



March 30, 2018

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Office of the Assistant Secretary for Health
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Re: Topics and comments to be examined in the review of the scientific evidence supporting the development of the 2020-2025 Dietary Guidelines for Americans; Docket No. FNS-2018-0005-0001

Dear Dr. Wright, Mr. Lipps, and Ms. Koegel:

The [Public Health Law Center](http://www.publichealthlawcenter.org)¹ appreciates this opportunity to provide comments in response to the proposed topics for the 2020–2025 Dietary Guidelines for Americans. The Public Health Law Center is nonprofit affiliate of the [Mitchell Hamline School of Law](https://mitchellhamline.edu/),² and a leading center of expertise in the use of law to prevent chronic disease. The Center’s team of lawyers, policy analysts, law students and graduate research assistants helps health leaders nationwide create communities where everyone can be healthy, with a focus on promoting healthy eating, encouraging physical activity, reducing the use of commercial tobacco products, supporting health equity, and addressing cross-cutting legal issues that affect the nation’s health.

As a legal technical assistance organization that provides education about public health law and policy at all levels of government, the Public Health Law Center recognizes the critical role of community voices in public health policy development. Thus, we value this effort by the U.S.

¹ www.publichealthlawcenter.org

² <https://mitchellhamline.edu/>

Departments of Agriculture and Health and Human Services (“the Agencies”) to strengthen the process for developing the Guidelines in response to the reports issued by the National Academy of Medicine, and the expansion of the Guidelines to offer recommendations for pregnant women and infants and toddlers up to 24 months of age in response to the Agriculture Act of 2014. However, the Public Health Law Center is concerned that the call for public comment indicates that the topics and questions to be considered by the Dietary Guidelines Advisory Committee (DGAC) may be prematurely restricted to the list of topics identified by the Agencies in the notice. We strongly urge the Agencies to allow the DGAC’s field of inquiry and review to address *all* the topics the DGAC experts may determine are important, relevant and necessary to develop evidence-based, health-supporting, comprehensive 2020 Dietary Guidelines, including the topics addressed by previous Dietary Guidelines. If key topics are omitted at this stage of the process, it is unclear how they would be addressed in the 2020 Guidelines, potentially leaving significant gaps in evidence-based federal guidance for food and nutrition, and denying the public the full benefits of the combined expertise of the DGAC.

For thirty-five years, the Dietary Guidelines for Americans (DGA or “Guidelines”) have provided important advice intended to guide consumers’ eating habits, and to support good nutrition and health. This advice has never been more critical. Two out of three American adults³ and one out of three children⁴ struggle with unhealthy weight. Nearly half of adults have diabetes or prediabetes,⁵ and about half of adults have high blood pressure,⁶ a major risk factor for heart disease and stroke. Thirteen cancers, including breast, colorectal, esophageal, and uterine, also are linked to overweight and obesity.⁷

Moreover, the impact of these Guidelines goes far beyond advice to individual consumers. These Guidelines are embedded in the healthy eating policy landscape, from the local to the national level. They are used as the basis for standards for federal programs such as the National School Lunch and School Breakfast Programs, the Child and Adult Care Food Program, and senior meals through the Older Americans Act. They also are incorporated into hundreds of state and local laws, regulations, and administrative policies in jurisdictions across the country, and are relied upon by private sector organizations to implement organizational policies to support worker health and wellness. In these ways, the Guidelines serve as the basis for minimum

³ C.D. Fryar et al., *Prevalence of Overweight, Obesity, and Extreme Obesity Among Adults Aged 20 and Over*, NAT’L CTR FOR HEALTH STATISTICS (July 2016),

https://www.cdc.gov/nchs/data/hestat/obesity_adult_13_14/obesity_adult_13_14.htm.

⁴ C.D. Fryar et al., *Prevalence of Overweight and Obesity Among Children and Adolescents Aged 2–19: United States, 1963–1965 through 2013–2014*, NAT’L CTR FOR HEALTH STATISTICS (July 2016),

https://www.cdc.gov/nchs/data/hestat/obesity_child_13_14/obesity_child_13_14.htm.

⁵ CTRS FOR DISEASE CONTROL AND PREVENTION, A SNAPSHOT: DIABETES IN THE UNITED STATES (November 2017), <https://www.cdc.gov/diabetes/library/socialMedia/infographics.html>.

⁶ P.K. Whelton et al., *2017 ACC/AHA/AAPA/ABC/ACPM/AGS/APhA/ASH/ASPC/NMA/PCNA Guideline for the Prevention, Detection, Evaluation, and Management of High Blood Pressure in Adults: A Report of the American College of Cardiology/American Heart Association Task Force on Clinical Practice Guidelines*, *J Am Coll Cardiol* (Nov. 7, 2017), doi: 10.1016/j.jacc.2017.11.006.

⁷ CTRS FOR DISEASE CONTROL AND PREVENTION, *Cancers Associated with Overweight and Obesity Make Up 40 Percent of Cancers Diagnosed in the United States* (October 2017), <https://www.cdc.gov/media/releases/2017/p1003-vs-cancer-obesity.html>.

nutrition standards for a wide array of policies, activities and programs, impacting all age ranges from birth to senior citizens.

This broad spectrum of uses makes it essential that the Guidelines provide clear, quantitative recommendations for a healthy diet. Vague advice to eat less saturated fat or added sugar is far less useful and more difficult to implement from a policy perspective than a recommendation to get less than 10 percent of calories from saturated fat or added sugars. Precise, quantitative recommendations are both more actionable for consumers and more useful in supporting feasible implementation of standards by institutions and agencies. We urge the Departments to keep these important applications of the Guidelines in mind as they proceed.

We also have specific concerns about the importance, potential federal impact, and duplication criteria that USDA and HHS propose to use to identify topics and their implications for the continuity of the Guidelines. For example, the phrasing of the criterion of “importance” suggests that to be included, a topic must have “new, relevant data” to warrant a new review of the evidence. Although the National Academy of Medicine’s report suggested that some topics may not warrant a detailed review every five years, it did *not* recommend that such topics be omitted from the Guidelines.

Thus, we specifically urge USDA and HHS to amend its proposed topics as follows:

- Review the evidence on sodium, alcohol, and cholesterol—topics that have been addressed by all previous DGAs. If the DGAC is unable to examine the evidence for these topics, it should incorporate advice from other expert panels or the 2015 Dietary Guidelines for Americans.
- Include consideration of added sugars for all age groups/life stages, including birth to 24 months, pregnant/lactating women, and older adults.
- Ask the DGAC to continue to issue quantitative recommendations for sodium, whole grains, vegetables, fruits, saturated fat, and added sugars to provide actionable advice to the public and to ensure that those recommendations can be translated into standards for nutrition-related policies and programs.

In addition, we also are concerned that the focus of the “potential federal impact” criteria is too narrow. It omits consideration of the potential impact on many state, municipal, and private sector organization policies and programs that incorporate the DGA. As we note above, the DGA serve as the basis for minimum nutrition standards in hundreds of state and local laws, regulations, and administrative policies in jurisdictions across the country, and are relied upon by private sector organizations to implement organizational policies to support worker health and wellness.

We have a related concern pertaining to the “duplication” criterion. Even if a topic is also addressed through existing evidence-based federal guidance outside of the Guidelines, we believe it should continue to be included in the 2020 DGA if it can help guide consumers, state and municipal governments, and private sector policies towards healthier diets. It is more practical and useful to consumers, agencies and organizations to have key nutrition recommendations in one place. Further, this continuity is important for the many state and

municipal jurisdictions that have laws, policies and programs that reference the DGA. If the 2020 Guidelines are newly narrowed in a patchwork approach to omit relevant standards simply because they are mentioned in another set of federal guidance, these laws and policies would have to be amended to include references to those other sources of federal guidance, which would be burdensome and inefficient for many state and local policymakers.

In summary, we appreciate the lifespan approach and the addition of guidance for pregnant women, infants, children and adolescents, adults, and older adults. We also support opportunities to make the DGA process more transparent. We strongly encourage the Agencies to consider adding to and amending several of the proposed topics to better serve Americans with more complete and implementable nutrition advice.

Respectfully submitted,

The Public Health Law Center
www.publichealthlawcenter.org