

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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April 4, 2024

The Honorable Xavier Becerra
Secretary
U. S. Department of Health and Human Services
200 Independence Ave. SW
Washington, D.C. 20001

Dear Secretary Becerra:

The Committee on Oversight and Accountability is conducting oversight of the Department of Health and Human Services' (HHS) development of the 2025 Dietary Guidelines for Americans (Dietary Guidelines). We are concerned that the process implemented by the Biden Administration for developing the Dietary Guidelines may not be fully in accordance with federal law. Specifically, the Consolidated Appropriations Act of 2023¹ and the National Nutrition Monitoring Act require the Dietary Guidelines to be “based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared”—and that the Secretary, not a subagency, approve of such guidance.² It is imperative that HHS base the Dietary Guidelines on rigorous, sound and objective scientific evidence and adhere to congressional intent. Therefore, we ask that you provide documents and information to assist the Committee’s oversight of this matter.

In the 2023 Consolidated Appropriations Act, Congress allocated \$1.3 million for the National Academies of Sciences, Engineering, and Medicine (NASEM) to study the relationship between alcohol consumption and health outcomes such as cancer, obesity, and heart disease to inform the 2025 Dietary Guidelines.³ In preparing for the 2020 Dietary Guidelines, the Dietary Guidelines Advisory Committee (DGAC) did not complete its alcohol review and only answered one research question regarding the relationship between alcohol use and all-cause mortality.⁴ Therefore, Congress determined it was necessary to direct NASEM to study the relationship between alcohol consumption and all types of health outcomes, in addition to all-cause mortality, for the 2025 Dietary Guidelines.⁵

¹ Consolidated Appropriations Act of 2023, Pub. L. No. 117-328 § 772, 136 Stat. 4508 (Dec. 29, 2022).

² National Nutrition Monitoring and Related Research Act of 1990, Pub. L. No. 110-445 § 301, 104 Stat. 1042 (Oct. 22, 1990).

³ *Supra*, n.1..

⁴ U. S. Dep’t of Health & Human Servs. & U. S. Dep’t of Agric., NASEM Committee: Review of Evidence on Alcohol and Health Sponsor Briefing, 8, *available at* <https://www.nationalacademies.org/documents/embed/link/LF2255DA3DD1C41C0A42D3BEF0989ACAECE3053A6A9B/file/DCFB6F841AF48C802906589338CEED3333591F80E75?noSaveAs=1>.

⁵ *Supra*, n.1.

In Section 773 of the Consolidated Appropriations Act of 2024, Congress reaffirmed its intent.⁶ Congress again directed the Secretaries of USDA and the Department of Health and Human Services (HHS) to “consider the findings and recommendations of the NASEM report in the development of the 2025 Dietary Guidelines for Americans” and reiterated that the Dietary Guidelines “shall be based on the preponderance of scientific and medical knowledge consistent with section 5341 of Title 7 of United States Code.”⁷

During the January 25-26, 2024 NASEM Review of Evidence on Alcohol and Health committee meeting, however, a representative of the Interagency Coordinating Committee on the Prevention of Underage Drinking’s (ICCPUD), which is led by HHS’ Substance Abuse and Mental Health Services Administration (SAMHSA), presented documents to support SAMHSA’s intention to study on its own the relationship between alcohol-related mortality and alcohol consumption and use ICCPUD’s findings to inform the 2025 Dietary Guidelines.⁸ We are alarmed that HHS appears to be removing alcohol review from the DGAC and “delegating” it to ICCPUD,⁹ despite the statute directing the Secretaries of HHS and the U.S. Department of Agriculture (USDA) to issue the Dietary Guidelines, not subagencies such as SAMHSA.¹⁰

Further, by independently studying the impacts of alcohol intake on health for the purposes of informing the 2025 Dietary Guidelines, HHS is duplicating—and may intend to undermine—the congressionally mandated effort already being carried out by NASEM.¹¹ A recent Government Accountability Office (GAO) study found that HHS should collaborate better in future formulations of the Dietary Guidelines to reduce duplicative research activities.¹² Specifically, GAO recommended that HHS and USDA work together to ensure that the “research each agency conducts is complementary and not overlapping or duplicative” when formulating the Dietary Guidelines.¹³ To avoid waste and hew to Congress’ intent, HHS should be following the spirit of those recommendations with regard to NASEM’s work on alcohol as well.

In April 2022, HHS published notice in the Federal Register of the scientific questions to be considered by the 2025 DGAC, none of which included questions related to health outcomes and the consumption of alcoholic beverages.¹⁴ By removing alcohol recommendations from the

⁶ Consolidated Appropriations Act of 2024, Pub. L. No. 118-42 § 773 (Mar. 9, 2024).

⁷ *Id.*

⁸ Nat’l Academies Review of Evidence of Alcohol and Health, Meeting 1B (Jan. 25-26, 2024), 6-7, *available at* <https://www.nationalacademies.org/documents/embed/link/LF2255DA3DD1C41C0A42D3BEF0989ACAECE3053A6A9B/file/D36C7490DF2904B73F7E8BD588907E1E7D2B39294A3F?noSaveAs=1>.

⁹ Dietary Guidelines for Americans, Projects Related to the *Dietary Guidelines – Alcoholic Beverages and Health*, *available at* <https://www.dietaryguidelines.gov/related-projects>.

¹⁰ National Nutrition Monitoring and Related Research Act of 1990, Pub. L. No. 110-445 § 301, 104 Stat. 1042 (Oct. 22, 1990).

¹¹ Consolidated Appropriations Act of 2023, Pub. L. No. 117-328 § 772, 136 Stat. 4508 (Dec. 29, 2022).

¹² GOV’T ACCOUNTABILITY OFF., GAO-24-106130, DIETARY GUIDELINES FOR AMERICANS: STRENGTHENING INTERAGENCY COLLABORATION COULD HELP INFORM NUTRITION RESEARCH AND FUTURE GUIDELINES (Oct. 2023).

¹³ *Id.*

¹⁴ U. S. Dep’t of Health & Human Servs., Request for Comments on Scientific Questions To Be Examined To Support the Development of the Dietary Guidelines for Americans, 2025-2030, 87 Fed. Reg. 22540 (Apr. 15, 2022);

2025 Dietary Guidelines, HHS appears to be driving toward approving Dietary Guidelines that by default recommend that Americans consume no alcohol whatsoever, despite a continually evolving scientific debate about the risks and benefits of moderate alcohol consumption.¹⁵ As HHS works towards finalizing the 2025 Dietary Guidelines, it is imperative that the NASEM Review of Evidence on Alcohol and Health complete its work as mandated by Congress without interference or efforts to subvert it by HHS or other government agencies.

To assist the Committee's oversight of this matter, please provide a staff-level briefing on this matter no later than April 11, 2024. Briefers should be prepared to discuss the scope of ICCPUD's Subcommittee for Alcohol Intake and Health, including specific topics and questions being studied and how those topics overlap with the charge of the NASEM Review of Evidence on Alcohol and Health.¹⁶ Briefers should also be prepared to describe how HHS intends to support the NASEM Review of Evidence on Alcohol and Health and consider its findings for the 2025 Dietary Guidelines.

In addition to the staff-level briefing, please also provide the following documents and information, covering the period December 29, 2022 to present, as soon as possible but no later than April 18, 2024:

1. All documents and communications among or between HHS staff related to agency compliance with applicable rules and regulations governing the formulation of the Dietary Guidelines, including The National Nutrition Monitoring and Related Research Act of 1990 and Section 772 of the Consolidated Appropriations Act of 2023, and Section 773 of the Consolidated Appropriations Act of 2024;
2. All documents and communications among or between HHS staff related to the formation of the ICCPUD Subcommittee for Alcohol Intake and Health to review alcohol consumption and health for the 2025 Dietary Guidelines;
3. A complete list of all participants in the ICCPUD Subcommittee for Alcohol Intake and Health, including name, position, and professional affiliation;
4. All documents and communications containing any of ICCPUD's Subcommittee for Alcohol Intake and Health meeting minutes or other notes of the Subcommittee's meetings;
5. All documents and communications among or between HHS (including but not limited to SAMHSA and/or ICCPUD) about or with NASEM members and staff or

Dietary Guidelines for Americans - Scientific Questions, *available at* <https://www.dietaryguidelines.gov/scientific-questions>.

¹⁵ Harvard Univ. T. H. Chan School of Public Health, The Nutrition Source – Alcohol: Balancing Risks and Benefits.

¹⁶ Nat'l Academies Review of Evidence of Alcohol and Health, *available at* <https://www.nationalacademies.org/our-work/review-of-evidence-on-alcohol-and-health>.

Hon. Xavier Becerra

April 4, 2024

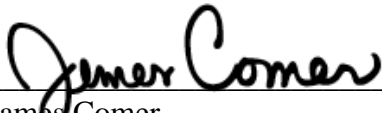
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USDA, related to NASEM or ICCPUD committee members' work on alcohol-related issues, disclosures and alleged conflicts of interest; and

6. All documents and communications reflecting HHS and its subagencies' efforts to undermine, subvert, or displace NASEM's work and its role in the process for setting the 2025 Dietary Guidelines.

To ask any follow-up questions, schedule the briefing, or arrange for the delivery of responsive documents please contact Committee on Oversight and Accountability staff at (202) 225-5074. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability



Lisa McClain
Chairwoman
Subcommittee on Health Care and Financial Services

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Katie Porter, Ranking Member
Subcommittee on Health Care and Financial Services