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HARVARD LAW SCHOOL FOOD LAW AND POLICY CLINIC RESPONSE TO THE WHITE HOUSE CONFERENCE ON HUNGER, NUTRITION, AND HEALTH

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About the Harvard Law School Food Law and Policy Clinic

FLPC serves partner organizations and communities in the United States and around the world by providing guidance on cutting-edge food system issues, while engaging law students in the practice of food law and policy. FLPC is committed to advancing a cross-sector, multi-disciplinary and inclusive approach to its work, building partnerships with academic institutions, government agencies, nonprofit organizations, private sector actors, and civil society with expertise in public health, the environment, and the economy. FLPC's work focuses on increasing access to healthy foods, supporting sustainable and equitable food production, reducing waste of healthy, wholesome food, and promoting community-led food system change. For more information, visit www.chlpi.org/FLPC.

In late September, food and nutrition professionals from across the country convened in Washington, D.C. for the White House Conference on Hunger, Nutrition, and Health. In the tradition of President Nixon's 1969 Conference on Food, Nutrition, and Health, this conference covered an ambitious agenda of topics, ranging from food access to physical activity. Ahead of the in-person convening, the Biden-Harris Administration released a National Strategy on Food, Nutrition, and Health, dividing the space into five core pillars and outlining their goals for each. The day's agenda was structured similarly to the Strategy, with panel discussions related to each of the five pillars, bookended by opening remarks from United States Department of Agriculture (USDA) Secretary Tom Vilsack and President Biden, along with closing remarks from Second Gentleman Doug Emhoff and Ambassador Susan Rice.¹ The schedule also featured remarks by Secretary of Health and Human Services Xavier Becerra along with a stirring keynote by Chef Jose Andres, who serves as co-chair of the President's Council on Sports, Fitness, and Nutrition.² We applaud the Administration's commitment to discussing hunger and nutrition in the public forum – elevating this key societal issue – and taking a “whole-of-government and whole-of-America approach” to the issues facing our food system.³

Within each pillar, the National Strategy includes administrative actions that the Biden-Harris Administration has committed to completing on its own along with actions where the Administration has pledged to work with Congress to affect necessary statutory changes. In addition to these Federal commitments, each pillar includes a “Call to Action for a Whole-of-Society Response” where the Administration has identified key actions that States, local, and territorial governments can take, as well as proposed actions for the private and philanthropic sectors. Alongside the National Strategy, the Administration also announced significant investments from the private sector to improve food, nutrition, and health. As of the day of the conference, total public and private sector commitments totaled more than \$8 billion.⁴

The Food Law and Policy Clinic looks forward to observing and participating in the implementation of the policies outlined at this historic gathering. Of the five pillars identified by the Administration, four in particular—Pillars One, Two, Three and Five—align closely with FLPC’s areas of advocacy and expertise. We respond to each of these pillars in turn, offering a recap of the National Strategy and highlighting areas in which further governmental intervention might be helpful to reduce food waste, hunger, and diet-related disease.



PILLAR ONE: IMPROVE FOOD ACCESS AND AFFORDABILITY

Touching on topics from school lunch to the Supplemental Nutrition Assistance Program (SNAP), this pillar focuses on ways to address America’s hunger epidemic through public sector reform and private sector partnerships. The commitments in this section regarding Federal assistance programs and interagency coordination are promising; we appreciate the Administration’s commitment to devising innovative solutions for underserved communities.

Under the subheading focused on **food insecurity and Federal assistance programs**, the Administration outlines ways in which it plans to increase access to SNAP, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Medicaid, with a particular emphasis on cross-enrollment for individuals who meet the eligibility requirements for multiple programs.⁵ In line

with FLPC's recommendation to modernize SNAP, the Strategy announces that the USDA will propose making the SNAP online shopping program permanent and also expand this **online shopping benefit to WIC**. We hope that, in the future, the USDA will build on this expansion by creating an online marketplace that would allow small, independent retailers to participate in online SNAP.⁶

The Administration has also announced its plans to expand **college students' access to SNAP** by updating "out of date" eligibility restrictions and collaborating with the Department of Education to increase "outreach and awareness".⁷ These developments are a meaningful step toward solving the problem of food insecurity in the collegiate population; however, moving forward, we also hope to see the elimination of SNAP time limits for ABAWDs (Able-Bodied Adults Without Dependents). Benefits for ABAWDs depend on employment or they are strictly limited to three months in a three-year period.⁸ To be eligible for longer, ABAWDs must work or participate in a work program, or some combination of the two, for 20 hours a week.⁹ Many ABAWDs are ready and willing to work, but are unable to find employment or do not have a work program available to them.¹⁰ Removing barriers for college students and ABAWDs would enable them to remain nourished as they focus on school and job prospects.¹¹

Within its commitment to helping "enrolled individuals... more easily utilize benefits"¹², the Administration mentions, without committing to, the possibility of permitting **SNAP beneficiaries to purchase prepared food**.¹³ We urge the Administration to follow through on this idea and implement this change because, as we noted in our recommendations ahead of the conference¹⁴ and the Farm Bill Law Enterprise (of which FLPC is a member) pointed out in our recent Food Access and Nutrition Report, "time and resource scarcity"¹⁵ are significant barriers that prevent many SNAP recipients from cooking nutritious meals. A simple statutory change in this area would enable millions of Americans to purchase whole foods, like rotisserie chicken, instead of processed chips, cookies, and the like. Nevertheless, we admire the White House's strong commitment to removing barriers and increasing support for people who benefit from Federal nutrition programs.



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This section of the Strategy also pays particular attention to the hunger epidemic affecting American **children**¹⁶, committing to work with Congress in order to "expand access to healthy, free school meals for 9 million more children by 2032" and "reorient[ing] the school meals program from an ancillary service to an integral component of the school day."¹⁷ The Strategy also voices support for expanding the Summer Electronic Benefits Transfer program to address issues of "[f]ood insecurity and weight gain... during the summer months when children have limited access to school meals."¹⁸ We were encouraged by this transformative rhetoric in the education space because it allows children to remain nourished with healthy meals as their brains and bodies continue to develop, regardless of the time of year and whether school is in session. FLPC remains keen to see how the collaboration with Congress will progress.

The discussion of food insecurity and Federal assistance programs ends with concrete commitments

to **Tribal food sovereignty** across several agencies. USDA will “expand the number of Indigenous and traditional foods in the Food Buying Guide for Child Nutrition Programs,” as well as provide training that enables school meal program operators to include more Tribal foods on their menus.¹⁹ Likewise, the Department of Housing and Urban Development (HUD) will promote ways in which existing grants can be used to “support expanding food access through the development of food banks and pantries, healthy eating habits, physical activities, and more in Tribal communities.”²⁰

The second subheading of Pillar One, centered on **community and economic development**, offers concrete steps toward alleviating the problem of areas of limited food access. Through creative uses of existing grant programs as well as new initiatives by the Department of Transportation and HUD, the Administration describes several objectives that will give more Americans “affordable, healthy options”²¹ near their homes. These objectives include, but are not limited to “promot[ing] the **development of grocery stores** in areas with limited access to affordable and nutritious foods” and “promot[ing] transit, bicycle, and pedestrian improvements, which would support food access solutions”²².



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FLPC was also thrilled that this section addressed **food waste and food recovery**. In a country where 35 percent of all food is lost or wasted, minimizing food waste and increasing food recovery are integral tools to meet the goal of ending hunger, particularly when the food being wasted is safe for human consumption.²³ The three action points specifically focused on food waste and food recovery are great inclusions, and there are various other points throughout the Strategy where food waste reduction could be incorporated alongside other goals. For the three action points targeted at reducing barriers to food recovery we believe that 1) a whole-of-government strategy led by the Environmental Protection Agency, USDA, and Food and Drug Administration (FDA) has the potential to make a tremendous impact to reduce food waste and increase food recovery, 2) updates to the FDA Food Code to include food donation are a positive development to increase food donation by eliminating barriers such as confusion over food safety for donated food, and 3) clarifications to the enhanced charitable tax deduction to encourage food donation may lead to significantly increased food donation.²⁴

The Strategy also calls on state, local, and territorial governments to enact policies to reduce food waste and increase food recovery, including the use of tax policy to incentivize food donation.²⁵ A number of private sector companies also committed to food donations. For example, Bowery, an indoor farming company, committed to donating more than 10,000 pounds of fresh produce through new and existing partnerships; FMI – The Food Industry Association committed its members to donating 2 billion meals in 2023; Rethink Food, a nonprofit that aims to bridge the gap between food waste and food insecure communities, committed to divert 10 million pounds of excess food to food-insecure communities by 2027, providing 10 million meals to food insecure individuals, and investing

more than \$10 million to support minority- or women-owned restaurants; and Nayak Farms, a 200 acre farm in Illinois, committed to donating more than a million pounds of sweet corn, 100,000 pounds of green beans, and advocating for policies to support farmers in combating hunger.²⁶ Outside of these direct food donation and recovery efforts, several other commitments throughout the Strategy may also improve food access by allowing various grants and programs to be used for food donation and recovery activities.²⁷

While the attention given to food waste and food recovery in the Strategy is a great step, there are other recommendations that could have been incorporated and hopefully will be incorporated through future policy changes, including: required waste and recovery reporting by companies, a grant program for states and localities to implement organic waste bans as these are proven policies to reduce food waste, expansions to the tax credits to encourage donations for a broader range of donors, expiration date label reform, and a requirement for Federal grant recipients to provide a food donation plan in order to promote food waste reduction in Federal grant programs. Moving forward, we hope the Administration will recognize the critical role that reduction of food waste can play in increasing food access.

PILLAR TWO: INTEGRATE NUTRITION AND HEALTH



Pillar 2 aims to bridge the gap between nutrition and health by **focusing on the idea that “food is medicine”** and exploring ways in which **nutrition interventions can prevent, manage, and treat diet-related diseases**. The Strategy emphasized expanding access to a range of interventions, including **medically tailored meals, groceries and produce prescriptions** (i.e., vouchers or debit cards that can be redeemed for produce or direct provision of produce to address diet-related disease), through pilots or demonstration projects. At the national level, the Administration expressed support for legislation to establish a pilot to test coverage of medically tailored meals in the Medicare program and committed to implementing pilot programs for produce prescriptions in both the Veterans Health Administration (VHA) and the Indian Health Service (IHS).²⁸

To promote similar action at the state level, the Strategy stated that the Department of Health and Human Services (HHS) will provide authority and guidance to assist states in testing Medicaid coverage of nutrition interventions using Section 1115 Demonstration Waivers, starting with the approval of such initiatives in Oregon and Massachusetts.²⁹ These initiatives align with FLPC’s recommendations in the space, and will hopefully set the stage for broader policy change, such as the eventual incorporation of nutrition interventions into baseline benefits in Federal health care programs. For example, the Federal government could take steps to broaden access to these services by including medically-tailored meals as a covered benefit in Medicare Parts A and B or in Medicaid for people who face certain severe or chronic illnesses.

The other subheadings for Pillar 2 explored **screening patients for food insecurity**, providing them with services, and strengthening as well as diversifying the nutrition workforce. The Administration made a commitment to ensuring that food insecurity screenings will be universally conducted in Federal healthcare systems.³⁰ Applying this public health lens to address social determinants of health

such as food insecurity in a healthcare setting is a major advancement. The Strategy plans to build on the existing Veterans Affairs universal food insecurity screenings and we urge the Administration to ensure that practitioners will examine not only clinical health challenges, but also the social determinants of health such as their surrounding environment and how it might affect their ability to access nutritious food.



[T]he Administration pledged to diversify the nutrition workforce [and] ensure that medical professionals receive nutrition education.

In line with FLPC's recommendations, the Administration pledged to **diversify the nutrition workforce**, as well as to **ensure that medical professionals receive nutrition education**. The Strategy called upon health professional schools and licensing boards to incorporate nutrition in graduate medical education, board exams, and post-graduate education.³¹ We applaud this call to action, however, we would have liked to see the Strategy commit directly to actions on the part of the Federal government to support nutrition education for physicians and other health professionals. A recent House of Representatives Resolution, enacted in 2022, also called on governmental agencies and outside parties to increase nutrition education for health professionals.³² We would have liked the Strategy to include a commitment on the part of government to review its own opportunities to incentivize nutrition in medical training where Federal funding is used for that training, through requiring or encouraging Federally-employed physicians to engage in nutrition education, or through better research and dissemination of best practices.

Alongside the Strategy, The Association of American Medical Colleges and Accreditation Council for Graduate Medical Education announced they will host the first Medical Education Summit on Nutrition in Practice in 2023.³³ At this summit, medical education leaders will determine actions steps for integrating nutrition and food insecurity into the medical education curriculum. In addition, the American College of Lifestyle Medicine will make an in-kind donation of \$24.1 million to nutrition training for medical professionals.³⁴ This will include 5.5 hours of Continuing Medical Education course credits for topics on nutrition and “food is medicine” and cover half the cost for lifestyle medicine training for primary care providers from Federally qualified health centers.³⁵ Finally, several trade associations including the National Medical Association, National Hispanic Medical Association, Children’s Oral Health Institute, and the American Association of Colleges of Pharmacy have signed a pledge to strengthen nutrition education for healthcare professionals.³⁶ We applaud the Administration’s efforts in implementing this agenda and the medical community’s commitments to incorporating nutrition education.



PILLAR THREE: EMPOWER ALL CONSUMERS TO MAKE AND HAVE ACCESS TO HEALTHY CHOICES

The first subheading of Pillar Three announced major changes to the food labeling status quo, including strong commitments to **develop a front-of-package labeling system, update the FDA standards behind the “healthy” claim** on food packages to reflect

updated nutrition science, and **improve access to nutrition information** in e-commerce spaces.³⁷ As the Center for Science in the Public Interest pointed out in a seminal 2010 report, the American nutrition facts panel creates significant consumer confusion.³⁸ Even after meaningful changes introduced in 2016, there remains much room for improvement. Reforming the “healthy” claim and other aspects of food packaging is crucial, as many consumers rely on this information in lieu of doing their own research. We applaud the Administration for acknowledging not only the importance of simplifying labels for consumers with “lower nutrition literacy,” but also the power of labeling changes to incentivize industry reformulation.³⁹ Moreover, FLPC was encouraged to see the Administration commit to working with Congress to make sure FDA’s nutrition oversight role is properly funded so these timely changes can be put into place.⁴⁰

The next subheading details ways in which food environments and the food supply could be reformed to decrease barriers to a healthy lifestyle. The Strategy makes promising commitments in this area to **reform the Federal Food Service Guidelines**, increase the availability of **plant-based options in Federal facilities**, and work with Congress to **expand fruit and vegetable incentive programs within SNAP**.⁴¹ Participants in the National School Lunch Program can also expect to see changes, as the Strategy calls for updating nutrition standards in school meals.⁴² The Strategy also commits to a Healthy Meals Incentive initiative, which will **increase healthy options in school meals**, acknowledge innovative school meal programs, and direct funding to small and rural schools to **improve school meal nutritional content**.⁴³ The Strategy also commits to improvements in WIC including updating the food package for foods offered in the WIC program and **continued use of the increased cash value benefit** to support increased fruit and vegetable consumption.⁴⁴ In November 2022, USDA published a proposed rule to make the increased cash value benefit permanent, among other updates to the WIC program.⁴⁵

The Strategy also announced that HHS FDA will **revise the voluntary sodium reduction targets** for “processed, packaged, and prepared foods” that were released in 2021 “to facilitate continually lowering the amount of sodium in the food supply”.⁴⁶ Furthermore, the FDA proposes a future “public meeting” about the process of developing similar **reduction targets for added sugar**.⁴⁷



The government has an important role to play in reducing diet-related disease by incentivizing and/or subsidizing healthier diets, particularly for low-income communities and people of color who are statistically more likely to be afflicted by these conditions.

As noted in the Farm Bill Law Enterprise’s 2023 Food Access and Nutrition Report, the government has an important role to play in reducing diet-related disease by incentivizing and/or subsidizing healthier diets, particularly for low-income communities and people of color who are statistically more likely to be afflicted by these conditions.⁴⁸ The Administration’s Strategy was a bit less concrete than FLPC recommended, focusing primarily on commitments to collaboration and investigation, rather than describing specific policy targets or timelines. For instance, whereas FLPC recommended making the GusNIP Double Up Incentive program available nationwide,⁴⁹ the Strategy simply cited the

effectiveness of GusNIP and made a broad commitment to work with Congress to expand the reach of the program.⁵⁰ Nonetheless, these developments still represent a step in the right direction.

In the future, we urge the Administration to take on more ambitious changes in this realm, such as supporting a sugar-sweetened beverage tax to reduce the consumption of added sugar currently jeopardizing public health.⁵¹ While the Strategy announced **“targeted law enforcement actions” against deceptive advertisers**, we would like to see a specific action plan regarding unhealthy food marketing to children that addresses the cognitive reasons that children are more susceptible to advertisements⁵² and counteracts these forces via strong, categorical commitments to changing policies around the marketing of junk foods.⁵³ Combined with voluntary private sector commitments—such as our recommendation that beverage corporations contribute a certain percentage of soda sales revenue to communities most impacted by diet-related disease via philanthropy or direct engagement—the sodium and sugar reduction targets and broader programmatic reform to which the Administration has committed could make a meaningful impact in the lives of millions of Americans.

The final subheading of the Pillar concentrates on nutrition education. The discussion of the Dietary Guidelines was limited to a short statement saying that the Administration will work with Congress to fund HHS and “[s]upport regular updates.”⁵⁴ Moving forward, we hope to see more specific, substantive discourse about meaningful changes to the Dietary Guidelines for Americans and MyPlate that integrate a wider variety of culturally appropriate foods and dietary habits more reflective of our nation’s diversity. Nevertheless, we were encouraged by the Strategy’s discussion of **creating “culturally appropriate” MyPlate materials** and tailoring FDA labeling efforts to various audiences.⁵⁵

Though it remains to be seen how drastic these changes will be, if executed as stated, the efforts outlined in this pillar will give Americans access to life-changing nutrition information that will enable them to make better choices for themselves and their families.



PILLAR FIVE: ENHANCE NUTRITION AND FOOD SECURITY RESEARCH

Pillar 5 underscored the importance of inclusive, evidence-based research to address food insecurity and nutrition. Although the government spends \$2 billion on nutrition research annually, primarily through the National Institutes of Health as well through other agencies such as USDA, there are still meaningful gaps in our scientific understanding of nutrition and health.⁵⁶ The Strategy states that the Administration plans to **“bolster nutrition research funding”** to support evidence-based policies.⁵⁷ The Dietary Reference Intakes (DRIs) are an example of information that is used for dietary guidance, but lacks funding to be updated.⁵⁸ We hope that Congress provides funding for updates and that the Administration will consider individual health and cultural differences when using DRIs for consumer education moving forward.

This pillar also includes the Administration’s coordinated Federal vision for advancing nutrition science. Going forward, the President’s Council of Advisors on Science & Technology will collaborate

with external scientific experts, the White House Office of Science and Technology Policy, and the Interagency Committee on Human Nutrition Research on the **advancement of nutrition science** in order to identify and address gaps in the research, thereby **creating more equitable outcomes.**²⁶ We applaud the Strategy's emphasis on the importance of **diversity and inclusion in nutrition research** through emphasizing the need to recruit trainees who have been historically marginalized from biomedical, behavioral, and clinical research, including individuals with disabilities and from disadvantaged backgrounds.²⁷ These new, diverse trainees will be integral as NIH develops new nutrition science methods, including the use of artificial intelligence and machine learning, to ensure that any new nutrition interventions effectively serve historically marginalized communities.⁵⁹ In addition, the Strategy calls for the the 2025 Dietary Guidelines Advisory Committee to be comprised of individuals from varying backgrounds who will endeavor to fairly consider the addition of a wide range of dietary patterns that reflect our nation's diversity.⁶⁰

In the future, FLPC hopes to see better long-term whole-of-government coordination on food policy, ideally through the creation of a new cabinet-level Office of the National Director of Food and Nutrition and a National Institute of Nutrition within the NIH in order to improve coordination and funding of nutrition research and policy. There is currently no Federal coordination of food and nutrition policy, which is why it is critical to create these new offices and institutes in order to galvanize the translation of nutrition science research into effective policy solutions and cross-governmental coordination.



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This is the only pillar which states that climate change has a direct affect on food security and human health.⁶¹ FLPC applauds this nod to the importance and **impact of climate on food security** today and in the future, but would like to see a broader strategic vision regarding how the food system contributes to and will be impacted by these societal issues. FLPC has long advocated for a broader national food strategy that encompasses climate, sustainability, nutrition, and health and hopes to see more efforts conducted in this direction.



CONCLUSION

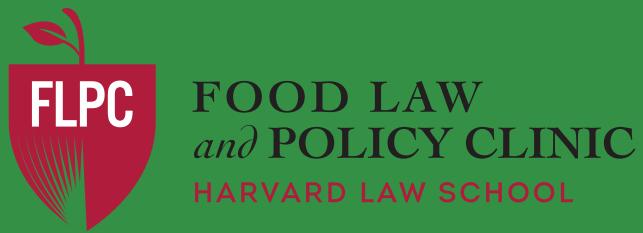
Eliminating hunger, improving nutrition, and addressing diet-related disease nationwide will require innovative solutions. We were encouraged by the cross-industry collaboration between community advocates, food and nutrition professionals, policymakers, and healthcare professionals at the White House Conference on Hunger, Nutrition, and Health. As the Administration begins to implement the policies outlined in its Strategy, we hope that both the public and private sectors will maintain the momentum they showed at the Conference in order to facilitate the process and also devise new policies that expand upon the existing goals.

The 1969 Conference brought forth new Federal nutrition assistance programs such as WIC, the expansion of SNAP, and the first ever Dietary Guidelines for Americans, through dedicated implementation over time of the recommendations adopted at the Conference. The 2022 Conference is only the beginning of the work that needs to be done in order to create a healthier and more sustainable food system.²⁸

ENDNOTES

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