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Commissioner

State of Rhode Island
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
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February 12, 2025

The Honorable Rep. Joseph M. McNamara
Chair, Rhode Island House Committee on Education
Rhode Island State House
82 Smith St.
Providence, RI 02903

Re: Oppose as drafted, House Bill 5115

Dear Chair McNamara,

Please accept this letter on H5115, the School Food Dye Restriction Act. Unfortunately, **as currently drafted, RIDE must oppose the current H5115**. However, below the agency has offered considerations and suggestions that seek to reconcile the concerns.

The reduction of dyes and additives in school meals is an important direction for the food industry as well as the health of our school age children. However, there are concerns about how this would occur and unintended consequences of this legislation on access to healthy foods in a safe and supportive school environment.

Concerns include:

- Any fines imposed would have to be paid from the LEAs general fund, as opposed to its food service account, because state legislation does not represent an allowable use of federal funds. This specific language is in the Administrative Review Guidance Manual: *“Any financial penalty resulting from a State-imposed requirement that is otherwise compliant with Federal standards must not be paid by the Non-Profit School Food Service Account.”*
- Regarding this specific section of the bill: 16-21.9-5 (b) *“The department of elementary and secondary education shall develop a process to monitor compliance with this chapter and shall post on its website resources to assist school districts with the implementation of this chapter.”* Outside of the monitoring (administrative reviews) that the agency already conducts only once every 5 years for each LEA, RIDE does not have the capacity to monitor this on a regular basis. Further, there is potential for that to be a very onerous process, especially if the parameters are not well defined.
- Regarding this specific section of the bill: 16-21.9-6 (b) *“Any school food vendor found in violation of this chapter shall be subject to civil fines to be established by the department of health, not to exceed one thousand dollars (\$1,000) per day for the first offense, nor more than five thousand dollars (\$5,000) per day for any subsequent offense. In addition to fines imposed pursuant to this section, for repeated violations in a school year, the*

school or school district may cancel or void any food service contract with the vendor and no liability shall be imposed on the school or school district for any cancellation or voiding of the contract as a result of the violation of the provisions of § 16-21.9-4.” This language would need to be a part of the contract with the FSMC. Adding this language would represent a material change to the contract which means an LEA would potentially have to go out to bid before they reached the maximum number of renewal years on their existing contract. This not only places undue burden on the LEAs, but depending on how many LEAs have to go out to bid, this increases the agency’s workload, as RIDE will have to review all of the RFPs of the LEAs needing to go out to bid.

The good news is that the agency has had success working with partners to enable more healthy food choices. An example of that is the growth of farm to school efforts and the USDA Local Food For Schools grant which have resulted in access to healthy and local foods across the state. RIDE supports the local District Health and Wellness Subcommittees whose work informs the local school nutrition programs, among other health efforts.

Thank you for all due consideration of this feedback. Please do not hesitate to reach out if there are further questions or additional information is needed.

Sincerely,

Rosemary Reilly-Chammat, Ed.D.
Director, Office of School Health and Wellness

cc: The Honorable Members of the House Committee on Education
The Honorable Lauren Carson
Nicole McCarty, Esq. Chief Legal Counsel to the Speaker of the House