further segregating them from their peers. The purpose of selling competitive foods is to raise money either for the school’s nutrition program or for a recognized student group or activity, though the USDA recently reported that most schools actually are losing money on competitive sales because they are setting prices too low.¹³

Competitive foods have virtually no meaningful federal nutrition standards, and while a handful of states have stricter standards, including California, those standards are not always followed.¹⁴ Among the most popular competitive foods are candy, baked goods and soda, so they are a major contributor of sugar to children’s diets.¹⁵ Many competitive food programs also offer entrées that are more appealing than the reimbursable school meal. Although less common, there are also à la carte programs that are complementary to, not in competition with, the NSLP, offering only selected items like milk, fruit, bottled water, and seconds of the NSLP meal.¹⁶

Program Change: Point of Sales Payment Systems

More recently, districts have begun to computerize their student payments and food ordering by installing electronic “point of sale” payment systems (POS). There are numerous versions of POS systems available for purchase. With some variation, they enable the cashier to identify if a student is eligible for FRP meal through use of a student swipe card, personal identification number, or other electronic method. They also have the capability to allow parents to keep an account with the school to prepay for full and reduced-price meals and à la carte purchases, enabling the school to create a cashless cafeteria so students cannot discern which students are receiving FRP by their payment method.¹⁷ The system can track if a student is not paying or if he or she does not have an application for meal benefits on file. The system can automatically generate a letter to the parents asking them to rectify the

¹⁰ Levine, S., *School Lunch Politics*, 2008: p. 162-164.

¹³ Bartlett, S., Glantz, F., and Logan, C. for USDA FNS, *School Lunch and Breakfast Cost Study-II (Meal Cost Study) Summary of Findings*, April 2008.

¹⁴ Center for Science in the Public Interest, *State of School Foods Report Card 2007*, November 2007: p. 3 (lists states and standards). On compliance, the Student Nutrition and Physical Activity Committee of the San Francisco Unified School District established one of the first and most strict competitive food local standards in 2003, however even in 2009, the Committee continues to deal with complaints that many individual schools and certain vendors do not adhere to the standards.

¹⁵ SNDA III: Volume II Executive Summary, November 2007: p. 14.

¹⁶ *Ibid.*

¹⁷ Poppendieck, p. 216-217.

account. POS systems offer other benefits such as automating food purchases and reimbursement claims.

POS systems are thought to help reduce overt identification and increase revenues, allowing districts to recoup the cost of the system over a matter of a few years, depending on their situation. The financial benefits of using a POS system are so strong that at least one nationwide POS provider considered offering a “pay for performance” program where districts could forego an initial cash outlay for the system and make payments over the ensuing years as the accuracy of the POS system for seeking government reimbursement and ordering food brought about higher revenues and lower costs.¹⁸

POS systems can be designed to accept only electronic payment or both cash and electronic payment from students. The differentiated payment systems of the latter can be problematic because, if most students who pay full price pay in cash, it is obvious that any child who does not pay cash is from a low-income family.

Concerns Over Overt Identification

From the initial passage of the NSLA in 1946 and most notably in the amendments of 1970 and 1975,¹⁹ Congress recognized that students could suffer social harm if their peers knew that under the program they were defined as “low-income” or “poor.” To avoid this stigma, students sometimes choose not to eat the free meals available to them at school.²⁰

Congress established protections to guarantee that students would not be “overtly identified” as poor because they were eligible to receive FRP meals under the program. This protection goes beyond a prohibition against releasing the names of low-income students. Districts are not allowed to operate the program in such a way that students can easily *infer* another students’ income from how the program is operated.

¹⁸ School-Link Technologies, a POS vendor, considered this plan but has not implemented it.

¹⁹ Public Advocates, *Segregated Lunch Lines & Payment Methods for NSLP Reimbursable Meals VS. a la Carte Food: a Legal Analysis* (Public Advocates Analysis), October 2009, p. 4-5.

²⁰ Pogash, C., “Free Lunch Isn’t Cool, So Some Kids Go Hungry,” *NYT*, March 1, 2008. (Numerous students and administrators nation-wide report stigma is a major barrier to participation in school meals, with particular focus on San Francisco, especially where students have access to à la carte options.)

SNDA III: Volume II, 2007. (Stigma with free lunch reported particularly with older students but largest negative effect on participation indicated for school breakfast.)

Glantz et al., 1994, *School Lunch Eligible Non Participants: Final Report*. (Focus group studies at several districts showed stigma is a barrier in some communities, both for certification and participation. Stigma is worse as students get older.)

Poppendieck: chapter 7. (provides quotes from students and administrators across the U.S. stating that the low-income stigma associated with participating in the NSLP in high school keeps many needy students from participating.)

No physical segregation of or other discrimination against any child eligible for a free or reduced-price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or *by any other means*. 42 USC 1756 (b)(10) (*emphasis added*)

The USDA and state departments of education are charged with working together to oversee the NSLP in school districts and enforce the overt identification protection.

Despite this, the exact concern that led to the passage of the 1946 language, and the multitude of overt identification amendments in the decades since, continues to this day.²² One former San Francisco student told us she never ate a single lunch throughout high school for fear of being viewed as poor, even though she was always hungry at lunchtime and was eligible for free NSLP meals.²³ Numerous studies and recorded conversations with students and school officials confirm this is a common problem. As stated by a school food administrator in New York City, “[all schools] struggle with [overt identification] one way or another,”²⁴ The students, and those closest to them, say it best:

One former San Francisco student told us she never ate a single lunch throughout high school for fear of being viewed as poor, even though she was always hungry at lunchtime and was eligible for free NSLP meals.

- [Lunchtime] is the best time to impress your peers . . . (b)eing seen with a subsidized meal lowers your status. (high school student body president)²⁵
- Some kids look down on people who don't have a lot of money and think they're worthless. (high school student on why low-income students skip school meals)²⁶
- My son asked me not to apply [for free meals] because other students made fun of him (parent)²⁷

²² See footnote 46.

²³ Name of the student is withheld to protect her identity.

²⁴ Pogash.

²⁵ Pogash.

²⁶ Glantz et al.

²⁷ Glantz et al.

- I know kids need to eat but they don't want to be identified with free food. (track coach who oversees lunch)²⁸

Depending on the school demographics, separating service can divide students by race as well.

- Our campus was big and split by the upper level and lower level . . . and you could only get the free or reduced lunch on the lower level . . . white kids ate upstairs and Mexicans ate downstairs. I was eligible for free lunch but chose not to get it, because I was embarrassed.²⁹

The USDA's Position on Overt Identification, Competitive Foods, and POS

Currently, there is little guidance by the USDA about how to prevent overt identification beyond restating the law.^{31 32} For instance, we were unable to find any written USDA regulation, policy, or instruction about preventing overt identification in schools specifically in regard to competitive food programs.

According to some USDA and state agency staff, though, the Agency's unwritten interpretation of this statutory protection is that the NSLA does not provide overt identification protection for students in regard to competitive food sales.³³ The USDA views the privacy protection afforded low-income students as extremely narrow, a situational right, not a personal right, effective only in the time period that the student is receiving a FRP reimbursable meal and only in comparison to students paying full-price for the same meal. At the same time, the Agency publically acknowledged that competitive food programs stigmatize poor students in a 2001 report to Congress.

Since only children with money can purchase competitive foods, children may perceive that school meals are primarily for poor children . . . [and as a result, overall student willingness to participate in the program] may be reduced.³⁴

²⁸ Pogash.

²⁹ Poppendieck: p. 196.

³¹ See "USDA Western Region National School Lunch Program Index," Child Nutrition Programs. July 2008.

³² 7 CFR 245.8 (restates overt identification prohibition verbatim from NSLA.)

USDA FNS Instruction 765-3, March 1986 (provides three short paragraphs of general information on what constitutes a "reasonable job" of avoiding overt identification with tickets or tokens as prohibited in 7 CFR 245.8(b))

³³ As stated in 2009 by USDA Western Region and California Department of Education staff, information provided on background. USDA's position as stated in this report, unless otherwise cited, is based on conversations with current and former national and regional USDA staff and state agency staff.

³⁴ USDA FNS report to Congress, Foods Sold in Competition with USDA School Meals, January 2001.

The USDA also does not consider differentiating payment methods in the cafeteria—cashless for the poorest students and cash for most other students—as overt identification of low-income students. According to USDA staff, however, the Agency does encourage districts to eliminate cash payments in the cafeteria and discourages separate service areas for reimbursable and competitive foods. It also has encouraged some districts to eliminate competitive food service altogether so all students have access to the same, nutritionally balanced food. The Agency’s unfavorable view of competitive food programs is written in the cover letter to same 2001 report to Congress.

[T]he availability of foods sold in competition with school meals jeopardizes the nutritional effectiveness of the programs and may be a contributor to the trend of unhealthy eating practices among children and subsequent health risks.³⁶

And, as far back as congressional hearings in 1971, the Agency has been suggesting school districts use other payment options to eliminate cash payments in the cafeteria. These options were recommended, and expected to be used, nearly 40 years ago, without the ease of a POS system.³⁷ So, though USDA clearly wants districts to operate a stigma-free program, the Agency does not feel empowered or inclined to enforce the statute accordingly.

³⁶ *Ibid*, (cover letter from Undersecretary Shirley Watkins to Senator Tom Harkin accompanying the report.)

³⁷ Public Advocates analysis.

Section 3: Research Overview

The research efforts undertaken as part of this report were designed to evaluate the effectiveness of the NSLP in providing healthy food for low-income school children. Although the NSLA was originally enacted to provide nutritious meals without overtly identifying low-income students, the system has frayed. Our research efforts focused on analyzing the impact that the following facts recently reported have on low-income students and their rights to privacy and benefits under the NSLA.

1. **Competitive Food.** On March 1, 2008, the *New York Times* reported that some low-income students are faced with a “Hobson’s choice” at lunch time: either go hungry or risk being stigmatized as poor by lining up in the reimbursable school lunch line for a FRP school meal, a line that too often consists of mainly low-income students. At the same time, most of their peers are purchasing lunches in another area with more appealing à la carte food—available for purchase only at full price.³⁸ Students reported that they did not want to eat food that is associated with being poor.
2. **Accounting.** The USDA’s Meal Cost Study showed that school districts typically underprice non-reimbursable foods by 29% compared to their reported cost of providing those foods for sale and under charge students who pay full price for NSLP meals by 32% compared to reported cost of production.⁴⁰

Research Questions and Analysis

Research analysis was conducted by CBN on the two key areas listed above. It was designed to answer fundamental questions about the health of our nation’s school lunch program. Specifically, as the NSLP has evolved over the past 30 years, is it serving and protecting low-income children as intended by Congress? Further, have new technologies and services been used to benefit low-income students, or has the program grown in a way that in some districts low-income students’ privacy and benefits are no longer secure? Listed below are research questions that correlate with the two identified key areas of analysis.

- **Competitive Food and Overt Identification:** How prevalent are separate serving areas for competitive food (including all non-reimbursable foods sold except vending, also referred to as à la carte in this report) and reimbursable meals and does the NSLA protect low-income students from overt identification that might result from these sales?

³⁸ Pogash.

⁴⁰ Comparing the USDA’s 2005 data on reimbursable meal full cost in the Meal Cost Study to the School Nutrition Association’s data on average price charged per reimbursable meal for the same year in its *School Nutrition Operations Report: The State of School Nutrition 2009*.

- **POS and Overt Identification:** How prevalent are new electronic payment systems and are they helping eliminate overt identification?
- **Accounting and Benefits:** Are the students who are receiving free, reduced-price and full-price reimbursable meals getting the full funding level of the benefit to which they are entitled in the statute?

CBN commissioned a series of studies to answer these questions, which were used to prepare this report and are listed below for further reference.⁴¹

- The *Reimbursable Meal Participation Study (RMPS)*, a nationwide study of high schools to determine the prevalence and participation effect of certain practices and policies thought to effect NSLP participation.
- A legal analysis of overt identification protections in the NSLA by Public Advocates, *Segregated Lunch Lines & Payment Methods For NSLP Reimbursable Meals vs. a la Carte Food: A Legal Analysis*.
- A legal analysis of reimbursable meal benefits and competitive food accounting by CBN, *Stolen Lunch Money*.

⁴¹ Excerpts and a summary of these sources are in the body of this report. The study and analyses in full are in addendas.

Section 4: Research Findings

From 2008 through 2009, considerable research was published on the nation's school food services. This section knits together the studies and stories discussed in the Research Overview section with the additional research commissioned by CBN as part of this report.

Section 4.1: Overt Identification—Competitive Food and POS

This subsection details the results of research aimed to identify the ways in which having competitive food service and POS systems can affect overt identification of low-income students. These findings underscore the importance of rectifying the segregated, unequal food service and differentiated POS payment systems that have become commonplace nationwide.

2008 Data

After the Pogash NYT article was published, some school food administrators and advocates suggested that using separate service areas for à la carte food and reimbursable NSLP meals may be limited to a small handful of schools and not indicative of a larger trend. Thus, the issue should be dealt with on an individual school level and did not require national attention.

To determine if that is the case and get more information on food service practices that could influence FRP participation in the NSLP, in 2008 CBN conducted the Reimbursable Meal Participation Study (RMPS). The survey questions asked about practices that were perceived to increase stigma (*e.g.*, using separate serving areas during lunch for competitive food and NSLP meals), school policies that could increase participation (*e.g.*, such as requiring students stay on campus during lunch), and technology advances that could speed student purchasing, decrease stigma, and free up more time for students to eat (*i.e.*, POS systems). Overall, 183 schools responded, 40% from California and 60% from the rest of the nation.

Statistically significant information on how POS systems and separate reimbursable NSLP and competitive lunch service affect participation in NSLP meals could not be drawn because of the small response rate for the enrollment variable and the wide variation in the size, demographics, and food service programs of the schools responding.⁴² The study, however, does reveal that violations of the Act are occurring linked to competitive lunch services and POS systems. The data shows clearly that more than a small handful of schools have separate service areas for NSLP and competitive foods and that both competitive food and POS programs need closer regulation.

⁴² Kavanagh, C., *Reimbursable Meal Participation Study*, October 2009, p. 1.

While the USDA included many questions about competitive foods in its SNDA III study, as in our study, it did not have a category for districts offering only competitive food programs that are “complementary” to the NSLP—for example, those that offer only milk, seconds of the NSLP meal, extra fruit, and water as a supplement to the NSLP meal, in contrast to those that offer snacks or full, alternative entrées that actually compete with the NSLP.⁴³ The USDA should consider creating such a subcategory in its next survey to determine the effect on NSLP participation of competitive v. complementary à la carte programs.

The remainder of this section summarizes the key findings of the RMPS, the USDA’s SNDA III and Meal Cost Study reports, and the overt identification legal analysis by Public Advocates.

Competitive Food

CBN’S RMPS examines a cross section of high schools whose food service directors are involved in professional organizations, so it may be reasonable to assume that these directors actively look for ways to improve their programs. Thus, the data may under-represent the prevalence of variables deemed to increase stigma for low-income students if the sample had been nationally representative of all high schools. Even still, the data on separate service areas is concerning.

- Over one-third (34%) of the responding schools had separate service areas in the cafeteria for reimbursable meals and competitive foods (not including vending machines).
- One-in-ten respondents were classified as having a clear and egregious overt identification problem due to the location of their competitive food operation and disproportionately low NSLP participation by full price students.⁴⁴

Separate service areas for NSLP and competitive foods can violate the National School Lunch Act’s (NSLA) prohibition against “overt identification” of the income status of students eligible for FRP

If the vast majority of students in the reimbursable meal line are low income, other students will identify all the students in that line as low income.

⁴³ SNDA III, Vol. 1, table IV.8.

⁴⁴ A number of the schools with separated service could not be classified for the subset (n) for this statistic due to non-response for key variables. When looking at the classified subset (n=52), 31% of the schools with separate service lines have a disproportionately high number of low-income students in the NSLP lunch line. The criteria used are (1) does the school have separate service areas, (2) are 80% or more of the students in the NSLP line low-income, and (3) are there a disproportionately low percentage of students in the NSLP line paying full price compared their representation in the school population. The criteria required a minimum ratio of paid population to paid NSLP participation of 3:1, but the range extended to as high as 40:1.

meals.⁴⁵ In the 1-in-10 schools described above, the vast majority of students in the reimbursable meal line are low income, other students will identify all the students in that line as low income. The fact that their identification will be wrong in some cases because a few students are paying full price for NSLP meals is irrelevant. The stigma associated with being poor is real regardless. Because of the pervasiveness of the practice of separating service and the potential for harm to low-income students, the issue deserves national attention by the USDA, the agency that administers the program, and Congress, the legislative body that authorized it and wrote the explicit language barring any practice that overtly identifies students who are low income and eligible for FRP meals.

POS

The RMPS also revealed the following information about POS systems.

- Eighty-four percent (84%) of the responding schools had a POS system in the cafeteria.
 - Nearly all (92%) schools with a POS system allowed or required students not eligible for free meals to pay in cash in the cafeteria, which can result in visibly different payment methods for low-income students.

The fact that most of the schools responding have a POS system is positive. By decreasing payment time, POS systems can serve more students during short lunch periods and increase the time students have to eat. POS systems can decrease administrative time and increase accuracy in filing federal reimbursement claims. In addition, they can automate food ordering, saving money and resources. However, most of these POS systems are not being used to create cashless cafeterias. Nearly all the schools in the survey require or allow students paying full price to pay with visibly different means than low-income students receiving free meals.

It is possible that some of the 92% accepting both cash and electronic payment are not overtly identifying low-income students. That depends on how many of the students at an individual school paying full price are paying in cash instead of electronically with a prepaid student account. If more than half are, then there is less of a concern of overt identification. It is the cohort of schools where less than half of students paying full price are paying in cash that is of concern because at some point the prepaid accounts are used so infrequently that the payment method becomes an outward identification of income status.

There are other advantages to removing cash from a school food service payment system besides eliminating overt identification. Cash shortages occur for a number of reasons, including students and school staff who are supposed to pay for meals but sometimes do not. In addition, districts have to pay for a fee to the bank for cash

⁴⁵ See *generally*, Public Advocates Analysis.

collection, counts, and deposits. These cash shortages and unnecessary fees have a direct negative effect on meal quality.

The USDA's Meal Cost Study shows that having all students prepay for meals is attainable, as a full 20% of schools in their survey require all accounts be prepaid.⁴⁶ Prepayment does not require parents to have a computer with Internet access at home. A parent or a student can pay in person with the school secretary, electronically using one of the school computers in the technology lab, or with a check through the mail.

Legal Analysis.

The USDA's enforcement of the privacy protection afforded students under the NSLA has been very narrow and is contrary to the overt identification statutory provisions, USDA's own regulations, congressional history and case law, according to Public Advocates, a public interest law firm that analyzed the overt identification legal protections for this report. The NSLA prohibition on discrimination and overt identification of students defined as low income under the program is broad. It applies to the student, not to the situation. It is the responsibility of the school to protect the student's income status no matter where that child is

throughout the school day, whether in the cafeteria, classroom or bus. The full Public Advocates analysis is being published with this report and is available on our web site, www.campaignforbetternutrition.org. Some excerpts are included here.

This broad, unambiguous mandate prohibiting the "overt identification" of FRP students is echoed, in nearly identical language, throughout existing federal child nutrition laws and regulations.⁴⁷

***It is the
responsibility of the
school to protect
the student's
income status no
matter where that
child is throughout
the school day,
whether in the
cafeteria,
classroom or bus.***

⁴⁶ Meal Cost Study: Chapter 6, p. 9.

⁴⁷ See 42 U.S.C. § 1758(b)(11) (similarly prohibiting physical segregation and overt identification of children eligible for NSLP because their parents are unemployed); 42 U.S.C. § 1759a(e) (similarly prohibiting physical segregation and overt identification of any child eligible for a FRP lunch); 7 C.F.R. § 245.8 (establishing as a nondiscrimination requirement that School Food Authorities and local education agencies ("LEAs") participating in the NSLP, School Breakfast Program or Special Milk Program or of commodity-only schools "take all actions that are necessary" to ensure that there is "no overt identification of any of the [FRP eligible] children by the use of special tokens or tickets or by any other means" and that eligible "children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different time"); 7 C.F.R. § 245.1(b) (establishing that state agencies, Food and Nutritional Service Regional Offices, School Food Authorities and LEAs have a responsibility to assure "that there is no physical segregation of, or other discrimination against, or overt identification of

Further, USDA regulations explicitly provide that the use of separate serving lines constitutes unlawful discrimination. 7 C.F.R. § 245.8(d). Certainly, Congress intended to prohibit the specific practices of using “special tokens or tickets” and “announced or published lists of names” to identify FRP lunch participants. 42 U.S.C. § 1758(b)(10). But Congress’s inclusion of the phrase “or by other means” indicates that it intended to prohibit *any practice* which has the effect of overtly identifying FRP lunch recipients. The legislation also does not carve out any exceptions to these protections, which apply broadly to eligible students throughout the school day.⁴⁸

Public Advocates analysis continues:

To be sure, the NSLA’s prohibition against physical segregation and discrimination existed prior to 1970. But it is clear from the legislative history and from the subsequent enactment of the “overt identification” by express or “other means” clause that the pre-existing provisions needed further clarification to convey Congress’s intent that any means of overt identification, even if unintended, be prohibited in order to avoid attaching adverse stigma to a FRP lunch recipient.

Further, Congress clearly intended that low-income students’ identity would be protected meaningfully. This is reinforced by case law in *Justice v. Board of Education*:

children unable to pay the full price for meals or milk”); 7 C.F.R. § 245.6(b) (requiring that LEAs distribute letters and notices with application forms and notice to households of eligibility for benefits through methods that prevent overt identification of children eligible for direct certification for FRP meals); 7 C.F.R. § 245.10(a)(4) (requiring LEAs participating in the NSLP and other child nutrition programs to submit to the state “a free and reduced price policy statement” containing a “description of the method or methods to be used to collect payments from those children paying the full price of the meal or milk, or a reduced price of a meal, which will prevent the overt identification of the children receiving a free meal or free milk or a reduced price meal or a reduced price meal”); 7 C.F.R. § 225.6(c)(4) (requiring programs participating in the Summer Food Service Program under the NSLA to assure that “all children are served the same meals and that there is no discrimination in the course of food service” and that participating summer camps describe the method for collecting payment from paying students to prevent the overt identification of non-paying students as well as assure that “there will be no overt identification of free meal recipients”); 7 C.F.R. § 226.23(c) (requiring a written policy statement by centers participating in the Child and Adult Care Food Program under the NSLA to include a description of methods of collecting payments to “protect the anonymity of the participants receiving a free or reduced-price meal” and an assurance that “there will be no overt identification of free and reduced-price meal recipients”).

⁴⁸ Indeed, the Act provides that only certain specified administrators are permitted access to information about students’ income status and eligibility for FRP meals and that any person who discloses such information unlawfully, without the consent of the parent, is subject to criminal penalties. 42 U.S.C. § 1758(b)(6).

In *Justice v. Board of Education*, 351 F.Supp. 1252 (S.D.N.Y. 1972), children eligible for FRP lunch challenged, among other practices, a school lunch distribution system that overtly identified recipients of FRP lunch by requiring them to use special tickets to obtain their lunches. Although paying students could purchase and use tickets, in practice only 1.1% of them did so, while the vast majority of paying students paid in cash. In concluding that the use of special tickets in this case constituted “overt identification” of students in violation of the NSLA, the court noted:

The fact that some may “choose” to purchase tickets ought to be too patently trivial to mention. That some may prefer the back of the bus or the balcony has not seemed relevant for at least the last generation or so. It is sufficient for our purposes that whether poverty is an inconvenience or a disgrace, many youngsters are ashamed to have it seen, and federal lawmakers and administrators have decreed respect for their feelings. *Id.* at 1263-1264.

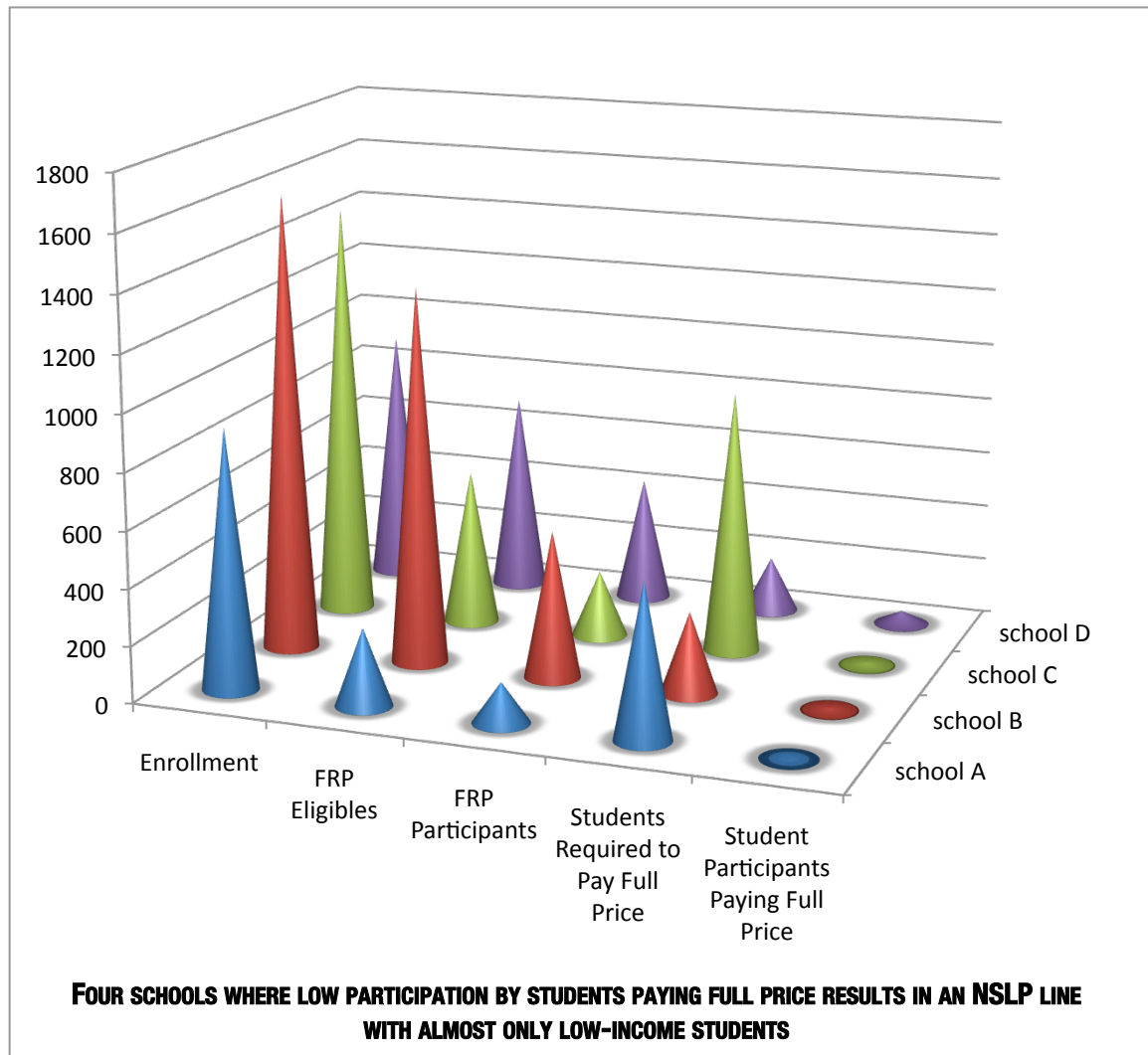
So, it does not matter if a some students (1) choose to receive a reimbursable meal who are not low-income students or (2) choose to pay cash for competitive food despite their eligibility for free meals. If the perception is that most the students in the reimbursable line are low income, the students have been identified as such and experience the associated stigma regardless. The fact that a small percentage of paying students may be misidentified as poor by their peers does not decrease the legal violation occurring with those low-income students overtly identified.

Anecdotal information from the RMPS is useful in illustrating this. The next chart highlights four schools that offer competitive lunch items (not including those sold in vending machines), in a separate area than reimbursable NSLP meals. These schools have varying ratios of students eligible for FRP to students paying full price. In each of these schools, though there are some students paying full price for meals each day, very few do so. Even in school D, where the paid participation is the highest, the ratio of FRP students to paying students is 10:1.⁴⁹

The NSLA does not carve out any exceptions to the overt identification protections afforded low-income students.

⁴⁹ RMPS: p. 5. It is important to note that it is notoriously difficult for high schools to get students to apply for meal benefits, in part due to fear of being stigmatized as poor if they do. Given this, it is likely that there are many students in the full price category in these four schools who are actually eligible for free or reduced-price meals.

Students in these schools do not need data to tell them that nearly everyone who lines up for an NSLP meal is low-income; the USDA should not need a detailed directive from Congress to know that this is a violation of the students' statutory right not to have their income status revealed, and administrators on the local level should not need the USDA to tell them that this is harmful to students.



How to read this chart: Each school is represented by a different color and the variables represent enrollment, eligibility, and average daily participation by category in October 2008 for each school. School A is blue. Of an enrollment of about 900 (3-D nature of graph makes numbers appear slightly smaller), about 140 students eat NSLP lunch daily but only two of those students on average will not be low income. The chart is provided to show relative comparisons, not exact numbers, in order to protect the anonymity of the schools.

This, of course, applies to the use of cash payments under POS systems as well, even in schools without competitive food. Requiring all students who pay full price to pay in cash while free students do not clearly identifies which students are receiving free meals. In USDA's Meal Cost Study, 6% of schools reported not offering prepayment at all. In the schools that offer prepayment as an option, overt identification is still a concern. Though their students paying full price could prepay for meals, most students are not using the prepayment system and instead pay in cash in the cafeteria. Public Advocates continues:

Even in schools where paying students participate in the reimbursable meal in significant numbers (*e.g.*, schools with no competitive foods or off-campus option) and/or where there is a single lunch line used by all students, when non-FRP eligible students pay in cash at the point of sale while FRP lunch program participants do not, FRP lunch participants are overtly identified in violation of federal law.

The legislative history sheds light on what steps a district can take to protect FRP lunch recipients from such overt identification. In hearings before a subcommittee of the Committee on Appropriations, a Department of Agriculture official described a number of successful practices used to protect the anonymity of FRP lunch recipients—none of which involve the exchange of cash in the cafeteria:

[see Public Advocates analysis for list]

Department of Agriculture Appropriations for 1971: Hearings Before a Subcommittee of the Committee on Appropriations, 91st Cong., at 618-619 (Feb 27, 1970). While this is by no means an exhaustive list—nor is it one that takes into account present-day technological advances such as electronic Point-of-Sale systems—these practices serve to illustrate what Congress envisioned when it instructed school districts to protect FRP lunch recipients from overt identification, namely, a system in which all students—subsidized and paying—“paid” for their lunch at the point of sale using an undifferentiated method (*e.g.*, tickets) and in which no cash changed hands in public view of other students.

Overt Identification Recommendations

For decades, many employees at the USDA have dedicated themselves to protecting and serving students. Seemingly unbeknownst to the Agency itself, however, its policymakers have not correctly carried out the Agency's role in protecting low-income students against overt identification and segregation as the program has changed over the past few decades. The USDA needs to reevaluate its interpretation and enforcement of overt identification in light of modern changes in the program—the advent of competitive foods and the use of electronic payment systems. It needs

to provide meaningful protections to students and provide state agencies and school districts with information, tools and technical assistance to enact that protection.

Section 4.2: Accounting—Diversion of NSLP Funds

This subsection details the results of research conducted to assess the impact that inaccurate accounting has on NSLP cash flow and meal quality and presents a legal analysis showing that underpricing competitive foods and comingling reimbursable and non-reimbursable funds violates the NSLA. It also suggests an analytical method for USDA to use to establish pricing guidelines for full-price NSLP meals.

2008 Data

According to USDA’s Meal Cost Study, in 2005 the typical school underpriced its competitive foods by 29%.⁵⁰ That study also reveals that most schools underpriced reimbursable meals to those students who pay full price. The reported average meal production cost that year was \$2.36⁵¹ but districts only charged an average \$1.60.⁵² This is 32% under the reported cost of producing the meal. The federal subsidy for free meals that same year was \$2.50.⁵³

Underpricing Competitive Food

Schools that offer lunch programs in competition with the federal school lunch program do so with the intent of making money off the sales. However, the Meal Cost Study reveals that schools are typically losing money on competitive food sales. To compound this, they are losing money on full-priced meals as well.

29% Average Competitive Food Underpricing

32% Average Full-Price NSLP Meal Underpricing

? How much \$ intended for NSLP meals is used to make up for these losses?

Districts have few revenue streams available to make up for losses in competitive food and paid meals. The result of this, according to the USDA, is that many districts are using federal funds distributed to them for reimbursable NSLP meals—much of which is intended to provide meals to low-income students for free or at a reduced price—to cover the revenue shortfall in their competitive food programs as well as the underpricing of reimbursable meals sold at full price.⁵⁴

⁵⁰ Meal Cost Study: Chapter 7, p. 11 (*compared to reported cost*).

⁵¹ Meal Cost Study: Chapter 3, p. 3.

⁵² SNDA III.

⁵³ Meal Cost Study: Summary of Findings..

⁵⁴ Meal Cost Study: Chapter 7, p. 8.

The worst effect of underpricing competitive foods is that funds are being diverted from healthy meals for low-income students to more appealing, and typically less healthy, snacks and entrées for students who have cash to pay for them. Based on data from the Meal Cost Study, the average school district is diverting 14.5% of federal NSLP reimbursements intended for healthy meals to offset losses in sales of items like candy, cookies, and pizza.⁵⁵ Even this is a conservative estimate. When using the typical underpricing (median) of 42% instead of the average (mean) 29%, the typical amount of federal NSLP reimbursements being diverted to offset competitive food losses climbs to 25%.⁵⁶

The typical school district is diverting 25% of federal NSLP cash reimbursements intended for healthy meals to offset losses in sales of candy, cookies, and pizza.

Underpricing paid meals

Without an economic model estimating price elasticity for its students, setting the meal charge for students who pay full price is educated guesswork. In 2005, typically about one-third of food service directors made incremental increases of \$0.15 in lunch prices with hopes that they could increase revenue without losing too much participation.⁵⁷ Some directors chose a very low price, valuing maximized participation over meal quality. Others more concerned with bringing in revenue try to push their price to an optimal point that maximizes revenues but still keep an eye on minimizing the marginal decrease in participation. As a result, meal prices across schools in 2005 had a wide range, from \$1.15 to \$2.30.⁵⁸

Underpricing paid meals can benefit low-income as well as paying students.⁵⁹

1. Keeping the paid meal charge low may increase participation, improving a district's economies of scale.

⁵⁵ See financial analysis in the next section and Appendix 1 and 2 for formulas, assumptions, other scenarios, and estimates of the amount of funds that could be redirected to NSLP meals if competitive food underpricing were corrected.

⁵⁶ Based on total federal cash subsidies, *i.e.*, cash reimbursements without added commodity value.

⁵⁷ School Nutrition Association, *School Nutrition Operations Report*, 2009: p. 41. (This held true school years 2004/05 through 2006/07. In response to dramatic increases in food prices, in 2007/08, sixty percent of districts raised their prices a median \$0.25.)

⁵⁸ *ibid.*, p. 39. (These estimates are taken from the 10th and 90th percentiles across elementary, middle and high schools and are adjust downward from 2008/08 based on median reported increases the two prior school years on page 41. The range for 2008/09 was from \$1.40 to \$2.75, in the 10th and 90th percentiles.)

⁵⁹ Note that none of these benefits exist with competitive food underpricing. The only benefit for underpricing competitive foods would be for a student not eligible for FRP meals who cannot afford the full meal but has enough money to buy a snack.

2. Because eligibility for FRP meals is not adjusted for regional cost of living, in high cost of living areas many students who do not qualify for FRP meals may not be able to pay a higher rate for full-price meals.
3. Increasing NSLP participation of students who are not low income makes the program seem like it is for all students, not just for low-income students, which can decrease stigma and increase low-income participation.
4. In addition, all reimbursable meals at a school offer the same food, whether they are served for free, reduced price or full price. Districts benefit from having flexibility to maximize their marginal revenue while minimizing their marginal participation loss.

The Meal Cost Study can be used to illustrate the effect of unnecessary underpricing of full-price meals. Picture an average district that charges \$1.60 for full-price meals but whose reported cost of production was \$2.36. The school believes that if it charges \$2.36, it will lose most of the participation of students not eligible for FRP meals. The \$1.60 charge, however, is an educated pricing guess. Our model shows that if that school's optimal pricing—the price at which participation loss is minimized *and* revenue gain is maximized—were actually \$2.00, the price increase would provide an additional 18 cents per NSLP meal.⁶⁰

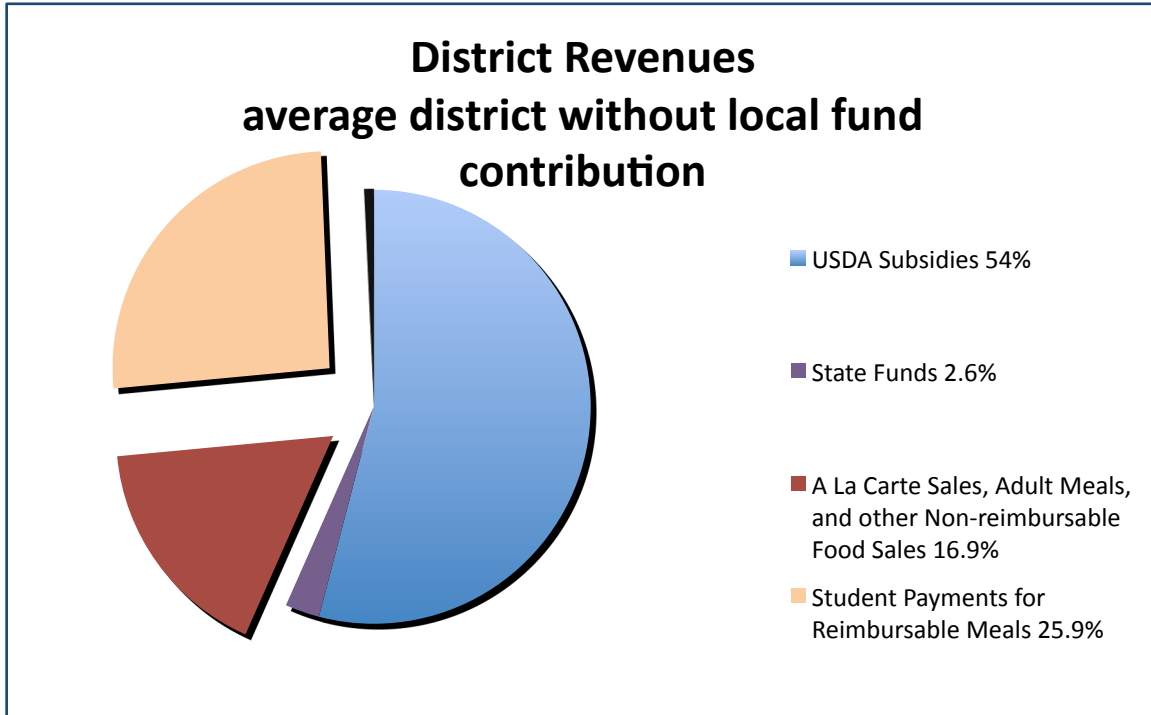
Financial Analysis

This subsection provides more information on the data and analytical methods used to determine the effect underpricing has on NSLP meals in more detail. The formulas used and alternative scenarios are provided in Appendix 1 and 2.

The financial picture of correcting underpricing of competitive foods and paid meals would vary dramatically by district but for illustrative purposes, the data from the USDA's Meal Cost Study will be used to demonstrate the impact a fictitious but average or typical school in 2005.⁶¹

⁶⁰ See financial analysis in next section and Appendix 1 and 2 for formula, assumptions, analysis and more scenarios.

⁶¹ Meal Cost Study: Chapter 6, p. 1 (adjusted to eliminate local funds since most districts do not receive local funding.)



- Competitive Food.** The chart above shows the revenue streams in 2005 for the average school in the Meal Cost Study. Because most of the schools in the study did not receive local funding, the chart has been adjusted accordingly. As discussed above, the Meal Cost Study revealed the average (mean) underpricing of non-reimbursable foods to be 29% and the typical (median) to be 42% compared to the reported cost of providing those foods for sale.⁶² When looking at the entire amount of federal subsidies for NSLP meals, this amounts to 14.5% (mean) or 25% (median) of federal NSLP cash reimbursements being used to offset competitive food losses.⁶³

Turning those percentages into additional cents available for NSLP meals requires making some assumptions to complete the district budget profile. In our model, we assume the school serves approximately 5,400,000 NSLP meals a year and has approximately \$15,000,000 in revenue. In this scenario, the school with a typical underpricing percentage would have an additional 38 cents per NSLP meal if it brought in enough revenue to break even on its competitive food, or eliminated competitive food sales

⁶² The Meal Cost Study combined competitive food sales, adult meals and other non-reimbursable food sales in this category. Because adult meals and other non-reimbursable sales are typically incidental compared to competitive food revenues, this budget category is used as a proxy for competitive food revenue.

⁶³ State contribution is not considered because not all states provide school meal funding and of those that do, the amount can vary significantly from one year to the next.

altogether.⁶⁴ ⁶⁵ ⁶⁶ When using the average underpricing rate of 29% , the school would have 21 cents more per meal to spend on NSLP meals.

- **Full-Price Meals.** Now consider the underpricing of paid meals. Paid meal pricing is a much more complicated issue than competitive food pricing because getting students to eat lunch is usually valued over increasing revenue. Yet, revenue is critical to operations. Further complicating the matter is the fact that district-level price elasticity information is not available. Despite the lack of price elasticity information, it is useful to model the effect paid meal underpricing has on NSLP meals to show its magnitude. Using the earlier example, our school set a paid meal price at \$1.60 and had reported meal costs of \$2.36.⁶⁷ If that school's optimal pricing—the price at which both participation loss is minimized and revenue gain is maximized—were actually \$2.00, the price increase of 40 cents could raise the effective reimbursement rate by 18 cents per meal.⁶⁸

Depending on the size of the price increase, it may need to be phased in over several years. The USDA could provide guidance on best practices for implementing price increases.

- **Local funds.** Though most schools in the Meal Cost Study did not receive local funding, when they did it was most likely to cover losses in their programs. If this school did receive local funding, it is possible that a substantial amount of the money that could have been redirected or added into NSLP meals could be eliminated by local cuts (see chart on page 33).
- **Combined Effect.** In our model, by accurately pricing paid reimbursable meals and competitive foods, this school could direct an additional 39 cents (mean) to 56 cents (median) per meal to spend on reimbursable meals. In the world of school food, where many food service directors report having little more than a dollar to spend on food due to high labor and administrative costs, these additional funds could make a big difference in

⁶⁴ Also assuming a ratio of free/reduced/paid participation of 48%/9%/43%.

⁶⁵ It is important to note that because all NSLP meals are the same regardless of the income status of the child, it would be inappropriate to attribute all of the savings to the low-income meals. However, most of the money siphoned from federal reimbursements is intended for supporting the low income meal costs, not the paid meal cost.

⁶⁶ This per meal estimate is offered as an example. Changes in participation in competitive food due to price increases are not included because they would not affect the amount of funds available to use for NSLP meals. The exact figure at an individual district would depend on a number of factors including total revenues and number of NSLP meals served as well as state and local funds, changes in labor rates, and other factors.

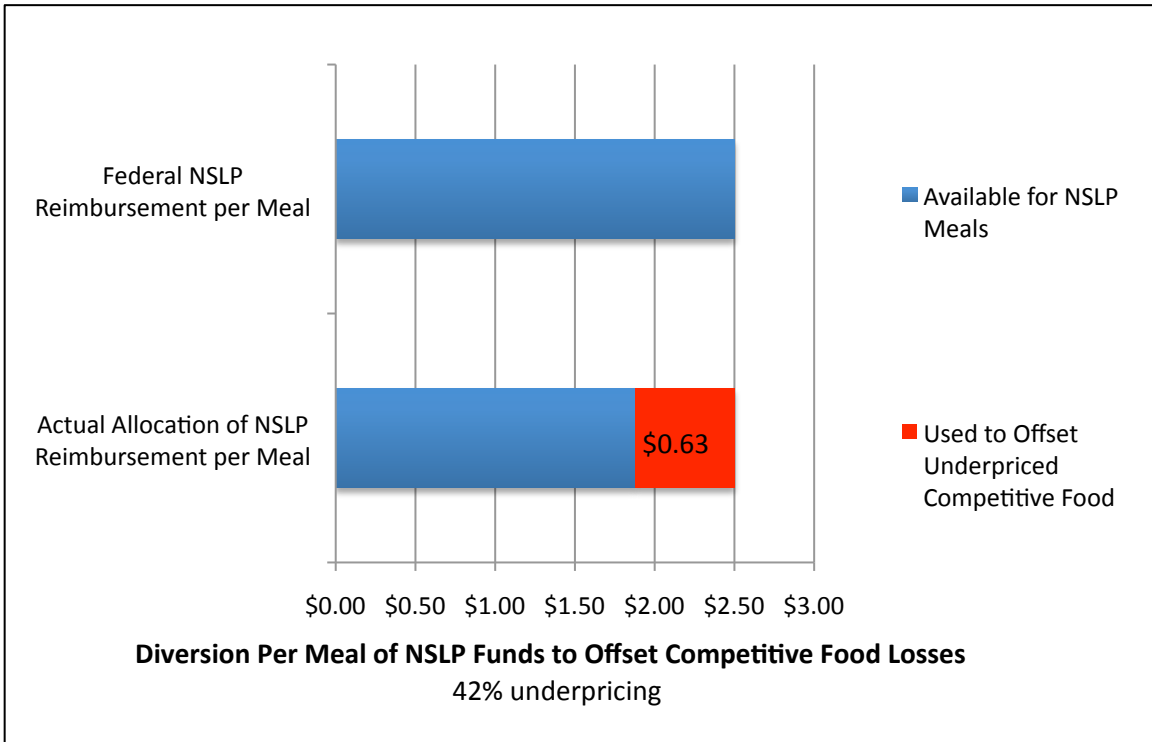
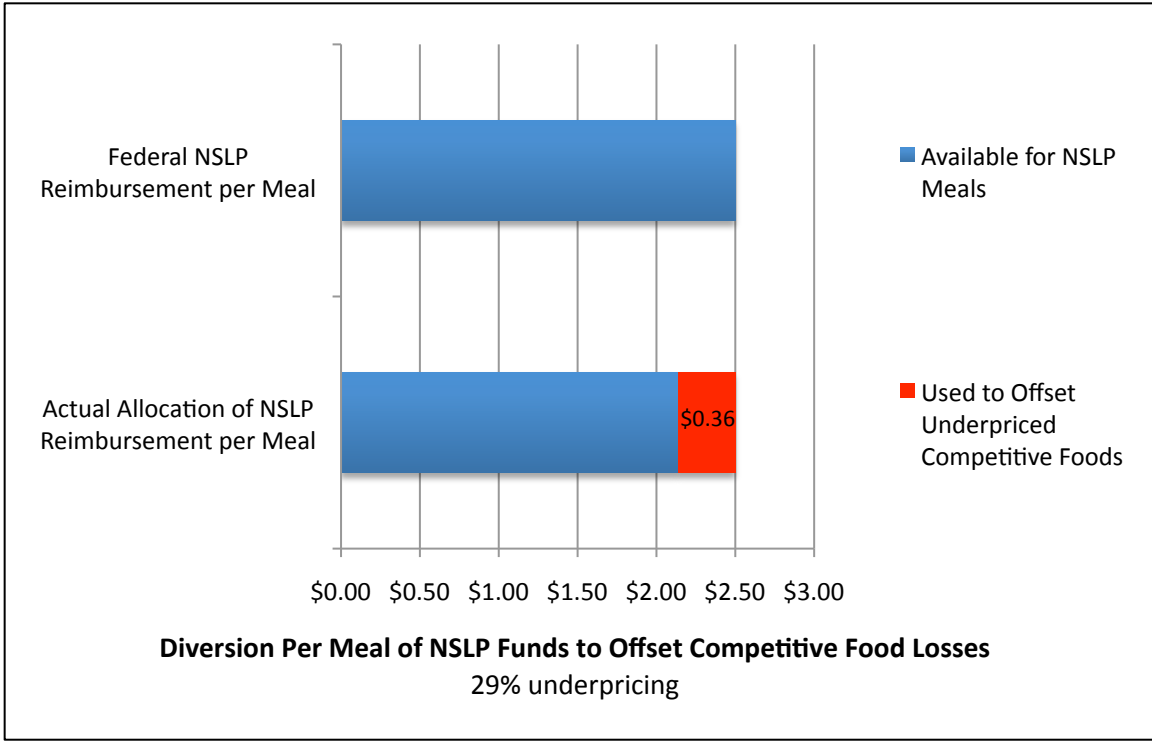
⁶⁷ Meal Cost Study, Summary of Findings. (The weighted number of \$2.79 is used for clarity instead of the unweighted \$2.91.)

⁶⁸ This calculation does not account for decreases in participation by students paying full price when their cost is raised from \$1.60 to \$2.00, which would actually increase the amount of federal reimbursement spent per NSLP meal.

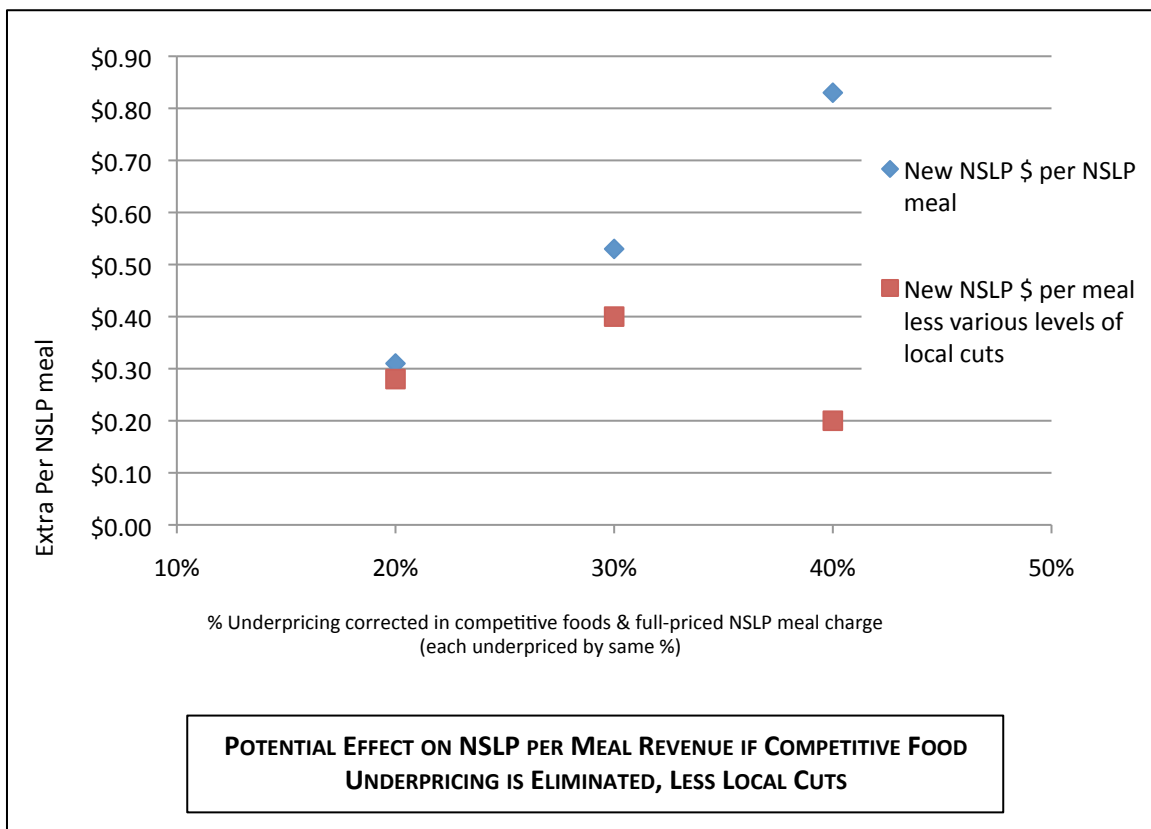
food quality and variety. Even if offset by local funding cuts, this would be enough money in most districts to add an extra piece of fruit per meal, offer a salad bar, and upgrade all breads to whole grain. Some may even be able to start looking at purchasing local foods of higher quality and more variety and preparing them at the school site.

The following charts offer an example of the amount of NSLP cash reimbursement diverted from a free NSLP meal to offset competitive food underpricing (does not include paid meal underpricing). The difference in the two charts is the amount of underpricing. In the first chart, underpricing is smaller, based on the mean 29%. In the second chart, underpricing is shown at the median 42%.⁷² Note that if the reimbursement rate were restored to full value, the recaptured revenue would be spread among all NSLP meals served, not just FRP meals. This explains why the chart below shows a \$0.63 siphoning but our model shows only a \$0.38 increase in NSLP meals across the board if the siphoning ended.

⁷² The “federal subsidies” revenue category includes both cash reimbursements and the value of commodities, with commodities accounting for 10% of the total. Most districts receive commodity subsidies as food, not cash, so the value of commodities cannot be used to off-set cash shortages. Because of this, the reimbursement rate in the charts reflects a 10% larger off-set for losses than it would have had commodities been included.



- Financial Gains for NSLP Meals Would Vary Widely.** There would be wide variation in savings by district created by accurate pricing. And, some districts that already have appropriate pricing would see no net increase at all. They may not sell competitive food or may operate a fiscally balanced program. Also, it is quite possible that districts that normally make up for deficits in the foodservice department with general school district funds will choose to decrease or eliminate that support if the deficits decline. To illustrate this, three variations of the same school used for the example are offered, as summarized in the chart below. All other factors are held constant, including participation. More examples are provided in the chart in Appendix 1.⁷⁴



⁷⁴ Note that this is based on changes in dollars per meal based on underpricing percentages, not flat percentage increases, explaining why the plot is not linear.

- **NSLP Price Elasticity Analysis**

Proposal. As discussed earlier, setting an optimal charge for full-price meals is difficult without school data on price elasticity. Districts simply do not have the capacity or data to develop this type of information. It is likely, however, that the USDA already has the information needed to develop relevant price elasticities for districts. Just as is done in price setting by major food companies, the USDA could establish district cohorts, groupings of districts that have similar profiles, including critical information like student

demographics and area cost of living as well as other important factors such as open-campus policy. By looking at the different prices charged and participation rates for full-price meals within a cohort, the USDA can develop a price elasticity that may be used as a guide by districts. From this, an upper and lower pricing limit could be established for districts that find their particular circumstances require pricing above or below the average.

It is likely that the price elasticities will not be constant but reveal price cliffs (a price point after which the participation loss is higher for the same marginal price increase), which may make it all the easier for the USDA to set pricing parameters. For example, the data may reveal that for a certain type of district, the marginal loss in participation for marginal increase in price is low until the price goes above \$2.00, after which the loss in participation increases significantly compared to the gain in revenue.

USDA can develop price elasticity information to assist districts in setting NSLP prices accurately.

Legal Analysis

USDA has a long history of discouraging competitive food sales due to their lower nutrition content, financial drain on the reimbursable meal program, and the possibility that the sales may lead students without cash to forego reimbursable meals for fear of being labeled as poor by their peers.^{75 76} Its unwritten enforcement position, however, is that the Agency,

⁷⁵ *Foods Sold in Competition with USDA School Meals*, USDA FNS Report to Congress and the accompanying cover letter to Senator Tom Harkin, January 2001.

⁷⁶ USDA staff report that though they are concerned that competitive food programs may contribute to stigma and overt identification and believe the best practice is to eliminate competitive food altogether, they do not believe USDA has the authority to regulate overt identification that may occur because of competitive programs. See the overt identification section in this document and Public Advocates's analysis.

1. Lacks the statutory authority to stop districts from using federal reimbursements to balance the losses in their competitive food programs, and
2. Cannot require districts to keep separate accounts for competitive and reimbursable meals, making it very difficult to determine if reimbursable funds are being used to support competitive food programs.⁷⁷

Further, though underpricing paid reimbursable meals may be legal, the USDA does not offer guidance or parameters to districts on how to set paid reimbursable meal prices to maximize meal quality and participation, leaving the decision to the guesswork of the district.

CBN’s full legal analysis of these issues, titled *Stolen Lunch Money*, is published with this report and available on our web site at www.campaignforbetternutrition.org. A summary and excerpts from that brief are provided below.

- **NSLA strictly defines “school lunch program.”** The purpose of the NSLA is “to safeguard the health and well-being of the Nation’s children and to encourage the domestic consumption of nutritious agricultural commodities and other food”⁷⁸ through the operation of school lunch programs that meet the specific criteria set forth in the statute. Among other things, the criteria in the statute require that under the “school lunch program,”
 1. Low-income students are entitled to receive meals for free or at a reduced price,⁷⁹ and
 2. Meals must meet the nutrition standards in the Dietary Guidelines for Americans.⁸⁰
- **NSLA defines competitive foods in contrast to NSLP foods.** Competitive foods are not offered for free or reduced price nor do they meet

⁷⁷ Information provided on background by USDA staff.

⁷⁸ 42 USC 1751

⁷⁹ 42 USC 1758 (b)(1)(A) (“... the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches”)

42 USC 1758 (b)(9)(A) (“Any child (who is determined to meet the) income eligibility guidelines for free lunches . . . shall be served a free lunch.”)

42 USC 1758 (b)(9)(B) (“Any child who is (determined to meet the) income eligibility guidelines for reduced-price lunches . . . shall be served a reduced price lunch.”)

⁸⁰ 42 USC 1753 Sec. 4 (b)(A-B) (“The Secretary shall make food assistance payments to each State” based on the number of lunches “which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a).”)

42 USC 1758 (f)(1) (“... (S)chools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—(A) are consistent with the goals of the most recent DGA”)

42 USC 1758 (a)(1)(A) (“Lunches served by schools participating in the school lunch program under the Act shall meet minimum nutritional requirements as prescribed by the Secretary on the basis of tested nutritional research”)

the other criteria set forth in the statute,⁸¹ and, so are not entitled to any funding for school lunch programs appropriated under the Act. In addition, the program regulations define competitive foods as any foods “sold *in competition with* the [reimbursable lunch] Program to children in food service areas during the lunch periods.”⁸² (emphasis added) Simply put, competitive foods are defined as not being part of the NSLP.

- **NSLA requires NSLP funds be used only for NSLP meals.** Further, the Act states in numerous places that appropriated funds may be used only for school lunch programs, and free and reduced-price funds only for low-income children.⁸³ So, funds appropriated for low-income or any NSLP meals cannot be used to make up for losses in competitive food sales.

The Act requires districts keep “accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with.”⁸⁴ It also states that districts may comingle their breakfast and lunch accounts⁸⁵ but it does not make that allowance for competitive foods.

- **NSLA gives USDA broad authority to protect the integrity of NSLP funds.** Congress gave the USDA broad authority to require that records be kept to prove that funds are being spent appropriately. It is not clear why the USDA interprets this as not allowing the Agency to require separate accounting for NSLP and competitive food programs nor why the Agency is allowing reimbursement funds to be used to cover competitive food losses.

If districts do not keep separate accounts for competitive food and reimbursable meals, it is very difficult for them to show the USDA, or even to determine for themselves, if they have priced their competitive foods so that they do not drain the reimbursable meal program. In fact, some USDA staff believe that the Meal Cost Study data showing most districts are underpricing competitive food mostly reveals that by-and-large food service directors simply do not know how to price their competitive food accurately. This is likely happening because district foodservice departments,

- (1) Do not keep the reimbursable and competitive food accounts separate, and
- (2) Do not follow generally accepted accounting procedures and do not include all labor, indirect and other associated costs when estimating competitive food costs.

⁸¹ Kavanagh, C., *Stolen Lunch Money*, Campaign for Better Nutrition, October 2009: p. 5-6.

⁸² 7 CFR Sec. 210.11(1)

⁸³ Including 42 USC 1752, 1756 Sec. 7(a)(1), 1757 (d), 1759(b)

⁸⁴ 42 USC 1760(a)

⁸⁵ 42 USC 1760(h) (“No provision of this Act . . . shall require any school . . . to account separately for the cost incurred in the school lunch and school breakfast programs.”)

- **NSLA does not prohibit underpricing of paid meals.** The statute reflects an expectation that reimbursements for free, reduced, and paid meals will be used specifically for the meals they are intended to subsidize. It also requires that funds appropriated for the NSLP be used only for the school lunch program.⁸⁶ With certain restrictions, however, the Act does allow districts to use unexpended reimbursements to benefit the general school lunch program,⁸⁷ (though they may not be used for competitive foods provided outside the NSLP). The statute also does not prevent districts from using their own general funds to support lower costs for paid NSLP meals.

Accounting Recommendations

To help districts come into compliance with the statute, the USDA should train and require district food service programs to use accepted standard accounting to estimate full costs and to ensure that reimbursement funds are used only for NSLP meals. The USDA should also provide districts with guidelines based on district cohort price elasticity to help them price paid reimbursable meals at a level that encourages participation without unnecessarily decreasing food quality for all students.

⁸⁶ 42 USC 1752 (Funds in the NSLA and Child Nutrition Act “shall remain available for the purposes of the Act for which appropriated until expended.”)

⁸⁷ CFR 210.14 (b) *See also* 42 USC 1757 (d) (“[I]n addition to the purchase price of agricultural commodities and other foods” for the school lunch program, funds may be used for “the cost of processing, distributing, transporting, storing, or handling thereof.”)

Section 5: Conclusion and Recommendations

CBN strives to improve the nutrition that low-income children receive in school meal programs, which means improving reimbursable meals for all students. The first step in doing this is to ensure that the funds appropriated to serve healthy reimbursable meals are being used judiciously and that the program is serving low-income students as Congress intended. As underscored by the research conducted for and presented in this report, all too often, this is not happening.

For most food service directors, their primary focus is food safety. Students falling ill from eating tainted school meals is their worst nightmare. After food safety and under the same guiding concept of “first, do no harm,” the second focus for directors and for the USDA and state education agencies should be to ensure that no low-income children suffer based on their eligibility for FRP meals either nutritionally (from skipping meals) or socially (from being stigmatized and discriminated against for being poor). If either is happening—children going hungry at lunch or feeling stigmatized by participating in the FRP lunch—the school lunch program is negatively impacting their health and ability to learn.

Currently, there is significant pressure on Congress to provide more funding to allow districts to improve school meal quality. New funding is critical to improving the quality and nutrition in federal school meals so that schools can provide more fresh fruits and vegetables, fewer processed foods, and more whole grains. Poor quality meals are the barrier students most frequently cite to NSLP participation.⁸⁹ The changes recommended in this report should not be considered a substitute for providing new funding for the NSLP. It is folly, however, to try to improve the quality of reimbursable meals if existing federal funding for them is not being used as Congress intended and if some low-income students are being shamed into not participating.

The USDA, charged with administering the NSLP and protecting the rights of low-income

It is folly, however, to try to improve the quality of reimbursable meals if existing federal funding for them is not being used as Congress intended and if some low-income students are being shamed into not participating.

⁸⁹ Daniels, D. Y., “Examining Attendance, Academic Performance, and Behavior in Obese Adolescents,” *The Journal of School Nursing*, 2008: p. 40.

See also SNDA III, Vol. 2: p. xxiv (students sometimes or never like the appearance, taste or smell of school food) and p. 28 (most frequent reason for not eating NSLP lunch was not liking the meal offered that day or not liking school meals in general)

students to privacy and benefits, needs to review and update its regulations in the context of today's schools, where competitive food sales and POS systems are nearly ubiquitous and budgeting and pricing are complex.

CBN recommends that the USDA immediate move to enforce and enable the following:

1. **Differentiating payment systems in the cafeteria should be prohibited.** This will resolve the overt identification problem that can occur when most full-priced students pay for NSLP meals in cash. Eliminating cash payments will also improve the finances of school meal programs by decreasing cash shortages and eliminating bank fees.
2. **Separate service areas should be prohibited.** Separate service areas for à la carte and reimbursable food should be presumptively prohibited because they exacerbate overt identification and are not necessary for NSLP operation.
3. **Accounting procedures for all school food service should be standardized and the diversion of funds appropriated for NSLP meals should be prohibited.** Districts should be required to use standardized accounting procedures and ensure revenues are adequate to cover full costs of all non-NSLP sales, including labor, administration, overhead, and other applicable costs. Government funds intended for reimbursable meals and their associated costs should be used only for that purpose.
4. **Guidance is needed to assist districts in setting optimal full-price reimbursable meals prices.** Using available data, the USDA should develop district cohort price elasticities and, provide districts with practical, effective guidance and parameters on pricing full-price reimbursable meals so that schools can maximize participation, revenues, and food quality.
5. **Congress should use the 2010 reauthorization of the NSLA and Child Nutrition Act to reaffirm its intent that these laws be followed and require new enforcement regulations and guidelines be in place within 12 months.** Given the strength and clarity of the NSLA regarding overt identification and use of federal reimbursement funds, amending the statute would merely restate the sections that are being violated. USDA policymakers need to recognize the legal imperative and authority it has to enforce the applicable sections of the statute. Congress should use the 2010 reauthorization of the NSLA and Child Nutrition Act to reaffirm its intent that these laws be followed. This should be done through conversation with the USDA and colloquies between members of Congress during hearings on the bill, as well as in the drafting of the report language accompanying the final bill. In doing this, Congress's exposition will become part of the legislative

history, and the USDA can request any clarifying language for the law that it deems necessary. Further, Congress should require that the USDA issue new regulations that prevent overt identification and accounting malfeasance within 12 months and require a report from the Agency on its progress at the end of that time frame to ensure that the spirit and letter of the law are carried out.

6. **Congress should fund a USDA task force to resolve these issues within five years, as an integral part of the Obama Administration's efforts to end childhood hunger by 2015 and Michelle Obama's initiative to end childhood obesity in the same time frame.** USDA regulators are fully occupied with their current responsibilities. To help bring schools into compliance as soon as possible, the Agency needs to establish a special task force to review districts separately from their CREs and provide proactive, personal assistance to them. If the USDA waits until its regular five-year review (CRE) of each district to check on compliance with any new regulations or guidelines on overt identification and funding diversion, in some districts the harm to low-income students easily could extend for another decade or more. The accounting changes—standardizing accounting methods and accurately pricing competitive and paid meals—should take less time than correcting different payment systems and reconfiguring lines, which can involve physical cafeteria changes and training for cafeteria workers, parents, and students.
7. **Congress should provide grant funding to districts to facilitate corrective action.** Though some districts and schools will be able to make the changes easily, others may require reworking physical environments and significant training programs for staff and parents, which could take several years to plan and implement. Some districts will need additional funds to make these changes. Congress should make grants available through the USDA to districts for this purpose.
8. **At the local level, school districts should protect and reclaim benefits.** School districts should move to secure benefits for low-income students as quickly as possible and not wait for USDA to direct them but seize on the moral and legal imperative to fix these problems.

Providing healthier meals that children will eat is critical to national efforts to improve education, control health care costs, and end childhood hunger. With appropriate management and funding, the NSLP could be a very powerful tool for legislators and the Obama Administration to improve health and education outcomes and meet the goal to end childhood hunger by 2015. The best way to do this and resolve the issues raised in this report is to have school meals be free to all students, just like books and desks. Absent that, the program can still be improved dramatically from where it is today.

As food and labor costs have increased over time, many school meal programs are in desperate need of more funding to improve meal quality. Congress is right to consider providing additional funds for school meals in the 2010 reauthorization of the NSLA. Additional funds that may become available for NSLP meals as a result of the changes recommended in this report will be very inconsistent from one district to another and may be decreased significantly by associated local funding cuts. Concomitant with new funding, however, is a moral and financial imperative to improve fiscal accountability of reimbursable meals funds and to update the statutory and regulatory requirements to decrease overt identification and segregation that have developed as the program evolved over the last several decades.

Appendix 1:

More scenarios for total funds made available per NSLP when underpricing of competitive food is eliminated and paid NSLP meals are priced optimally (no longer underpriced), less local funding cuts.

	Example School	Variation A	Variation B	Variation C
% a la carte underpriced	39%	10%	40%	47%
Yield to each NSLP meal	\$0.33	\$0.06	\$0.34	\$0.46
% full-price NSLP meals are below optimal price	20%	10%	40%	20%
Yield to each NSLP meal	\$0.18	\$0.08	\$0.48	\$0.18
Associated local funding cut	\$0.51	\$0.00	\$0.10	\$0.10
Total New Funds per NSLP Meal	\$0.00	\$0.14	\$0.72	\$0.56

Assumptions are as follows:

Annual Total Revenue	\$14,910,000
Annual Total Meals Served	5,402,974
Free/Reduced/Full price eligibility	48%/9%/43%
Full-Price NSLP Charge	\$1.60
Reduced-Price Charge	\$0.40

All scenarios are variations of the same model district described in the report and adjusted for illiquidity of commodities. The only variation is in the scenarios in the chart are the percentage competitive foods and full-price meals are underpriced and the local funding cut. All other factors are held constant. These examples are shown to demonstrate the wide variation in fiscal effect that will occur at the local level when underpricing is fixed.

Appendix 2: Formulas

A. Formula for determining per meal increase in funding when competitive food or paid meal under-pricing is corrected.

$$[((A/(1-B))-A)*C/D]/E=N$$

- A % of total revenues attributed to competitive foods or student payments for full-price meals
- B % competitive foods or full-price meals are underpriced⁹²
- C total revenues in dollars
- D total NSLP meals served in budget year
- E % of the federal NSLP subsidy given in cash, not including the value of commodity foods, which is typically not translatable into cash
- N extra cents available per NSLP

A.1. Model using averages from the USDA's Meal Cost Study and necessary assumptions

$$[((.169/(1-.42))-16.9%)*14,910,000/5,402,974]/.9 = \$0.375$$

<u>Variable</u>	<u>Source</u>
A = 15.8%/.933%=16.9% ⁹³	Meal Cost Study
B = 29%	Meal Cost Study
C = \$14,910,000	assumption
D = 5,402,974	assumption
E = .9	Meal Cost Study

⁹² The Meal Cost Study (*School Lunch and Breakfast Cost Study-II*, April 2008: Chapter 6, p. 1) combined competitive food sales, adult meals and other non-reimbursable food sales in this category. Because adult meals and other non-reimbursable sales are typically incidental compared to competitive food revenues, this budget category is used as a proxy for competitive food revenue.

⁹³ This equation adjusts the 15.8% to eliminate local funding from the USDA numbers. This is done to more accurately reflect the typical school because the median local funding amount in the Meal Cost Study is zero, meaning most districts do not receive local funds.

B. Formula used to estimate percentage of federal NSLP funds the average district uses to offset losses in competitive food sales.

$$\left(\left(\frac{A}{1-B}\right)-A\right) / (F/E)$$

- A % of total revenues attributed to competitive foods or student payments for full-price meals
- B % competitive foods or full-price meals are underpriced⁹⁴
- E % of the federal NSLP subsidy given in cash, not including the value of commodity foods, which is typically not translatable into cash
- F % revenues from federal subsidies

B.1. Calculation using USDA's Meal Cost Study revenue data.

$$\left(\left(\frac{.169}{1-.42}\right)-.169\right) / (.54/.9) = 25\%$$

<u>Variable</u>	<u>Source</u>
A = 15.8%/.933%=16.9% ⁹⁵	Meal Cost Study
B = 42%	Meal Cost Study
E = .9	Meal Cost Study
F = .506/.933=54%*	Meal Cost Study

⁹⁴ The Meal Cost Study (*School Lunch and Breakfast Cost Study-II*, April 2008: Chapter 6, p. 1) combined competitive food sales, adult meals and other non-reimbursable food sales in this category. Because adult meals and other non-reimbursable sales are typically incidental compared to competitive food revenues, this budget category is used as a proxy for competitive food revenue.

⁹⁵ This equation adjusts the 15.8% to eliminate local funding from the USDA numbers. This is done to more accurately reflect the typical school because the median local funding amount in the Meal Cost Study is zero, meaning most districts do not receive local funds.

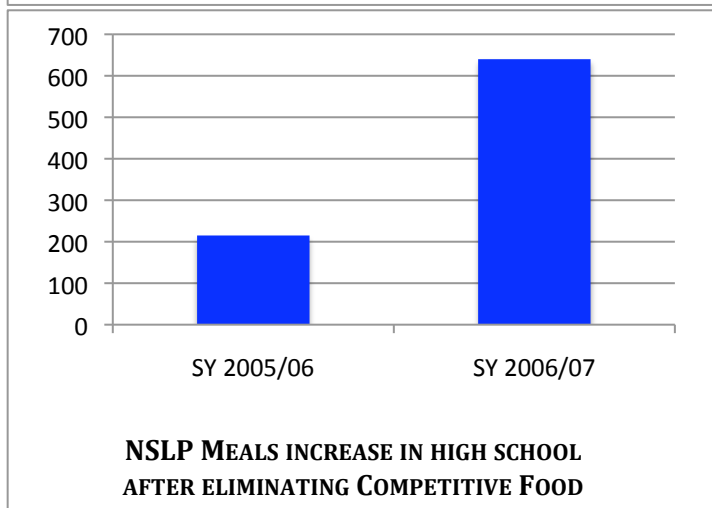
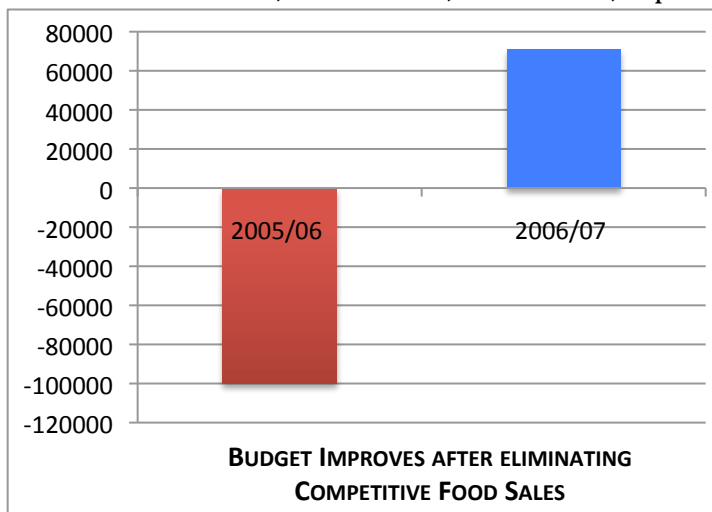
Appendix 3: PROFILES IN SUCCESSFUL ELIMINATION OF COMPETITIVE FOODS

Newark Unified School District: Alameda County, CA

“I recommend elimination of á la carte for anyone who wants to see their program grow – both in participation and revenue”.

-Dominic Machi, director of nutrition services

- Schools: 1 pre-school, 8 elementary, 1 junior high, 1 high, 2 alternative
- 7,104 enrollment
- 44% FRP eligible
- district-wide Point of Sale system, Nutri Kids vendor, all meals are pre-paid
- closed campus
- Eliminated competitive food sales between school years 2005/06 and 2006/07
- New NSLP food offered: grilled vegetarian patty; chicken, beef, or vegetarian burritos made on site; turkey wrap; teriyaki broccoli rice bowls; and tomato, mozzarella, & pesto Panini



At first, the students gave us a lot of flack, but once they got used to seeing some of the previously sold á la carte items incorporated into the claimable meal, they went for it. . . . It’s important to give the kids items that they like. We did just that, but made them much healthier.

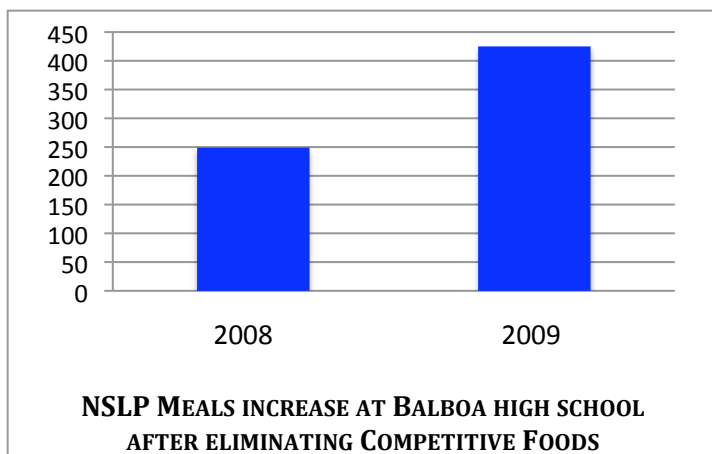
-Dominic Machi, Director of Nutrition Services

San Francisco Unified School District, California

Eliminating the á la carte menu has allowed us to focus on providing more variety and choices for all students regardless of their ability to pay. The phenomenal increase in participation has been proof that eliminating competitive foods encourages more students to eat balanced meals. These changes have introduced a more welcome and inclusive environment for all students. –Ed Wilkins, Director of Nutrition Services

- Pilot project to eliminate competitive foods at Balboa High School
- 1,296 enrollment
- 60% FRP eligible
- school Point of Sale system, Horizon vendor
- closed campus
- Competitive foods eliminated in 2009; cookies and bottled water are sold in addition to NSLP meals.
- 249 NSLP meals served daily in Nov. 2008 increased to 425 by Nov. 2009

Description: SFUSD has 55,500 students and 102 K-12 schools. All middle and high schools sell competitive foods. The district partnered with the SF Department of Public Health to eliminate inequities in the food service program. A pilot project has been established at Balboa High School. The pilot goal is to create a food service model that allows all food choices to be available to all students, no matter their eligibility status. The new format uses a food court concept with themed menus and speed line service. A mural designed by a student focus group was painted the wall in a service area called the “Coyote Grill.” The door to the Grill was changed to allow faster lines.



Segregation and stigma take their toll on the health of children. Not only can children go hungry or miss out on a nutritious lunch but being identified as second class citizens is a message that will stick with them throughout the school day. This is why we felt it was so important for us to work with the District to eliminate the two-tiered lunch services.

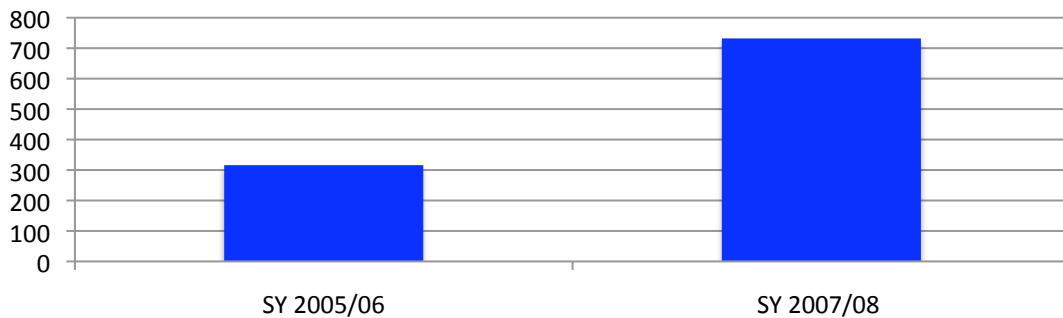
–Rajiv Bhatia, Director
Occupational &
Environmental Health, SF
Dept. of Public Health

Healdsburg Unified School District: Sonoma County, CA

“Eliminating the á la carte shows the students [how to] eat a balanced lunch.”

—Sally Nobles, director of nutrition services

- Schools: 2 elementary, 1 junior high, 1 high, 1 continuation
- 2,240 enrollment, high migrant worker population
- 53% FRP eligible
- district-wide Point of Sale system, Schoolhouse vendor, all meals are pre-paid
- closed campus except grades 11 and 12
- Eliminated competitive foods in school year 2006/07
- New NSLP feature: lunch offered at 5 individual stations and is on a rotation menu, with individual daily hot specials such as Italian Day, Asian Day, Mexican Day, Sunday Dinner, and Nacho Bar



NSLP MEALS INCREASE IN HIGH SCHOOL AFTER ELIMINATING COMPETITIVE FOOD

The students were angry when we eliminated the à la carte, but got used to it and were very surprised that they could get so much food for the same value.

—Sally Nobles, Director of Nutrition Services