

## Supporting Implementation of Nutrition Standards Across Diverse Settings

Jamese Kwele: Hello to everyone who's already joined us. We're going to begin in a few minutes, so thank you very much. We'll begin promptly at three o'clock. Thank you. Hello again everyone and this is Jamese Kwele from The Food Trust. We did want just to let you know that right as we were setting up, Katie Uhde from KDHE had to run and take cover from a Tornado. We're just going to go ahead and get started and hopefully when she is safe, she'll be able to join us again. Again, hello everyone and welcome to today's webinar, Supporting Implementation of Nutrition Standards Across Diverse Settings. Today's webinar is presented by The Food Trust and sponsored by The Kansas Department of Health and Environment. Today's webinar is going to really cover some basic information you need to know about implementing nutrition standards in a variety of settings. We're also going to cover the topic of healthy food procurement policies and some key information on policy considerations that you need to know as you support the implementation of nutrition standards on both public and private property in your communities.

My name is Jamese Kwele and I am leading today's webinar with my colleague, Karen Shore. A little bit about myself, I serve as the Program Manager at The Food Trust where I develop and manage programs spanning a variety of areas including early childhood nutrition, farm to shelter, and community health. Karen Shore, who is presenting with me today, serves as Director of Consulting and Technical Assistance at The Food Trust, where she leads efforts to help other communities and organizations throughout the United States benefit from The Food Trust's deep knowledge base and successful innovative programs.

A few logistics for today's webinar, if you're having any technical difficulties, please use the chat box. All participants' lines are muted. If you need to communicate with us, use the chat box. Please type your questions in the chat box as they arise throughout the presentation and they will be answered at the end.

We'd like to tell you a little bit about The Food Trust. We are a national nonprofit that is based in Philadelphia, PA. We work throughout the United States and a little bit internationally to improve food access. Our mission is to work to ensure that everyone has access to affordable, nutritious food and information to make healthy decisions.

We achieve our mission through a variety of ways using a comprehensive approach. We work to expand access to healthier foods in underserved communities through our healthy corner store initiative, as well as policy work to support the development of supermarkets in low-income areas. We run farmers markets in the city of Philadelphia. We also work on farm to school initiatives. We also work to increase awareness and knowledge around making healthier decisions through nutrition education and community and youth engagement efforts. Finally, we help make healthier foods more affordable by advocating for a federal nutrition programs, incentives programs for low-income shoppers, and innovative distribution strategies.

The Food Trust also provides consulting and technical assistance throughout the United States. This is the work that Karen leads, and through it, we've helped public and private organizations benefit from our knowledge base and replicate our programs to expand access to healthy affordable foods. Through our partnership with KDHE, we are available to provide technical assistance to all CDRR and 1422 grantees through June 29<sup>th</sup>, 2016. This is an opportunity that is available to you and we encourage you to take advantage of it. We'd like to take a moment to

## Supporting Implementation of Nutrition Standards Across Diverse Settings

introduce to you our technical assistance team, which is comprised of nine individuals who represent different departments in our organization. You can see here from the key that we each have expertise in different areas, including community engagement, local foods, healthy retail, and program evaluation. You can reach out to Karen Shore. Her email address is [kshore@thefoodtrust.org](mailto:kshore@thefoodtrust.org), for assistance or to be connected with another member of the technical assistance team.

Quickly, we would like to just do a really quick recap of what we covered in the previous webinar, which was on components for effective nutrition standards. We talked about what nutrition standards are. We talked about how there is a growing movement that is a variety of entities from the federal, state, and local levels including worksite initiatives that are using standards to create healthier environments for employees and for people who visit both public and private spaces. We gave some reasons why you might want to promote standards. We talked about nutrition standards in schools and how schools are leading the movement to implement standards and how that was made possible by the Healthy Hunger-Free Kids Act of 2010. We also covered information about the newly released 2016 Dietary Guidelines and some of the new information and recommendations that were included in those Dietary Guidelines. Then, we talked about how nutrition standards often really mimic the Dietary Guidelines in terms of the nutrients they seek to increase and those they seek to decrease. We also talked about compare and contrasts between packaged and prepared foods when it comes to nutrition standards. Finally, we talked about behavioral economics and using different marketing strategies to make the healthy choice the easy choice.

Now we want to get started with Part I of our webinar. In this part, we're going to talk about healthy food procurement standards.

There are a number of strategies that we can employ to help consumers have healthy food options and many of those are listed here. Today's presentation is going to focus in on two of these strategies. One, increasing access to healthy and affordable food in smaller retail settings. And then two, adopting healthy procurement standards. The first part of the webinar is going to focus on healthy procurement standards. We really just want to emphasize here that we're not really talking so much about government using its regulatory authority to set nutrition standards, but more so about government agencies and private institutions using their purchasing power to make a positive impact on the nutritional quality of foods that are purchased, served, or sold to employees and consumers. For this reason, today's webinar is not necessarily going to address things like passing laws or ordinances to require compliance with standards, but rather our focus today is on supporting different settings, for example, worksites, hospitals, health departments, parks and recreation, and other entities with how to incorporate nutrition standards into their food procurement policies and contracts.

Let's talk a little bit about what food procurement is. The word procurement is really interchangeable with purchasing. So, instead of food procurements, we could also say food purchasing. Food procurement at its core is a formal process that promotes fairness, particularly when taxpayer money funds purchases. Governments and other institutions usually use a competitive solicitation process, which ensures a number of things, one of which is equal opportunity for bidders. And the idea here really is to eliminate favoritism and ensure the best

## Supporting Implementation of Nutrition Standards Across Diverse Settings

value for taxpayers' money, or in some cases shareholders money. What is healthy food procurement? Healthy food procurement standards or policies take conventional procurement standards a step further by building in healthy nutrition criteria for a food that is bought, served or sold.

There are a number of reasons why we encourage you to adopt a healthy procurement policy. This includes ensuring access to healthier options and helping to create more supportive food environments, increasing demand for healthier options, supporting employees ability to eat healthfully, meeting consumer demands, reducing obesity and diet-related chronic diseases and reducing health care costs. As I said before, this is a growing movement. This is an opportunity to really join that movement.

Implementing a healthy procurement policy, we've outlined a number of key steps or components of healthy procurement policies. We're going to go into some detail and talk about each of these steps and some of the things you want to look out for or consider as you work towards establishing nutrition standards in your community. As we go through this, please keep in mind that this is by no means intended to be prescriptive. This is more of a guide outlining some of the key steps you should consider in creating a healthy procurement policy. Also, just remember that every community is different. What may work in one county may not work in another and vice versa.

The first step is to assess your environment. Before you proceed, you really want to take inventory and understand the lay of the land where you are. Some questions you may want to ask includes where and how does procurement take place? What is the process involved? Are there any existing policies or standards in place already? Another important thing to figure out is when does the current food contract expire?

Another really, very important early step in implementing standards is to identify partners using a team-based approach. This is preferred. It helps increase buy-in and it helps to identify the right strategy that you'll want to use to implement the standards. In terms of identifying partners, you'll want to engage with stakeholders, build relationships, and who you should reach out to. Think about administrators, key staff, community members, perhaps purchasing experts, food service providers, vendors, et cetera. You might also consider choosing a recognized leader to champion your program.

In addition, as you look to obtain organizational support and commitment, you'll need to figure out who is in charge. In other words, who sets the purchasing policies for the food you're trying to improve and who has the authority to change the way things are done. This will really vary depending on where you are. It could be a head of the department, it might be the head of the purchasing department. It's important to note that sometimes food procurement contracts are controlled by a union bargaining agreement. Also keep in mind often times that local and state agencies have a procurement specialist on staff.

Once you've identified that person or persons who are in charge, you want to engage them. As you engage the person in charge, you want to emphasize that nutrition standards will increase choice, not restrict choice. Nutrition standards are not about restricting or imposing on people's

## Supporting Implementation of Nutrition Standards Across Diverse Settings

personal choices around food. In contrast, it's really about standards, making more choices available, and increasing options for employees and the public, and also by making the healthy choice more accessible, more appealing, and more affordable. Before you meet with your decision maker or your decision makers, think about learning about that person or those people's goals or concerns in advance so that you can build a case with those in mind. This really speaks to knowing your audience. For example, your primary concern might be promoting public health and chronic disease prevention. We would hope that the decision maker would see that as a priority as well, but also consider that you may need to bolster your case from a variety of perspectives. In that vein, you want to make sure that you develop and present a high-level business case with attention to vendor profits and business concerns. Often, of course, decision makers are, for a very good reason, very concerned about the bottom line. Then finally, do your research. Understand procurement laws and any statutes that may impact implementation in your local community. We'll be talking about that more shortly.

Then you're going to want to develop consensus about how healthy will be defined and choose among model standards to establish your own guidelines. So you can refer to the previous webinar, webinar number two, for some more information about model standards.

In terms of nutrition policy components, we just want to take a moment to emphasize again that it's not just about the nutrient standards alone. It's not just about reducing sodium and increasing fruits and vegetables, but also that a nutrition policy should include additional components particularly around marketing, pricing, and placement to make the healthy choice the easy choice. I do want to just point out because we did not touch on sustainability, local provisions, and policies in the previous webinar. I just want to quickly mention that those are often included in nutrition standard policies. Those could include everything from offering incentives for reusing reusable beverage containers or using compostable and bio-based eating materials, things like offering food that is organically or sustainably grown, and really important, offering fruits and vegetables that are locally grown, which of course improves tastes and benefits local farmers and the local economy.

Once it's time to adopt the policy you want to make sure that you establish clear authority for implementation, set clear goals, address fiscal realities, and establish positive incentives.

Implementation involves negotiating and phasing in new contracts, keeping our partners involved, if necessary identifying new vendors, addressing barriers, and definitely think about how you would support and incentivize implementation. Some options include technical assistance services, recognition programs, and other rewards for adopting policies.

Then with education and outreach, this is a really important step because you want to make sure that you educate stakeholders and the general public about changes that are being made and promoted new standards. Remember, it's important to frame the policy in a positive light. As we said before, it's about increasing choice. Emphasize that you promote stakeholder buy-in and support, and help employees, staff, visitors, and others understand that the policy is designed to promote, not restrict choice by ensuring that more healthy options are accessible. Also, you might consider promoting new healthy options that are available and cultivating support for the program using a variety of channels, including press releases, fliers, emails, social media, et

## Supporting Implementation of Nutrition Standards Across Diverse Settings

cetera. Another great strategy to increase buy-in is to hold educational events, such as taste tests of new products or cooking demonstrations. At these, you can survey participants and then you want to share results from the surveys from the tasting to ensure that vending machines, cafeterias, and concession stands are stocked with the preferred items.

In terms of evaluation, you'll definitely want to evaluate your process. Monitor changes in offerings, monitor sales and satisfaction, identify where the policy has been successful and what obstacles might be preventing additional success. Then I also just want to mention that you do, with your grant through KDHE, have performance standards. And most of those for both 1422 and CDRR grantees are around outcome measures like increasing the number of key locations in institutions such as worksites, hospitals, parks and recreation that implement nutrition and beverage standards. Then, increasing the number of adults who have access to those key locations that implement nutrition and beverage standards. That's really important to note with your evaluation.

A few policy and legal considerations that you'll want to consider. When developing and implementing your standards in your procurement policies, it's really important for you to understand the legal and policy issues that may impact implementation and enforcement of these policies. As you can see here, there are really two fundamental issues to consider. One, is the policy mandatory or voluntary? Then second, is the policy being implemented in a private or a public setting? We're going to talk about the different considerations that need to be made based on whether the policy is mandatory or voluntary, or whether it's on public or private property, and how these considerations might affect the development, implementation, and enforcement of policies.

Overall, there are four major policy and legal considerations, The Randolph Sheppard Act, First Amendment protections and restrictions, the Affordable Care Act's new menu labeling requirements, and Equal Protection and Due Process. We're going to go into a little bit of detail and talk about each of these.

With the First Amendment, it's important to know two things. One is that there are constitutional limits on a government's authority to regulate speech. Then two, that governments are required to adhere to principles of fairness. These legal issues are really primarily a concern for mandatory policies adopted by public agencies. How this relates to food procurement policies is that if a food procurement policy restricts speech, it's important to consider whether the speech is being restricted on public or private property. For example, if the policy seeks to limit advertising of unhealthy food items in public spaces, then the First Amendment protection of commercial speech in government settings could become an issue. Now, private organizations actually have more room to regulate advertising because the First Amendment doesn't protect commercial speech in a private setting. While private organizations legally can restrict advertising of specific products, it's recommended that they clearly define what advertising is to be restricted and incorporate clearly written limitations into the food procurement policy.

Another important legal consideration is Equal Protection and Due Process. Equal protection is a legal concept that requires that similarly situated people or things be treated similarly. Again, this relates back to whether the policy is being implemented on public or private property. Equal

## Supporting Implementation of Nutrition Standards Across Diverse Settings

protection issues are primarily a concern with mandatory food procurement policies in government agencies. Just so that you're aware, the healthy food procurement policy could potentially trigger equal protection issues if the policy treats similarly situated individuals or products differently without sufficient justification. Then with due process, this is a constitutional principle that essentially requires that no person to be deprived of life, liberty, or property without due process of law. This is the 5th and 14th Amendments. Generally, due process issues relate to the implementation and enforcement of a food procurement policy and can be avoided if the policy is written clearly, if those who are impacted are given adequate notice of when the policy will be implemented and who it impacts, and if the policy provides for those affected by it to appeal to any actions taken against them for failing to follow the policy. You'll just want to make sure that your policies are clear and consistent to support enforcement and guarantee equal protection and due process for partners, contractors, and consumers.

Then, the Randolph Sheppard Act. This is a federal law that gives priority to blind individuals over others who bid to operate vending machines. Most states, including Kansas, have what we like to call a mini Randolph Sheppard Act. In Kansas, The Randolph Sheppard Law gives eligible legally blind vendors priority over non-blind vendors to operate vending facilities on specified public property in the state. There are some exceptions in schools, cities of the third class, and townships. This law is implemented by the Kansas Department of Children and Families. There are definitely implications with the Randolph Sheppard Act when you are looking to create new RFPs or new opportunities to bid for contracts. Definitely, reach out to the Kansas Department of Children and Families - the number is right there - to see what the implications are for where you are.

Then finally, we want to just talk briefly about the Affordable Care Act and the menu labeling requirements. The Affordable Care Act was passed in 2010, and then just recently, last month, in fact, the FDA published the final guidance on implementation of the menu labeling rule. This is going to require chain restaurants and other food retail establishments to post calorie information on their menus and provide additional nutrition information to the consumers on request. This is going to apply to chain restaurants. That means 20 or more outlets or vending machines that are operated by a person or entity that operates at least 20 vending machines. Implementation is expected to begin in May 2017. Actually, it will be required to be implemented in May 2017 and many restaurants are already complying.

Now we're going to move on to Part II, which is nutrition standards for retail settings. I'm going to hand it over to Karen.

Karen Shore: High everyone, so glad to join you today again. This is going to go into a little bit more detail than what we discussed on our first webinar, which was focused on healthy retail initiatives and different ways to approach working with a wide variety of different stores. We briefly touched on some different policy approaches and how nutrition standards came into play, but I'm happy to share a few slides going a little bit deeper into that this afternoon.

As a brief reminder of how we work in healthy retail settings, again whether we're talking about supermarkets, small stores, rural or urban settings, we really are looking at a variety of different approaches that together really helps to improve the food and beverage environments of the

## Supporting Implementation of Nutrition Standards Across Diverse Settings

store, as well as helps to create demand for healthier food in communities in need, including helping inform healthier decisions at the point of purchase. What we're going to be focusing on today is talking a little bit about the purple area of policy and also how that ties into nutrition standards used in a healthy retail strategy, whether a program or a policy initiative.

As a visual for what we're talking about, here is an example of an installation that we did in one of our healthy small store neighborhood market programs. As is typical with a healthy corner store initiative or a rural grocery store initiative, you are talking about bringing in additional healthy foods into the environment, and/or if the healthy foods are already there, which would of course be the case in say a supermarket, we're talking about promoting these items. You see that we have an attractive tilted produce table with a basket so that it looks attractive and full in a display. There's signage that is catchy that helps to identify the program and also helps to promote the purchases of the foods. All of these things come about which foods to add based on nutrition standards.

Here is one example of a healthy small store or a healthy corner store product menu. What this is intended to do is to provide a single point of reference for both program staff working on this initiative, which will include many of you, which often includes local health departments, local organizations, even state health departments, and also a common set of vocabularies to use with the store owners and store managers. Whether you're talking about working in one very small independently owned and operated store, or whether you're talking about working in a suite of stores or a series of chain stores, you need to have a common understanding of what you mean by healthy food. Because as we all know in the public health sphere, if you sit all of us in a room together and ask us to identify what should constitute healthy foods, it would be very challenging to come up with a cohesive set of strategies without having variation than can make it complex.

We also want to make very certain to align carefully with USDA Dietary Guidelines and make sure that we are really bringing forward the best advice that we can in a retail setting. What we have here are the different healthy food categories on the left, proteins, whole grains, dairy for example. Then what the requirement is for this store to add or to carry in order to join the network. Then there are definitions on the right-hand side. This is one example of a product menu that was created, but they are often different and this is also okay. There are some localities where you're focusing really heavily on healthy beverages, on healthy snacks, and grab-and-go items, which you may remember from webinar one might be an appropriate intervention in a place like a quick service convenience store or a fuel retailer where the food is eaten almost onsite if not within an hour after a purchase. But in a store that's more of a rural grocery store or a neighborhood market or even a convenience store that sells groceries, you're talking about wanting to add healthy foods from a wide variety of healthy food categories in order to support a healthy whole diet and a diet that's in alignment with USDA Dietary Guidelines. While perhaps it's not thought about as a policy in a traditional sense, in other words there's not a law being passed that says that this is what a store has to have in a particular neighborhood, it is reflective of an overall policy that is in use in a program that may be implemented at either a local, a regional, or at a state level. In addition, we certainly have with both SNAP as well as with WIC, a set of standards for what a store has to do in order to be able to accept these forms of nutrition assistance.

## Supporting Implementation of Nutrition Standards Across Diverse Settings

In addition, incentive strategies are a new form of trying to increase the purchases of healthier foods in low-income populations, and of course have long been used just as a coupon strategy in general to promote the increased purchases of food. These strategies are really tied very closely to what a qualifying purchase is. It's the case that you're trying to specifically incentivize the purchase of certain foods, in some cases with FINIs. For example, it may be very much focused on fruits and vegetables, and beyond that locally grown produce. Some incentive strategies and coupon strategies are focusing on a variety of healthy items. For example, in some places, there is a health buck or a heart buck that's used in programs where there are community clinical linkages with the healthy retail work. For example, if you're doing blood pressure screenings in a corner store, participants who go through the nutrition lesson and have a blood pressure screening are able to earn an incentive that they get to spend, or the heart buck, which they get to spend on heart healthy items in the store.

SNAP and WIC, as I mentioned, have clearly set nutrition standards. They vary, given the varying intent of the programs. WIC standards are set at the federal level, and then also further regulated by the state level in terms of what the minimum stocking requirements are for the store. For any store to be able to accept WIC in Kansas, there is the set of minimum guidelines for the type of foods that have to be sold, the variety of foods that have to be sold, and then what we call depth of stock requirements. That is the number of items that you have to have on the shelf. In other words, if a whole grain bread is one of the items, there is a desire not to just have one loaf, but for shoppers, in order to spend their nutrition assistance to be able to have all of the items available in the store. There's an interest and the desire to have a depth of stock available to ensure that all of those foods that they have been recommended to purchase are available at that time.

SNAP standards have historically been different. The goal has been to have many, many more stores accept SNAP than accept WIC. The goal set forward by USDA is to have the retailer be a place that sells food. SNAP is not able to be used on hot prepared foods. For example, you couldn't use your SNAP dollars in say a fast food a restaurant, but there is not a restriction based on a nutritional profile of this food like there is with WIC.

However, like all things in life, if you wait long enough there will be change. What we have are new standards that have been proposed by USDA to change the requirements for SNAP Retailer Authorization. What that really means is having set standards and regulations at the federal level for what a store has to carry in order to be able to accept SNAP. USDA right now is currently in the final stages of accepting comments on this proposed rule. Overall, The Food Trust sees this proposed rule and certainly understands the good intent of it and is very much in favor of trying to promote healthier food purchases by everyone and certainly understands the need for that in vulnerable populations. We also understand that there's a need to provide support to many retailers who, as many of you on the phone know who are working with retailers, are going to really struggle with meeting increased standards for say carrying fruits and vegetables, whole grains, and so on. But just to be aware that, as it really would relate to the work that many of us are doing in small stores, in both our program and policy initiatives, that it is very likely that USDA will be establishing requirements that themselves create nutrition standards for what the stores needs to be carrying.

## Supporting Implementation of Nutrition Standards Across Diverse Settings

A couple of other policy approaches to promote healthy food sales that really are relevant to our conversation today really have to get at both certification programs and awards programs in particular. For example, if in a locality you wanted to take that healthy product menu and say to stores, almost as a carrot as opposed to stick, right, say, “We want to value a store that’s selling a variety of healthy items for a community residence. We’re going to come up with an awards program so that the store can get recognition.” Maybe there is a certain seal that can be placed on the store window or on the store’s door. The store can do some PR about it on their website or on their Facebook page. And maybe there could even be a list of participating stores on say, a county website, as just one example. That is known as a reward or an award program. It could start just as simple as I mentioned. But it also could be something where you're looking at tax incentives for stores that comply in a certain way. Clearly, the individual budgets and the political environment will guide what that will look like. But those are examples of ways to reward stores for doing more to add healthier foods and beverages.

Another strategy is looking at a certification program very similar to what I talked about. But here, you're talking about certifying stores as being healthy stores. Typically, the piece to mention here that’s a little nuance is you're typically talking about making changes to the food and beverage environments. But you're also talking about wanting to look at what it means to be a healthy store overall. Again, depending on the location of the store, you might be looking at walkability. The store might have a bike rack or things that promote physical activities. If you’re looking at alcohol sales, for example, and advertising cigarette sales, not selling cigarettes to minors, making real efforts not to have vending machines available to minors, cigarette advertising in the window, and in the stores. This is a way to bring together a variety of what we all understand to be evidence-based approaches to reducing chronic disease. The healthy store certification program is the way to do that.

Thank you very much. I will wrap up, along with James, and just say we really thank you for joining us on this webinar today. We'll be happy to answer your questions. If you can type them into the chat box, that will be really helpful. We hope that you will all join us for the final webinar in this four-part webinar series on Thursday, June 23rd at 2:00 PM. We'll be talking about how to really make the business case for doing this. It's good to have a solid understanding of what the options are, but now, how are you going to approach the school? How are you going to approach the retailer to make these changes? [end of audio]