400 Miles or Less:
The Case for Local Food Procurement Policies in U.S. Schools

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Abstract

In the United States, the growing prevalence of overweight and obese children is of public health importance. Since the early 1980s, prevalence has more than tripled and presently, approximately 1 in 5 children are living with obesity. Because nearly half of all calories consumed by children occur during the school day, policy interventions on the school level present a significant opportunity for impact. A primary factor with regard to obesity is diet, and consuming healthier, fresher foods positively impact child health. This essay recommends adopting a local food procurement policy as part of the National School Lunch Program (NSLP).

A general search for local food procurement policies in the Growing Good Food Connections Policy database was conducted, as well as a review of jurisdictions that have adopted the Good Food Purchasing Program (GFPP) model standards to form a representative sample. The GFPP model is based on five values – local economies, nutrition, valued workforce, environmental sustainability, and animal welfare – and promotes procuring local, fresh foods. In summary, schools that have adopted a local food procurement policy find students choose healthy, fresh food options while in school and consume, on average, more fruits and vegetables. A brief review of Brazil as a global leader in school feeding programs and its utilization of local food further supports adopting a local food procurement policy and can be used to inform the U.S. as it builds a coalition in support of a national food policy and local food procurement policy.

This essay concludes with three recommendations. First, the U.S. must develop a national food policy so all food, agriculture, and nutrition laws, policies, and regulations can be integrated and coordinated across all departments and agencies in the government. Second, a standard or uniform procurement policy based on existing programs and models must be established. Finally, the U.S. must adopt a local food procurement policy for the NSLP through the legislative process. Adopting a local food procurement policy will promote healthy eating behaviors in schools and positively impact child health by decreasing the prevalence of overweight and obese children in the U.S.

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1. Introduction

1.1. National Food Policy & Local Food Procurement

The United States does not presently have a national food policy. Instead, there are a number of policies, laws, and regulations that address food, agriculture, and nutrition programs, which generally work independently of each other and fail to support a sustainable, nutritious food system. A national food policy will change this approach and seeks to establish a comprehensive set of coordinated, integrated policies and guidance to improve the food system for the better of the people, the economy, and the planet.[1] The policies and initiatives falling under a larger national food policy address all aspects of the food system, including production, processing, manufacturing, distributing, consuming, and waste management of food.[2] Each policy and initiative also addresses broader themes like the environment and sustainability, economy, public health, and society to promote and achieve positive impact. This essay looks specifically at a singular policy that may fall under a national food policy – local food procurement – though it is understood a procurement policy is just a small fraction of the larger U.S. food system and initiative for an integrated national food policy.

Because there is no national food policy, or at the very least, a set of guiding principles or values shaping the food system, the U.S. consequently lacks a coherent food procurement policy or standard. In other words, governments at the local, state, and federal levels, as well as other institutions, including schools, do not have a uniform standard or set of principles to use when

[1] Vermont Law School Center for Agriculture and Food Systems and Harvard Law School Food Law and Policy Clinic, Blueprint for a National Food Strategy (Feb. 2017), available at: http://foodstrategyblueprint.org/wp-content/uploads/2017/03/Food-Strategy-Blueprint.pdf

[2] *Id.* at 11.

procuring food for their premises. This lack of standard creates a fragmentation of procurement policies and may have negative effects.

Why fall under a larger national policy?

Generally speaking, food procurement is "how and from whom food is purchased by an organization and institution."[3] By establishing a local food procurement policy, organizations and institutions make a commitment to procure food produced, for example, within a certain radius of the premise. Defining "local" presents challenges of its own though; presently, there is no consensus on what "local" means. Farmers, health aficionados, policymakers, and others have various understandings of how far food can travel and still be considered "local."

The term "local food" is defined once in U.S. law, in the Food, Conservation, and Energy Act of 2008 (also known as the 2008 Farm Bill), but this definition is by no means a uniform, federal definition.[4] Under the 2008 Farm Bill definition, there are two ways in which food can meet the definition of "local food." Section 6015 of the Farm Bill defines "locally or regionally produced agricultural food product" to be food "raised, produced, and distributed … less than 400 miles from the origin of the product or the [s]tate in which the product is produced."[5] In other words, food is deemed "local food" if, from field to table, it remains in the same state or travels less than 400 miles from origination to destination.[6] Because food that remains in the same state can still be considered "local food," there is much variation within this particular

[3] PolicyLink, Equitable Development Toolkit: Local Food Procurement 2 (Mar. 2015), available at: https://www.policylink.org/sites/default/files/edtk_local-food-procurement.pdf
[4] Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651 (2008).
[5] *Id.* at § 6015; 7 U.S.C. §1932(g)(9)(A)(i).
[6] Food that crosses state boundaries can still be deemed "local food," so long as it falls within the 400 mile range.

definition regarding distance traveled.[7] For purposes of this essay, "local food" will follow the parameters set forth in the 2008 Farm Bill and include all fresh foods though additional evidence may support a different parameter and should be analyzed at that time.

There is much emphasis on locally produced food because "local food" is fresh and tends to be more wholesome or less processed and therefore has higher nutritional quality when compared to processed alternatives. It is recognized there are varying degrees of processed foods and not all processed foods are "bad" or "unhealthy." For purposes of this essay, processed food refers to food that contains added sugars, fats, sodium and other ingredients, which decreases the overall nutritional quality of the food and consumption of these processed foods are linked to poorer health outcomes.[8]

Local foods are also at the unique intersection of public health and wellness, economics, land use, and environmental laws and policies, further expanding involved stakeholders and potential impact. Local food procurement promotes local economies and sustainability and further improves the environment by reducing emissions attributed to food transportation.[9]

[7] For example, the California coastline is approximately 1,100 miles long. Something produced near San Diego can still be considered "local" under this definition if consumed north of San Francisco because even though the distance between those two cities is greater than 400 miles, it is still within the state of California and therefore meets the second way food is defined as "local" under the 2008 Farm Bill; *California,* Encyclopaedia Britannica Online (Feb. 21, 2019), available at: https://www.britannica.com/place/California-state

[8] *See* Daniela Neri et al., *Consumption of Ultra-Processed Foods and its Association with Added Sugar Content in the Diets of US Children, NHANES 2009-2014,* 14 PEDIATRIC OBESITY e12563 (July 30, 2019); Bernard Srour et al., *Ultra-Processed Food Intake and Risk of Cardiovascular Disease: Prospective Cohort Study*, 365 BMJ 1451 (May 29, 2019).

[9] PolicyLink, *supra* note 3.

Why should schools adopt local food procurement policies?

Local food procurement policies are important, particularly in schools, because children consume on average more than half of their daily calories while in school.[10] Therefore, schools have significant potential to influence eating behaviors in children, which may in turn impact overall health because, as mentioned above, locally procured foods are fresh and likely more wholesome and nutritious. Moreover, an individual's diet is an important factor with regard to non-communicable diseases (NCDs), and obesity is an example of a NCD because it is a chronic condition as discussed below. Findings show "NCDs account for over 63% of deaths and it is estimated that 40% of these NCD-related deaths are attributed to diet. The main dietary factors causing disease are excess intakes of free sugar, saturated fats and trans-fatty acids, and sodium, much of which is added during food processing and a lack of fruits and vegetables. To reduce the burden of NCDs, there is a subsequent call for population health interventions to improve the quality of dietary intakes."[11] Thus, a policy intervention targeting a reduction in processed foods by procuring local foods may substantially impact the health of children across the U.S because children will consume less added sugars, fats, and sodium generally present in processed foods.

[10] Centers for Disease Control and Prevention, School Nutrition: Overview (Sept. 18, 2018), available at: https://www.cdc.gov/healthyschools/nutrition/schoolnutrition.htm

[11] Mark L. Niebylski et al., *Healthy Food Procurement Policies and Their Impact,* 11 INT'L J. ENVTL. RES. & PUB. HEALTH 2608, 2609 (2014).

1.2. Childhood Obesity in the United States

Research published by the Centers for Disease Control and Prevention (CDC) show an increasing number of students living with obesity (*see* Figures 1 and 2, *infra*).[12] Obesity is present when an individual weighs more than a normal or healthy weight for his or her age, and is based on body mass index.[13] Broadly, 1 in 5 children and adolescents in the U.S. are living with obesity.[14] Certain populations also have a higher prevalence rate, including African Americans and Hispanics.[15] In the U.S., childhood obesity rates have more than tripled since the 1980s – in the early 1980s, only 5 percent of children were obese, whereas 17.2 percent of children, or 12.7 million children, in 2014 were obese.[16] Obesity is a chronic condition or a non-communicable disease (NCD). The World Health Organization (WHO) states NCDs "tend to be of long duration and are the result of a combination of genetic, physiological, environmental and behaviours factors."[17] Researches have estimated that the direct lifetime medical costs attributed to obesity when the child becomes obese during childhood is approximately $19,000, and this estimate is not inclusive of any indirect costs that may also be attributed to obesity and is therefore a

[12] Centers for Disease Control and Prevention, CDC Healthy Schools: Youth Obesity Maps (2003-2017) (Aug. 10, 2016), available at: https://www.cdc.gov/healthyschools/obesity/obesity-youth.html
[13] Centers for Disease Control and Prevention, Overweight & Obesity: Defining Childhood Obesity (July 3, 2018), available at: https://www.cdc.gov/obesity/childhood/defining.html
[14] Centers for Disease Control and Prevention, Overweight & Obesity: Children (Sept. 11, 2018), available at: https://www.cdc.gov/obesity/childhood/index.html; Craig M. Hales, et al., Centers for Disease Control and Prevention, Prevalence of Obesity Among Adults and Youth: United States, 2015-2016 (Oct. 2017), available at: https://www.cdc.gov/nchs/data/databriefs/db288.pdf
[15] Centers for Disease Control and Prevention, Overweight & Obesity: Childhood Obesity Facts (Aug. 13, 2018), available at: https://www.cdc.gov/obesity/data/childhood.html
[16] Helena C. Lyson, *National Policy and State Dynamics: A State-Level Analysis of the Factors Influencing the Prevalence of Farm to School Programs in the United States,* 63 Food Pol'y 23 (2016).
[17] World Health Organization, Noncommunicable Diseases: Key Facts (June 1, 2018), available at: https://www.who.int/news-room/fact-sheets/detail/noncommunicable-diseases

conservative estimate.[18] As such, obesity is not only a chronic condition that children and adults live with for long periods of time or throughout their life, but it is also a costly condition.

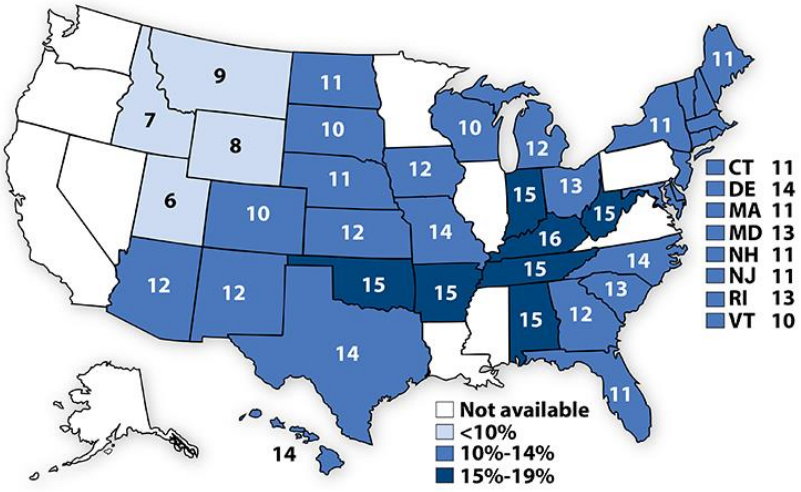

Figure 1 Percentage of High School Students Who Had Obesity, 2005[12]

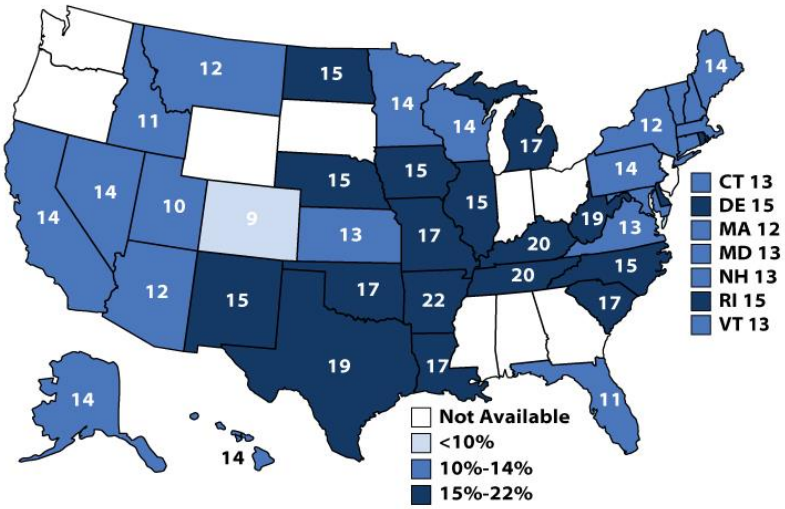

Figure 2 Percentage of High School Students Who Had Obesity, 2017[12]

[18] Eric A. Finkelstein et al. *Lifetime Direct Costs of Childhood Obesity,* 133 Pediatrics 854-62 (2014), available at: https://doi-org.pitt.idm.oclc.org/10.1542/peds.2014-0063

Obese children are also more likely to be obese adults; based on a simulation model developed using five studies with a sample size of over 41,000 children and adults, approximately 57.3 percent of all children today will be obese as an adult.[19] Approximately half of the children that become obese adults will become obese during childhood and remain obese into adulthood. Thus, obesity as a child is indicative of obesity as an adult.[20] Co-morbidities present another issue because obese individuals generally develop other conditions concurrently or as a result of being obese.[21] Other conditions include diabetes, cardiovascular disease, and certain types of cancer.[22] There are also many contributors to obesity, with diet playing a significant role.[23] Thus, obesity is a complex NCD, and there is not a single solution to treat or prevent obesity. For that reason, this essay looks solely at diet as a main contributor to overweight and obesity in children but acknowledges that there are many other factors that also contribute to the condition, including household income and education levels, environment, community, and other individual and group behaviors.[24]

Because obesity contributes to premature death, preventing and reducing obesity should be a priority for the public. As just established, obesity in children is increasing, childhood obesity is a contributing factor to adult obesity, and diet plays a significant role in obesity. Now, obesity is impacting human lives. Obesity is difficult to quantify with regards to how many people die

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[19] Zachary J. Ward et al., *Simulation of Growth Trajectories of Childhood Obesity into Adulthood*, 377 NEW ENG. J. MED. 2145 (Nov. 30, 2017), available at: https://www.nejm.org/doi/full/10.1056/NEJMoa1703860?utm_medium=referral&utm_source=r360

[20] *Id.*

[21] World Health Organization, Global Strategy on Diet, Physical Activity and Health (n.d.), available at: https://www.who.int/dietphysicalactivity/childhood_consequences/en/

[22] *Id.*

[23] Centers for Disease Control and Prevention, Overweight & Obesity: Childhood Obesity Causes & Consequences (Dec. 15, 2016), available at: https://www.cdc.gov/obesity/childhood/causes.html

[24] *Id.*

each year as a result of the condition because of the numerous co-morbidities associated with it, but recent studies find previous estimates are drastically lower than reality. According to one study, being overweight or obese was associated with 18 percent of deaths in adults between 40 and 85 years old.[25] With an increasing trend of overweight and obese children likely being overweight and obese in adulthood, addressing obesity at an early age is imperative to mitigate the number of individuals dying from obesity in the future.

1.3. Local Food Procurement Policies and Health Outcomes

Research suggests a connection between school food and health outcomes, thus making the case for a local food procurement policy strong. A systematic review of 34 studies analyzing local and healthy food procurement policies and their impact on healthy eating and health outcomes was published in 2014.[26] The section of the review analyzing procurement policies in schools included 19 studies with study populations across various U.S. school populations in states like Minnesota, Colorado, Texas, Massachusetts, and Alabama, as well as international school populations, including England and Canada.[27] Overall, the studies found schools with established healthy or local procurement policies in place had improved healthy eating habits among students, further supporting a generally positive connection between local schools foods

[25] The study looked at differences among males and females, as well as Caucasian and African Americans. Within each group, the percentages varied, so 18 percent looks at the aggregated and standardized data. Ryan K. Masters et al., *The Impact of Obesity on US Mortality Levels: The Importance of Age and Cohort Factors in Population Estimates*, 103 AM. J. PUB. HEALTH 1895 (Oct. 2013), available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3780738/

[26] Mark L. Niebylski et al., *Healthy Food Procurement Policies and Their Impact,* 11 INT'L J. ENVTL. RES. & PUB. HEALTH 2608, 2610-12 (2014), available at: https://res.mdpi.com/ijerph/ijerph-11-02608/article_deploy/ijerph-11-02608-v2.pdf?filename=&attachment=1

[27] *Id.* at 2612-16.

and health outcomes. Moreover, schools that received federal funds to promote food procurement from small and medium farms in California resulted in a 58 percent increase in fruit and vegetable sales in schools, as well as 65 percent of children choosing healthier, fresher food options over foods high in fat, sugar, and sodium.[28]

The systematic review also examined studies looking at specific health outcomes in addition to overall eating behaviors when schools adopted healthy and local food procurement policies. Two studies found adopting a local food procurement policy in schools contributed to lower blood pressure and decreased BMI among children assessed in the studies.[29] Moreover, this systematic review looked at the impact of a 2008 national regulation in England that established healthy food procurement standards for all primary schools in the country. With 136 primary schools using healthy and local food standards in their school foods, fruit, vegetable, and salad purchases increased by 15 percent and processed food high in sugar, fat, and sodium purchases decreased by 12 percent. Accordingly, the study found that 74 percent of students desired healthier foods following the implementation of the English regulation, and healthier foods in the cafeteria increased by 15 percent.[30]

The 2014 systematic review of local food procurement policies and their impact is significant and further supports a strong case for adopting such standards and policies in schools in the U.S. Also, the one study analyzing England's regulation is beneficial as it exemplifies the feasibility of a national standard.

[28] *Id.* at 2611.
[29] *Id.* at 2612.
[30] *Id.* at 2610.

1.4. Policy Background

This section briefly examines the relevant laws, policies, and models addressing local food procurement and initiatives seeking to promote improved nutrition and health in children. Relevant laws, policies, and models include a federal program and law, state and local policies and plans, and a program that supports a local food procurement model as part of a larger initiative to transform the food system in the U.S. Reviewing the policy background is imperative in understanding why a local food procurement policy is most effective at the national level despite many successful efforts carried out at the local and state levels.

1.4.1. National School Lunch Program

The National School Lunch Program (NSLP) was established by Congress in 1946 but began much earlier as a way to assist farmers with surplus commodities.[31] Much like education policy, the NSLP was left largely to local authorities to carry out during its formative years.[32] It was not until the period between the 1950s and 1970s the NSLP became increasingly within the federal government's domain.[33] During this time, the School Breakfast Program (SBP) was also piloted after growing concerns of hunger and undernourishment in the U.S. and became a permanent program in 1975.[34] Both programs are funded by the U.S. Department of Agriculture (USDA), minimum standards for the programs are set by the Food and Nutrition Service (FNS) of the

[31] Parke Wilde, Food Policy in the United States 197-98 (2013).
[32] *Id.* at 198.
[33] *Id.*
[34] *Id.*

USDA, and local School Food Authorities (SFAs), which often coincide with school district boundaries, administer the NSLP and SBP at the local level.[35]

The NSLP is an excellent example of a national program that is administered at the local level. Thus, the federal government provides the framework and guidance for what the SFAs must do at the local level to fully comply with the NSLP. Permitting the local SFA to administer the day-to-day NSLP is important because it recognizes the differences among states, counties, and even school districts and allows the SFAs to efficiently administer the national program that is tailored to the local needs of the community and school children with some flexibility.

Every child attending a public or non-profit private school in the U.S. is able to participate in the NSLP, but additional eligibility factors, such as household income, determine whether the meal is offered free of charge or at a reduced price.[36] The USDA also sets a reimbursement rate each year through its rulemaking authority, and this payment rate determines how much the SFA is reimbursed by the federal government for each meal served. The average payment rate is dependent on the number of children eligible for free or reduced-price meals in a particular SFA; if more than 60 percent of all children are eligible, then the SFA will be reimbursed at a base payment rate, and if less than 60 percent of all children are eligible, then the reimbursement rate

[35] *Id.*

[36] U.S. Department of Agriculture Economic Research Service, National School Lunch Program (Mar. 15, 2018), available at: https://www.ers.usda.gov/topics/food-nutrition-assistance/child-nutrition-programs/national-school-lunch-program.aspx

is approximately 2 cents less than the base rate (*see* Figure 3).[37] In 2018 the NSLP provided daily school lunch to 29.7 million children for approximately $13.8 billion.[38]

Contiguous states – 60 percent or more	
Paid	$0.32
Reduced-price	$2.78
Free	$3.18
Schools with less than 60 percent of children eligible receive 2 cents less for each meal.	

Figure 3 Federal Payment Rates for School Meals, 2016[37]

1.4.2. Healthy, Hunger-Free Kids Act

In 2010 Congress enacted the Healthy, Hunger-Free Kids Act (HHFKA), which was deemed a legislative success for the Obama Administration, particularly First Lady Michelle Obama. The HHFKA sought to remove barriers to children participating in the NSLP, improve nutrition of the meals through increased whole grains, reduced sugar and sodium, as well as improving the quality of foods offered for purchase outside of the NSLP called competitive foods.[39,40] The HHFKA also formally established the USDA Farm to School program, which provides grants and

[37] National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates, 81 Fed. Reg. 51,842, 51,844 (Aug. 5, 2016), available at: https://www.govinfo.gov/content/pkg/FR-2016-08-05/pdf/2016-18650.pdf

[38] U.S. Department of Agriculture Economic Research Service, National School Lunch Program (Mar. 15, 2018), available at: https://www.ers.usda.gov/topics/food-nutrition-assistance/child-nutrition-programs/national-school-lunch-program.aspx

[39] Competitive foods are foods that are sold separately from the NSLP and are not eligible for reimbursement by the federal government, but the federal government may establish nutrition standards for competitive foods sold in schools. Competitive foods vary and include both beverage and food items. Examples include chips, granola bars, ice cream, juices, and sports drinks.; National Education Association, Child Nutrition (n.d.), available at: http://www.nea.org/home/38649.htm

[40] U.S. Gov't Accountability Office, GAO-05-563, Competitive Foods are Widely Available and Generate Substantial Revenues for Schools (2005), available at: https://www.gao.gov/new.items/d05563.pdf

assistance to school districts to source local foods for school meals and carry out a number of activities surrounding gardening, nutrition education, and cooking classes.[41]

While the HHFKA contributed significantly in promoting farm to school and local produce, this essay advocates for a national local food procurement policy rather than additional funding to support farm to school programs in certain areas and improving overall nutrition standards in school meals, as the HHFKA did. As such, a national local food procurement policy should be adopted through the legislative process rather than the rulemaking process to reduce vulnerabilities and possible repeal. The legislative and rulemaking processes are completed by two different branches of government, the Legislative branch and Executive branch, respectively. The Legislative branch has the authority to propose and enact legislation, resulting in a statute like the HHFKA. The Executive branch has the authority to promulgate regulations, which work together with the statutes passed by the Legislative branch and provide the details of the law. For example, the USDA promulgated regulations establishing nutrition standards for school meals, and this rulemaking authority was provided by the HHFKA.

There are advantages and disadvantages to both the legislative and rulemaking processes. Generally, regulations are more vulnerable to repeal and the changing dynamics of each Administration because the Executive branch is responsible for implementing the President's policy agenda, which may change each Administration.[42] Legislation may also be repealed, but

[41] Katherine Ralson & Matthew Benson, U.S.D.A. Economic Research Service, Many U.S. School Districts Serve Local Foods (Mar. 2, 2015), available at: https://www.ers.usda.gov/amber-waves/2015/march/many-us-school-districts-serve-local-foods/

[42] For example, the Trump Administration is repealing Obama-era regulations on school nutrition standards and can easily repeal the standards through executive action. *See* Hilary Brueck, *Kids Across the US are Eating Fewer Whole Grains and More Sugary Milk in School Lunches; How Federal Rules Have Changed for the Worse*, BUS. INSIDER, Dec. 10, 2018, available at: https://www.businessinsider.com/trump-administration-relax-school-lunch-rules-2018-1

repealing legislation requires an act by the Legislative branch and is more difficult to achieve. Therefore, a national local food procurement policy should be established through legislation in order to preserve the policy during changing Administrations.

1.4.3. School Wellness Policies

A local school wellness policy is a policy adopted by the local Board of Education that outlines goals and objectives the district will meet in order to improve the health and well-being, including healthy eating and physical activity, of its students.[43] A school district is able to tailor the policy as it sees fit and in accordance with its priorities and values for the student; however, there are certain requirements that must be considered and included in a school wellness policy under federal law and potentially state law if the school participates in the NSLP.[44] As discussed, school wellness policies are a way for districts to convey their priorities for child health and well-being, and many districts are taking it upon themselves to implement a local food procurement in their policies. Enforcing school wellness policies can be challenging though, as there are generally no consequences for non-compliance. To promote compliance, school wellness policies, and school policies broadly, have regular reporting requirements and typically identify an individual as the point of contact to discuss policy compliance issues with. As such, school wellness policies are an excellent tool when first exploring local food procurement policies, as it is usually tailored to the district and community, but long-term strategies should include

[43] U.S. Department of Agriculture Food and Nutrition Service, Local School Wellness Policy (July 29, 2016), available at: https://www.fns.usda.gov/school-meals/local-school-wellness-policy
[44] Centers for Disease Control and Prevention, Local School Wellness Policy (May 29, 2019), available at: https://www.cdc.gov/healthyschools/npao/wellness.htm

something with more teeth, like an ordinance, state law, or, as proposed here, a national policy and framework.

A national policy and framework for local food procurement is preferred because there will be uniformity across all school populations in the U.S., as exemplified by the NSLP. There will also be more resources for oversight and capacity building since the local school districts and SFAs will have administrative support from the federal government. Lastly, there may be consequences for non-compliance with the local food procurement policy like withholding reimbursement payments for school meals if an SFA does not comply with the NSLP requirements.[45]

1.4.4. Comprehensive Plans

Comprehensive plans are developed by planners and may focus on local, county, state, or regional areas. According to the American Planning Association, "[t]he goal of planning is to maximize the health, safety, and economic well-being of all people living in our communities."[46] In recent years, comprehensive plans include sustainability or health elements, or chapters focusing on that particular topic, and are increasingly including food system goals and objectives in the planning process. Comprehensive plans are a good way to incorporate desired values for the food system into the community and provide extensive opportunities for community engagement. By incorporating local food procurement into planning elements, health and well-being, as well as environmental and economic considerations become primary considerations in

[45] 7 C.F.R. § 210.24 (2020).
[46] American Planning Association, What is Planning? (2020), available at: https://www.planning.org/aboutplanning/

decision making and development. However, comprehensive plans are visionary and reflect the values of a community. Accordingly, there is little accountability and repercussion for not acting on the goals and objectives in a comprehensive plan.

1.4.5. Local Programs

Through the work of a local-national initiative, the Good Food Purchasing Program (GFPP) is a coalition of stakeholders seeking to "create a transparent and equitable food system, which prioritizes the health and well-being of people, animals, and the environment."[47] The GFPP carries out its mission through local food procurement and works with leaders in communities across the country to develop such programs. The GFPP is based on five values – local economies, nutrition, valued workforce, environmental sustainability, and animal welfare. Through food procurement, the GFPP model supports these values making up the food system the organization and others hope to see in the U.S.[48] With the model, the program works with communities and institutions to evaluate procurement processes, work towards meeting the program's standards, set goals, evaluate and measure progress, and shift to values-based procurement.[49] While the model does not explicitly adopt a "local food" definition or define a mile radius for where foods must originate, the values of the model imply foods will be locally sourced and fresh.

A number of cities and counties have adopted the program, including San Francisco, Chicago (Cook County), and Boston, and many more have active campaigns to adopt the GFPP

[47] Center for Good Food Purchasing, The Program (n.d.), available at: https://goodfoodpurchasing.org/program-overview/
[48] Center for Good Food Purchasing, The Program: Values (n.d.), available at: https://goodfoodpurchasing.org/program-overview/#values
[49] *Id.*

like Minneapolis, Austin, and New York.[50] The GFPP generally brings together organizations and other institutions in the community that seek to provide healthy, nutritious meals to the public and build a coalition of dedicated stakeholders. For example, Corporate Accountability, Farm to Institution New England, Food Chain Workers Alliance, Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), and the Northwest Atlantic Marine Alliance came together in Boston's campaign and supported the newly adopted Good Food ordinance.[51] Boston's Good Food Ordinance is a local ordinance drafted to reflect GFPP's values and establishes procurement standards. Other allies of the GFPP throughout the country include school districts, housing authorities, Departments of Health and Human Services, and other urban agriculture and farming organizations.

2. Law and Policy Scan

2.1. Methodology

The law and policy scan was conducted by searching one national policy database and reviewing jurisdictions that have adopted the specific GFPP model. This methodology was chosen to limit the scope of the search and manage the number of laws and policies entries. The policy database searched was Growing Food Connections Food Policy Database, which is a project based out of the University of Buffalo and receives funding support from the USDA and National Institute for Food and Agriculture. Other database leads and partners include The Ohio State

[50] Good Food Purchasing Program, Cities (n.d.), available at: https://goodfoodcities.org/cities/; Additional jurisdictions that have adopted the GFPP model are included and summarized in the Appendix, *infra.*
[51] Andrea Germanos, *Boston City Council Passes Groundbreaking Food Justice Ordinance,* COMMON DREAMS, Mar. 20, 2019, available at: https://www.commondreams.org/news/2019/03/20/boston-city-council-passes-groundbreaking-food-justice-ordinance

University, American Farmland Trust, Cultivating Healthy Places, and the American Planning Association. Through an advanced search, the policies were populated by filtering the database with the “local food procurement” keyword option and 8 entries resulted from this search. One search was eliminated for purposes of this scan because the entry was for a local plan in Edmonton, Alberta in Canada and fell outside of the U.S. domestic scope.

The second review culminated in 7 jurisdictions that adopted the GFPP model policy and were identified through the GFPP’s website under cities that have adopted the policy. The jurisdictions identified through GFPP did not have direct citations, so a standard internet search led to finding the specific policy citations and language.

2.2. Research Parameters

The scope of the law and policy scan is limited and only the above methodology was utilized. It is recognized that there are a number of initiatives that are either implemented, active, or in the development stages that address local food procurement. Because there are a number of ways to adopt a local food procurement policy, only the aforementioned methodology was used so as to achieve a streamlined research process while maintaining a diverse, yet comprehensive scan.

2.3. Local and State Policies

Across the U.S., there are many cities and counties that have adopted a local food procurement policy, whether through local executive and legislative action or through school boards and planning departments. A summary of the policies identified through the policy scan

is included in the Appendix, *infra.* There are distinctions among these policies, as evident in the Appendix, but all policies intend to improve healthy food options and behaviors in public institutions such as schools.

2.4. National Policy Profile – Brazil

Around the world, many countries have come to understand the connection between diet and overall health outcomes and have taken steps towards improving health through food. Brazil is a leader in improving health through food and its school meal program serves as a model for the world. Moreover, Brazil has a national food policy that incorporates the school meal program and further mandates local food procurement through reform of its school meal program. This section will briefly discuss Brazil's government and compare it to the U.S., analyze the framework for local food procurement, as well as relevant health data regarding trends in overweight and obesity in children, and review the current impressions of the impact of a local food procurement policy.

Much like the U.S., Brazil is a federal republic, made up of 26 states and a federal district. Brazil has three branches of federal government, and each state also has some autonomy with its own constitution and government.[52] Broadly speaking, Brazil and the U.S. are governed similarly, but there may be minute difference between the governmental systems and economy that may impact the feasibility of using Brazil's school meal program and local food procurement framework in the U.S. While there may be some differences, for example, the extent Brazil has

[52] Central Intelligence Agency, The World Factbook – Brazil (April 1, 2020), available at: https://www.cia.gov/library/publications/the-world-factbook/geos/br.html

invested in social programs, there are still lessons to be learned and adapting the framework to appropriately reflect the government and culture of the U.S. may be feasible.

In 2006 Brazil enacted a food security law, Lei Orgânica de Segurança Alimentar e Nutricional (LOSAN) and established the framework necessary for its National Food and Nutrition Security System.[53] Leading up to the enactment of LOSAN, Brazil faced significant hunger throughout the country and had a history of advocacy campaigns and organizing concerning hunger and food security. Moreover, Brazil's history ensured the National Food and Nutrition Security System embodied a human rights approach, meaning the right to adequate food was at the forefront of the policy.[54] While the country's national food policy began on concerns about hunger plaguing the nation, Brazil has become a model country for its food and nutrition security strategy, school meal program, and its utilization of local foods to feed children.[55]

Brazil's National School Feeding Program, the Programa Nacional de Alimentação Escolar (PNAE), began in the 1940s, becoming law in 1955, and since then, the PNAE has gone through significant changes and is now one of the global models for a successful school meal program.[56] The program feeds over 45 million school children and had an annual budget of $1.9 billion in 2012.[57] Comparatively, the U.S. NSLP feeds approximately 30 million children annually for about $14 billion, *see supra* Section 1.4.1. As part of the larger conversation about food and nutrition

[53] The Food Foundation, Brazil's Food and Nutritional Governance Plan 8 (July 2017), available at: https://foodfoundation.org.uk/wp-content/uploads/2017/07/4-Briefing-Brazil_vF.pdf
[54] *Id.* at 6-7.
[55] Kei Otsuki, United Nations University, Home-Grown Food in Schools for a Green Economy (Nov. 22, 2011), available at: https://unu.edu/publications/articles/home-grown-food-in-schools-for-a-green-economy.html
[56] *Id.*; Carla Rosane Paz Arruda Teo, *The Partnership Between the Brazilian School Feeding Program and Family Farming: A Way for Reducing Ultra-Processed Foods in School Meals*, 21 PUB. HEALTH NUTRITION 230, 230 (2017).
[57] Emilie Sidaner et al., The Brazilian School Feeding Programme: An Example of an Integrated Programme in Support of Food and Nutrition Security, 16 PUB. HEALTH NUTRITION 989, 989 (2012).

security and growing rates of obesity in the country, the PNAE was reformed in 2009 under the framework and principles of the National Food and Nutrition Security System and requires schools to purchase at least 30 percent of its food from family and rural farmers in the area.[58] Not only does the new procurement mandate promote local farming, but schools offering vegetables as part of the program increased from 57 percent to 90 percent between 2006 and 2010.[59] According to a study published in 2017 evaluating food acquisition for the PNAE in southern Brazil, the purpose of the reform was to highlight the connection between agriculture and health and "strengthen regional food sustainability while improving community dietary patterns, primarily by focusing on increased consumption of minimally processed foods by schoolchildren."[60] Based on preliminary data collection, the mandate has certainly fulfilled the purpose of the reform through increased produce consumption.[61]

The PNAE in Brazil is an excellent model for the U.S. to emulate, especially with regard to the broader national food policy, which the PNAE and other supporting programs fall under. Sidaner et al. states the "existence of a strong legal framework with operational regulations supports consistent, high-quality service delivery" of the school meal program.[62] This statement further supports the argument to develop a national food policy framework for a local food procurement policy to fall under and implement the policy using the legislative process. There is much to be learned from Brazil, such as the coordination of government departments and

[58] *Id.*; Food and Agriculture Organization & World Food Programme, Home-Grown School Feeding: Resource Framework 5 (Mar. 2018), available at: http://www.fao.org/3/i8724en/I8724EN.pdf
[59] Rhitu Chatterjee, Pulitzer Center, The Evolution of Brazil's National School Feeding Program (Feb. 10, 2016), available at: https://pulitzercenter.org/reporting/evolution-brazils-national-school-feeding-program
[60] Teo, *supra* note 56 at 234-35.
[61] *See id.*
[62] Sidaner, *supra* note 57 at 991.

agencies, the implementation and administration of the school meal program, and enforcement efforts to ensure schools are using local foods in their meal program. Consequently, it will benefit the U.S. to further examine the model and adapt it to our legal, food and agriculture, education, and health systems.

3. Discussion

The following section discusses a few challenges or barriers the U.S. will likely face when adopting a local food procurement policy under a national food policy framework. The barriers presented should not deter the U.S. and policymakers from exploring and adopting such a policy; the prevalence of overweight and obese children in the U.S. is only growing and new proposals to mitigate increasing prevalence must be considered.

3.1. Power of the Food and Beverage Industry

In the U.S., the food and beverage industry is a force to be reckoned with and has continuously derailed legislation seeking to improve a number of programs with the objective of reducing obesity, including the NSLP.[63] For example, frozen pizza manufacturers ensured language was included in the HHFKA "qualifying pizza (with tomato sauce) as a vegetable" and completely undermined the spirit of the law, which sought to improve the nutrition standards of school meals.[64,65] After the implementation of the HHFKA, the industry further adapted to

[63] *See* Robert Paarlberg, Food Politics: What Everyone Needs to Know, 95-96 (2013).
[64] *Id.*
[65] While Congress did not explicitly state pizza is in fact a vegetable in the HHFKA, it permitted tomato paste, which is used to make the pizza sauce, to potentially count as a serving of vegetables, depending on how much tomato paste was used during production and because of the nutritional content of that serving. Thus, if schools served a slice of pizza and that slice of pizza contained a serving of vegetables, other vegetables would be pushed to the

changing nutrition standards in schools and now manufacture products that theoretically meet the standards, but the foods are not "healthy" now that the products meet the standards. Specific food companies manufacturing products that meet the new nutrition standards established by the HHFKA include Domino's "Smart Slice" Pizza and "Smart Snack" varieties from Cheetos and Pop Tarts.[66]

While the above lobbying efforts and adaption to improved nutrition standards does not pose immediate threats to the adoption of a local food procurement policy, the industry may become involved because there is the possibility, and hope, that schools will offer higher quality meals with less processed foods. Thus, the food and beverage industry will likely have a stake and lobby members of Congress to not adopt such a policy.

3.2. Pushback from Schools, Children, and Other Stakeholders

It is very likely that schools, including the individuals that work in cafeterias, children, and other stakeholders will not initially support a local food procurement policy because there will be change involved in implementing such a policy. However, if appropriate steps are taken to include the schools and prepare children for changes that may come with the implementation process, any negative feelings or pushback may be reduced. Inclusion and preparation may

side and forgotten or not served at all, further promoting poor eating in schools. This particular example illustrates more the demise of nutrition standards in school meals, though it also sheds light on the impact local food procurement policies may have. If schools procure food for meals from more local sources, serving pizza manufactured to include a serving of vegetables in schools will become increasingly difficult as local foods promote fresh foods in lieu of processed foods. Sarah Kliff, *No, Congress Did Not Declare Pizza a Vegetable,* Wash. Post, Nov. 21, 2011, available at: https://www.washingtonpost.com/blogs/wonkblog/post/did-congress-declare-pizza-as-a-vegetable-not-exactly/2011/11/20/gIQABXgmhN_blog.html?utm_term=.cc5d5aa3eaa9

[66] Lisa Held, *What Domino's Pizza in the Cafeteria Says About the State of School Food Reform*, CIVIL EATS, Oct. 10, 2018, available at: https://civileats.com/2018/10/10/what-dominos-pizza-in-the-cafeteria-says-about-the-state-of-school-food-reform/

include compiling local resources and incorporating food and nutrition education into programs if not already in place to help alleviate any burden there may be with children opposing less processed foods.

Also, unlike the HHFKA, a local food procurement policy will not change the nutrition standards of the NSLP. A local food procurement policy instead looks at promoting local food economies and tasking schools to work with local, generally smaller, farmers to bring fresh food into schools in the hopes of promoting healthier eating and education about food in schools while also meeting the nutrition standards established by the HHFKA and USDA regulations.

3.3. Only a Piece of the Larger School Food Reform

Adopting a local food procurement policy is only a piece of a much larger, and necessary, school food reform in the U.S. This proposed policy is part of a school food reform that also addresses higher reimbursement rates, additional funding for workforce training and facility expansion, and more generally, improved nutrition standards for school meals akin to what the HHFKA tried to implement during the Obama Administration.[67] However, if the implementation of the HHFKA taught policymakers and the public a few things, further engagement with the schools and children is necessary to ensure a more seamless implementation process.[68] As previously discussed, there are a few ways to mitigate difficult implementation like inclusion and education.

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[67] Alvin Powell, *A Dearth of Nutrition in School Lunches,* HARV. GAZETTE, June 11, 2015, available at: https://www.forbes.com/sites/arielknoebel/2018/12/13/final-rule-on-school-food-values-choice-over-childrens-health/#720311b0240e

[68] *See* Vivian Yee, *No Appetite for Good-for-You School Lunches,* N.Y. TIMES, Oct. 5, 2012, available at: https://www.nytimes.com/2012/10/06/nyregion/healthier-school-lunches-face-student-rejection.html

3.4. The Urban-Rural Divide

When looking at a national policy, the urban-rural divide must always be considered. Because the U.S. has vastly different geography, policies have different impact depending on an individual or community's location, and rural communities are often overlooked or the differences that make each community unique are not considered.[69] Here, rural communities may be better positioned to implement a local food procurement policy. More rural communities and districts are likely able to focus more on providing wholesome and nutritious meals because the fast foods outside of school are not nearly as prevalent as in urban districts, and farms are more readily accessible. For example, Lower Kuskokwim Schools District in Bethel, Alaska feeds around 4,300 children each day and most eat the single school lunch provided. The alternative is what is brought from home or purchased at the general stores near the schools. The Foodservice Director of the district actually prefers that the children's options are more limited because it gives the schools an opportunity to educate students on what healthy foods are and instill healthy eating behaviors.[70]

3.5. Wealth Disparity Among School Districts

Not only is there a difference between urban and rural areas, but the availability of funds varies across districts as well. For federal programs like the NSLP, lower-income districts are not at an advantage per se, but they are able to utilize federal and state programs that higher-income

[69] National League of Cities, *Bridging the Urban-Rural Economic Divide* (2018), available at: https://www.nlc.org/sites/default/files/2018-03/nlc-bridging-the-urban-rural-divide.pdf.
[70] Powell, *supra* note 67.

districts may not be able to access.[71] Because districts that may ordinarily have more challenges implementing a local food procurement policy are eligible for a number of federal and state programs to assist with implementation, it is unlikely a disparity will in fact present a challenge that is difficult to overcome.

3.6. Funding

With any program, whether local, state, or national, funding is always a consideration and often a challenge. Here, nothing about the NSLP is changing substantially, but initially, it is very likely school meals will cost more and not every school will be able to take on the financial burden. However, there is evidence from Brazil's model that the local food purchase requirement further reduces the cost of school meals following implementation.[72] Adopting a national food policy in the U.S. may also address gaps in funding because food and agriculture policies and programs will be coordinated following a policy adoption. Therefore, government programs may operate more efficiently and present opportunities for additional funding sources for administering a local food procurement policy. Lastly, there are methods of procuring food at low cost. Many farms have imperfect produce that is sold below market value, and some farms are not able to completely harvest all of the crop with their workforce. Thus, there is an opportunity for farm-to-school engagement to educate children while simultaneously harvesting surplus crops that would otherwise go to waste.

[71] *Id.*
[72] Sidaner, *supra* note 57 at 992.

4. Policy Recommendations

⇒ **Develop a National Food Policy in the U.S. –** As discussed, *supra*, a national food policy will coordinate all food and agriculture policies in the U.S. to transform the food system and benefit not only the government and economy but also the people.

⇒ **Establish a Standard or Uniform Procurement Policy Based on Existing Programs and Models –** There are a number of public and private organizations and institutions, as well as foreign governments that have local food procurement policies in place. Rather than reinvent the wheel, a committee or coalition must convene to work with the aforementioned actors to scale a local food procurement policy that will be implemented as part of the NSLP. The policy should adopt the "local food" definition as outlined in the 2008 Farm Bill for continuity purposes, unless evidence supports an alternative standard.

⇒ **Adopt a Local Food Procurement Food Policy for the NSLP –** The Child Nutrition Act is a comprehensive law that authorizes a number of child nutrition programs, including the NSLP. The Child Nutrition Act must be reauthorized every five or so years by Congress, meaning Congress gives the Executive branch the authority or permission to continue administering a program. This piece of legislation is an ideal vehicle to adopt a local food procurement policy as it can be included in the reauthorization process and occurs regularly, thus providing multiple opportunities in the near future to build support for such a policy adoption.

5. Conclusion

In conclusion, the U.S. is confronted with the issue of growing prevalence of overweight and obesity in children. The issue is complex and there are many factors that cause overweight and obesity in children, but there is evidence that diet is a primary factor. Thus, this essay predominantly focuses on diet and healthy eating behaviors in children and proposes adopting a local food procurement policy for the National School Lunch Program in the U.S. Under a broader national food policy, a local food procurement policy promotes fewer processed foods in schools and intends to reduce the prevalence of overweight and obese children.

Appendix – Laws and Policies

Jurisdiction	Policy Type	Enacted/Adopted	Citation	Summary	Source[73]
Boston, MA	Ordinance	2019	Code § 4.9	City adopted the Good Food Purchasing Policy and its standards; supports 5 values of GFPP; includes development of standards, action plans, benchmarks, reporting, etc. (mandatory)	GFPP
Chicago Public Schools	School wellness policy	2017	Sec. 704.7(C)(7)	Chicago PS adopted and implemented the Good Food Purchasing Policy and its standards; supports 5 values of GFPP	GFC & GFPP
Chicago, IL	Resolution	2017	September 6, 2017	City adopted the Good Food Purchasing Policy and its standards; supports 5 values of GFPP; includes development of standards, action plans, benchmarks, reporting, etc. (permissive)	GFC & GFPP
Cincinnati, OH Public Schools	Board of Education policy	2019	Sec. 8525	Cincinnati PS adopted and implemented the Good Food Purchasing Policy and its standards; supports 5 values of GFPP; strives to annually increase procurement of "Good Foods"	GFPP
Cleveland, OH	Resolution Ordinance	2008 2010	Res. No. 1564-08 Code § 187A.01	City applies contract preference/discount for local producers, local-food purchasers, and local sustainable business; "local food" defined as food from Cuyahoga and surrounding counties (Northeast Ohio)	GFC
Cook County, IL	Resolution	2018	Res. No. 18-1650	County adopted the Good Food Purchasing Policy and its standards; supports 5 values of GFPP; applicable	GFC & GFPP

[73] Growing Food Connections (GFC) policy database; Good Food Purchasing Program (GFPP) adoptions

Jurisdiction	Policy Type	Enacted/Adopted	Citation	Summary	Source[73]
				to all county procurement; further established task force to address inequities to access; further encourages other entities to adopt and implement	
Los Angeles, CA (including LA Unified School District)	Executive Order and City Council policy adoption	2012	Executive Order No. 24; Council File No. 11-1678	County supports the Good Food Purchasing Policy and its standards; supports 5 values of GFPP; sets out implementation guidance and calls on LA Food Policy Council to establish guidelines for local actors – addresses benchmarks, traceability, compliance, reporting, etc.	GFPP
New York City	Executive Order Ordinance	2008 2011	Executive Order No. 122 Code § 6-130	City promotes procuring foods from New York state and directs the Mayor's office to develop procurement guidelines	GFC & GFPP
San Francisco, CA	Executive Directive Ordinance	2009	No. 09-03 Environment Code Ch. 2	Directive incudes overall commitment to healthy and sustainable foods and lays out numerous action items, including directive that City department and agencies purchasing foods must maximize healthy, locally produced, and sustainable foods; Chapter 2 of Environment Code supports sustainable purchases by the city to support human health though no explicit provisions re food procurement	GFPP
Syracuse, NY	Sustainability Plan	2012	Chapter 3	Identifies 5 goals and corresponding objectives, including support of local purchasing, to meet general purpose of improving overall health of community by "supporting adequate access to whole, fresh, nutritious, and culturally appropriate food"	GFC

Jurisdiction	Policy Type	Enacted/Adopted	Citation	Summary	Source[73]
Washington, DC	Law	2010	Code §38-823.01	District schools must serve and give preference to locally sourced unprocessed foods from the District, Virginia, and Maryland; District further supports the Good Food Purchasing Policy and its standards; supports 5 values of GFPP; directs public schools to assess how they meet GFPP and routinely assess and make improvements	GFC & GFPP

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