



**Food and Agriculture Organization
of the United Nations**

Strengthening regulatory frameworks for sustainable school food and nutrition in Kyrgyzstan

Kyrgyzstan has shown significant progress over the past decade in improving the food security and nutrition of its population (FAO, 2019a). However, malnutrition among children remains an issue, particularly for those in rural areas or from poor families (WHO Regional Office for Europe, 2020). The National School Meals Programme has been implemented in Kyrgyzstan since 2006. With the support of the UN agencies and other international partners as well as of community representatives in the country, the programme has seen a vast improvement towards enhancing the quality of the meals, seeking to incorporate fresh and local products. School gardens activities are complementary to the existing school meals programme, which not only supports healthy diets of schoolchildren, but ensures children learn how food is grown (United Nations Kyrgyz Republic, 2021). School gardens (Kyrgyzstan, 2022) are considered a good platform to integrate food and nutrition education, and they are currently used to complement and enrich school meals.¹ Over 65 percent of the country's schools have the potential to establish school gardens, as almost all rural schools have land plots. Aware of the potential of school gardens, the Cabinet of Ministers of Kyrgyzstan has regulated their organization and management in order to enhance their contribution towards both food and nutrition education and the diversification of school meals.

This policy brief examines some of the key legal considerations related to school gardens, and also explores regulatory options for strengthening the legislative environment for sustainable school food and nutrition² in the country. This brief is rooted in a holistic approach to school food and nutrition (see Box 1) and the analysis provided in this note, is drawn from a legal assessment carried out within the framework of a wider project led by the Food and Agriculture Organization of the United Nations (FAO), "Developing capacity for strengthening food security and nutrition in selected countries of the Caucasus and Central Asia",³ funded by the Russian Federation.

¹ The products that are mainly used to diversify school meals are vegetables and fresh fruits. As an example, a special raspberry variety called "Monomakh's cap" is being planted with the support of FAO in school gardens at the Chui boarding school. This raspberry contains vitamins C and B, manganese, potassium, calcium, folic acid, magnesium, copper and iron, which, in turn, help strengthen the immune system and have a positive effect on the physical and mental development of children.

² See the FAO School Food and Nutrition Framework (FAO, 2019b), which includes four fundamental pillars that reinforce each other. School gardens are part of this approach as a learning platform for school food and nutrition education.

³ See www.fao.org/in-action/fsn-caucasus-asia/overview

BOX 1. A holistic approach to school food and nutrition

The School Food and Nutrition Framework is an approach used by FAO to support countries in looking holistically at their school policies and programmes and finding strategic synergies in order to enhance the impact on diets, child nutrition, local food systems and sustainable development. This approach incorporates the recommendations derived from the Second International Conference on Nutrition (ICN2) as a basis for the technical assistance provided to countries. The notion of school food and nutrition goes beyond the implementation of a specific or single policy or programme. It encompasses the areas of work in which FAO can support governments and institutions, through a variety of school policies and programmes. For its implementation, this approach advocates for an enabling environment including policy, legal and institutional frameworks that support sustainable school food and nutrition.

Sources: Cruz, L. 2020. *Legal Guide on school food and nutrition: Legislating for a healthy school food environment*. FAO Legal Guide No. 2. Rome, FAO. www.fao.org/3/ca9730en/ca9730en.pdf; FAO. 2019b. *School Food and Nutrition Framework*. Rome. www.fao.org/3/ca4091en/CA4091EN.pdf; FAO. 2019c. *Legislating for adequate food and nutrition in schools*. Legal Brief for Parliamentarians in Africa No. 3. Rome. www.fao.org/3/ca3520en/ca3520en.pdf

Policy and legal environment

In 2018, Kyrgyzstan launched the new National Development Strategy of the Kyrgyz Republic 2018–2040,⁴ the five-year national plan of the National Mid-term Development Programme of the Kyrgyz Republic 2022–2026.⁵ Aspects relevant to school food and nutrition are reflected in the National Programme for Food Security and Nutrition 2019–2023 (Target 2), which builds on both the National Development Strategy of the Kyrgyz Republic 2018–2040 and the Action Plan of the Government of the Kyrgyz Republic 2019–2023 to implement the programme of government activities, approved by the Jogorku Kenesh on 20 April 2018, No. 2377-VI(1). In recent years, there have been important legislative and regulatory developments for school food and nutrition, such as Decree No. 734 of 2014 providing the main directions for school nutrition in Kyrgyzstan, and Law No. 135 of 2019 on school meals⁶ which defines the procedure for the provision of school meals for students in grades 1–4 of state, municipal and private general education organizations.

Potential of school gardens

School gardens, when they are well designed and implemented following best practices, can support the development of a range of agronomic skills in gardening fruits and vegetables, among other benefits. Moreover, gardening activities, especially those that follow organic approaches, improve children's understanding of and attitudes toward the natural environment (FAO, 2010).

For older students, when explicitly included in the learning plan, school gardens are also an opportunity to enhance their agricultural knowledge and skills, taking into account the issues of environmental protection and adaptation to climate change.

Legal considerations for school gardens

School gardens provide a good platform for integrating food and nutrition education, but several legal questions arise in particular regarding their organization, their sustainability in the long term, and food safety aspects related to children's consumption of products harvested. Such questions include:

- ▶ Who is responsible for the activities of the school garden? What is the role of the Cabinet of Ministers of Kyrgyzstan and local authorities?
- ▶ What are the legal responsibilities of institutional actors both at central and decentralized levels?

⁴ Approved by Presidential Decree No. 221 dated 31 October 2018.

⁵ Approved by Presidential Decree No 435 dated 12 October 2021.

⁶ Adopted by the Jogorku Kenesh of Kyrgyzstan on 23 October 2019.

- ▶ What are the duties of volunteers who join the initiative? Are these duties regulated?
- ▶ Who is responsible for financing and maintenance of the gardens?
- ▶ Is it possible for the school to sell the produce?
- ▶ Is it possible to integrate the produce as part of school meals?
- ▶ Are there any legal requirements from a food safety point of view? How can they be complied with operationally?
- ▶ What is missing in legislation to ensure that school gardens are sustainable in the long term?

While most of the concerns relate to organization as well as to the issue of food safety, other questions arise regarding the necessary balance between school workload and time spent in the garden. There is some concern that, if not framed properly, the lack of regulation would leave the door open for such activities to be considered child labour.⁷

In order to answer these questions with the objective of identifying the legal framework applicable to school gardens and to school food and nutrition more broadly, a legal assessment of the relevant legislation was carried out, which allowed the identification of the main legal difficulties and gaps in regulatory practice.

Findings of the legal assessment

The assessment of the national legislation was preceded by a technical analysis that included field visits and a wide variety of interviews with stakeholders. The analysis of the legal framework was built on a holistic approach to school food and nutrition and therefore covered different areas of law, considering any legal instrument with a direct or indirect impact on school food and nutrition to be relevant.



⁷ This concern was conveyed by individuals interviewed locally during the preparation of the assessment, and in particular by school principals.



International treaties and constitutional protection

Kyrgyzstan has ratified and is a state party to all international treaties addressing school food and nutrition.⁸ However, the Constitution of Kyrgyzstan has established high universal social standards for the individual, including the social programmes to create decent living conditions for individuals and children's rights, including the right to health, which is impossible to protect without the right to adequate food, the right to education, as well as the right to social support.

School food and nutrition translated into long-term policy developments

There is a lack of focus on the development of school food and nutrition in medium- and long-term national programmes. This would imply the development of a set of measures for further improvement of the policy, regulatory and legal framework for building institutional capacity; developing funding and appropriated implementation and procurement models; and targeting groups through mechanisms of preferential provision based on the principle of ensuring the rights of the child, as well as inclusive participation of all stakeholders from among state bodies, local self-government bodies (LSGBs), schools, parents, local communities, suppliers and non-governmental organizations (NGOs).

The need for a holistic approach to school food and nutrition legislation

From a legal perspective, adopting a holistic approach to school food and nutrition entails harmonizing the different relevant laws and regulations to promote school food and nutrition policy goals through a holistic approach (FAO, 2019c) (see Box 2). Some of the main findings of this assessment identified that although a significant number of legal instruments which are in force in the country are relevant to school food and nutrition, the legislation is fragmented and there are still substantial gaps and legal inconsistencies in ensuring the right to food in schools, as detailed below.

⁸ The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to food (Article 11), as well as the right to the highest attainable standard of physical and mental health (Article 12) and the right to education (Article 13). However, the most prominent legal instrument to protect and fulfil children's rights is the Convention on the Rights of the Child. This instrument recognizes the right to life, survival and development (Article 6); the right to special protection of children with disabilities (Article 23); the right to health and health services (Article 24); the right to social security and child-care services and facilities (Article 26 and Article 18[3]); the right to an adequate standard of living (Article 27[1–3]); and the right to education (Article 28), all of which are all relevant for school food and nutrition.

- **Unclear entitlements to school meals and to a healthy food environment:** Access to food at school is not well defined through certain legal entitlements in national legislation or regulations, leading to confusion among parents about whether or not they are required to contribute towards the cost, or it is the responsibility of the government which leads to questions regarding the quality and modalities of provision of adequate school meals. In particular, the national legal framework does not establish strong mechanisms to interlink the school meals and social protection interventions such as the lack of regulations recognizing children's entitlements regarding their right to education on school food and nutrition, as well as the right of parents to participate in the decision-making processes related to school food and nutrition. This includes the right to receive information regarding how to access participatory and accountability mechanisms to guarantee the exercise of the right of children to food in the schools.
- **Gaps in key regulatory areas:** In terms of regulatory framework, there is a lack of mandatory nutritional value standards for school meals and for food that is available, sold or marketed in schools.
- **Food safety at school:** Food safety legislation concerning schools does not incorporate a preventive approach. The method of post-control safety checks of grown produce/finished products – which consists of identifying safety breaches once the products are ready for consumption – does not effectively allow for a preventive approach to ensure food safety from garden to fork. This approach would involve employing good agricultural, manufacturing and hygienic practices, and (where appropriate) a food safety system based on Hazard Analysis Critical Control Points.
- **Child labour:** A law of Kyrgyzstan that specifically addresses the protection of children is the Code on Children No. 100, dated 10 July 2012. The Code contains principles for protecting the rights and interests of children (Article 4), including a ban on the exploitation of child labour for economic benefit. The Code establishes provisions prohibiting the use of child labour, as well as any labour that may serve as an obstacle to the child's education or that may damage his/her health and physical, mental, spiritual, moral and social development. This Code on Children contains a ban on forced labour of children in any form, including in institutions (such as schools) and organizations, regardless of their form of ownership, as well as cooperatives, peasant gardens and other gardens. It also introduces a legal provision prohibiting children from lifting, carrying and moving heavy weights exceeding established limits (Article 15). While the government has substantially revised the list



of hazardous types of labour prohibited for children under 18 (a draft government resolution to approve this list is under discussion), a legal definition of “light work” and of the worst forms of child labour has yet to be established (European Commission, 2020).

- ▶ **Monitoring:** The internal system for monitoring the provision of school meals and the operation of school gardens is weak, and mainly relies on donor funds because of insufficient resources allocated, which in turn jeopardizes its stability and efficiency.
- ▶ **School gardens:** At the time the assessment legislation was developed, there was no regulation establishing a procedure for the creation and organization of school gardens.

BOX 2. Process that led to the school gardening regulation

Upon official request from the Ministry of Education and Science, FAO supported the development of a regulatory instrument to define a procedure for the establishment and approval of school gardens in Kyrgyzstan. The following actors took an active part in the preparation and discussion of the draft: the Jogorku Kenesh of Kyrgyzstan; the the Cabinet of Ministers of Kyrgyzstan; the Ministry of Education and Science; the Ministry of Finance; the Ministry of Agriculture; the Ministry of Labour, Social Welfare and Migration; the Department of Disease Prevention and Sanitary and Epidemiological Surveillance of the Ministry of Health; the State Inspectorate for Veterinary and Phytosanitary Safety; the State Agency for Local Self-Government and Interethnic Relations; the Agency Development Initiatives (NGO); the World Food Programme; and Mercy Corps. The draft regulatory instrument was presented to the Ministry of Education and Science (MoES) in November 2020 by the government house with a few additional comments related to health issues, coordination, and the role of local government. The draft was shared with all key ministries for their feedback and approval, and was also shared with the general public through the government website.

Upon final review, the regulation was adopted on 16 February 2021 by former Prime-Minister Mr Maripov (available at <http://cbd.minjust.gov.kg/act/view/ru-ru/158075>). The regulatory instrument on school garden helps further to define the administrative procedures for the establishment and approval of school gardens, creating a framework for the organization, financing and maintenance. The regulation consists of three key sections, which are: Section 1 – General conditions; Section 2 – Procedures for the creation and guideline for implementing activities of the school gardens; and Section 3 – Closing procedures of the school garden activities.

After adoption of the School Garden Regulation in 2021, FAO jointly with the World Food Programme (WFP) and in close coordination with Ministry of Education and Science of Kyrgyzstan, conducted a series of trainings in the field on awareness-raising on school garden legal regulation, nutrition, and ways of improving the effective use of land resources for representatives of educational organizations, as well as relevant local government bodies. In addition, the training provided opportunity for participants to share their feedbacks on current status of work in the field of school food procurement difficulties and opportunities for developing proposals for the effective functioning of food procurement procedures in schools. According to the Ministry of Education and Science of Kyrgyzstan the school gardens make an important contribution not only to the expansion of the food ration of children, but also provide an opportunity for rural schools to receive additional income to improve the material and technical condition.

As a result of joint mission of FAO and WFP from the field some recommendations were generated but not limited to increasing managerial and leadership skills of rural school representatives that ensure inclusiveness, openness and transparency; conducting regular monitoring as well as interim assessments upon 8–10 months to analyse the status of implementation and improvements toward the comprehensive development of school gardens; paying attention for pruning technology of seedlings from the very beginning of planting starting from February and March months on annual basis; attracting specialists in the technology of growing fruit crops, especially in pruning orchards (agronomists, trainers of the Rural Advisory Services [RAS]), since many teachers, as well as school principals have limited understanding about the formation and pruning of trees; finally the Ministry of Education and Science of Kyrgyzstan was interested in developing further incentive programmes for sustainable development of school gardens such as development of nominations among schools for “best school gardens”, certificates of excellency, awards etc.



Lack of substantial regulatory developments

The 2019 law on the organization of school meals has not yet been fully developed through specific regulations. Therefore, although there is a broad legal framework in the country, it is necessary to establish more precise procedures and rules. Most of the existing regulations on school meals were based on Law No. 111 from 2002, which was repealed by Law No. 135.

Institutional responsibilities: the challenge of fragmentation

Law No. 135 establishes shared responsibilities for the provision of school meals among health, education and local authorities (i.e. LSGBs).

Some institutional barriers and difficulties affecting the operation of school gardens in Kyrgyzstan are directly related to the education governance system, which is fragmented. The Ministry of Education and Science (MoES) is responsible for education policy and its implementation, and determines expenditure for education on behalf of local government. The seven provinces (*oblast*) in Kyrgyzstan are divided into forty districts (*raion*). In every province and district, a department of education has been established by the MoES of Kyrgyzstan, and they are responsible for preschool and primary education. *Aiyil Okmotu* (rural local government authorities) administer their schools and are responsible for providing maintenance and materials which are mainly funded by the Cabinet of Ministers of Kyrgyzstan.

According to the provisions of the law, LSGBs must allocate plots of land from the fund for redistribution of agricultural land for the organization of school gardens⁹ to general education organizations in rural areas. In practice, however, many schools face serious difficulties, due to the lack of rural land among the local population and the fact that it was already given away earlier.

Decentralization in the implementation of school meals, and in the management of school gardens as an integral part of the school feeding programme, faces strong challenges due to the lack of effective coordination and communication mechanisms between the local and central levels. These mechanisms are also lacking at the horizontal level, and hence the question arises as to what the role of the Food Security Council should be in terms of policy coordination in the area of school food and nutrition.

⁹ The concept regulated by the law is that of a *school garden*, although in many reports translated into English reference is made to the concept of *school gardens*, which can take the form of a cultivated area within or in the immediate vicinity of the school's territory.



Financing

The sources of funding for school meals are multiple, including:

1. Republican budget;
2. Local budgets of the cities of Bishkek and Osh, which provide meals for pupils in grades 1–4 of their respective general education organizations;
3. Local self-government bodies which, if they have the financial capacity, may allocate additional funds for the nutrition of students of general education organizations located in the relevant territory;
4. Voluntarily contributed funds of individuals and legal entities;
5. Other sources that do not contradict national legislation.

The legal assessment revealed a lack of standards on disbursing financial resources at both central and local levels for maintaining canteens (technical equipment, dining rooms, kitchens, utensils, etc.) as well as school gardens (saplings, seeds, agricultural machinery, etc.). This jeopardizes their stability after the completion of donor projects, resulting in fees having to be collected from parents for maintenance and procurement. Furthermore, the mechanisms for monitoring and reporting on expenditures are weak and may not constitute an adequate tool to ensure proper allocation of resources and thus the sustainability of this type of initiative.

Why regulatory intervention is still needed for school food and nutrition?

- ▶ A coherent legislative framework contributes to sustainable policy achievements, facilitates institutional coordination and avoids unnecessary overlaps in policy interventions.
- ▶ Commitments that are translated into legislative and regulatory instruments have financial implications, and therefore constitute a realistic approach.
- ▶ Clear institutional mandates and monitoring mechanisms enhance accountability on the achievement of results of school-based programmes for school food and nutrition.

Overall recommendations for an enabling legal framework for school food and nutrition

- ▶ Strengthen the legal framework for school food and nutrition in Kyrgyzstan, through a holistic approach to ensure legislative coherence for the protection of children's right to adequate food at school.
- ▶ Develop regulations to implement Law No. 135 on Organization of School Meals for Students in General Education Organizations, dated 23 October 2019.
- ▶ Harmonize social protection legislation with legislation on school meals to establish concrete mechanisms linking the interventions targeting the most vulnerable families with protective measures allowing children from these groups to enjoy the right to food at school without having to pay for it (in accordance with Law No. 135 on organization of school meals for students).
- ▶ Define specific legal entitlements and obligations in relation to school meals, given the existing lack of clarity regarding parents' duty to pay for school lunches.
- ▶ Revise and strengthen national legislation to ensure compliance with food safety requirements of the Eurasian Economic Union technical regulations on food safety, and to support gardeners in the transition to compliance with international standards (including Good Agricultural Practices) to ensure food safety conditions are met from garden to table in school settings.
- ▶ Develop nutritional standards for school meals and regulate retail of foods in and around schools, establishing restrictions to limit the exposure of children to highly processed foods or other foods of low nutritional value.
- ▶ Revise and align legislation with nutrition policy objectives to ensure that effective school-based food and nutrition education is prioritized in the formal curriculum that linkages with school gardens are clear and coherent, and that resources are allocated. Legislation should define the objective of school food and nutrition education, the scope, the main sectoral responsibilities, minimum standards of quality, main priorities, minimum time requirements in the curriculum, and capacity requirements of front-line educators.
- ▶ Establish accessible monitoring and accountability mechanisms and tools to ensure legal protection of children's right to access adequate food at school without discrimination, and in accordance with international human rights obligations.
- ▶ Improve openness and transparency mechanisms in the procurement of food for schools and school nutrition services to benefit local smallholder participation in public procurement, taking into account the development of different implementation models, including procurement with participation of logistics centres.

BOX 3. Benefits of a holistic approach to school food and nutrition

- ▶ Synergistic policies can help governments meet their human rights obligations and contribute towards countries' achievement of the Sustainable Development Goals (SDGs), including SDG 1 (No Poverty), SDG 2 (Zero Hunger), SDG 3 (Good Health and Well-being), SDG 4 (Quality Education), SDG 8 (Decent Work and Economic Growth) and SDG 10 (Reduced Inequalities).
- ▶ Schools reach children at an age when their food and health habits are being formed. Nutritious school food and school-based food and nutrition education can also influence families and the school community, and be a channel for wider community participation.
- ▶ School feeding programmes can increase school enrolment and attendance, as well as reduce dropout rates, particularly for girls.
- ▶ Food and nutrition education helps children and youth make healthy food choices that support both human and environmental health.
- ▶ Creating procurement linkages between schools and local producers (i.e. home-grown school feeding programmes) can strengthen the connection between nutrition, sustainable agriculture and local economic development, involving the whole school community.
- ▶ In order for local procurement to work, public policies should establish clear linkages with small-scale gardeners and small enterprises and concrete measures to support their activities.
- ▶ School gardens can be used as a learning platform to support school-based food and nutrition education.
- ▶ Children, their families, teachers, school staff, vendors, food service staff, civil society, government staff and local gardeners can all have an active role and responsibility in supporting healthier school meals and school food environments.

Source: FAO. 2019c. *Legislating for adequate food and nutrition in schools*. Legal Brief for Parliamentarians in Africa No. 3. Rome. www.fao.org/3/ca3520en/ca3520en.pdf

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- ▶ *Declaration of the Rights of the Child*. Adopted: United Nations Resolution 1386 (XIV), 20 November 1959 (Kyrgyzstan acceded when it joined the United Nations).
- ▶ *The United Nations Convention on the Rights of the Child*. Adopted: United Nations General Assembly Resolution 44/25, 20 November 1989 (Kyrgyzstan joined by Resolution of Parliament dated 12 January 1994, No. 1402-XII).
- ▶ **Kyrgyzstan.** *Law on Civil Code of the Kyrgyz Republic – Part 1*, No. 15, 1996.
- ▶ **Kyrgyzstan.** *Law on Non-Profit Organizations*, No. 111, 1999.
- ▶ **Kyrgyzstan.** *Law on the Organization of Meals for Students in Comprehensive Education Schools of the Kyrgyz Republic*, No. 111, 2002.
- ▶ **Kyrgyzstan.** *Law on Accounting*, No. 76, 2002.
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- ▶ **Kyrgyzstan.** *Law on Public Health*, No. 24813, 2009.
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