

Date of Hearing: June 21, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
SB 250 (Hertzberg) – As Amended May 26, 2017

**SENATE VOTE:** 39-0

**SUBJECT:** Pupil meals: Child Hunger Prevention and Fair Treatment Act of 2017

**SUMMARY:** Requires a local educational agency (LEA) to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed or treated differently than a pupil whose parent or guardian does not have unpaid school meal fees; requires a LEA to attempt to directly certify a family for the free and reduced lunch program when a family has five unpaid meals and before collecting those fees; and, prohibits school personnel from taking disciplinary action that directly results in denying or delaying a nutritionally adequate meal to a pupil. Specifically, **this bill:**

- 1) Requires a local educational agency in which there is a school that is required to serve a free or reduced-price meal during the schoolday and at which all pupils are not eligible to be served breakfast and lunch under the Community Eligibility Provision or Provision 2 of the federal National School Lunch Act to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed or treated differently than a pupil whose parent or guardian does not have unpaid school meal fees.
- 2) Requires a local educational agency, in order to prevent a family from paying for a pupil's unpaid school meal fees when the pupil was eligible for a free or reduced-price meal, to identify families with unpaid school meal fees equal to or greater than the value of five full-priced school lunches and, before collecting the unpaid fees, shall (1) exhaust all options and methods to directly certify the pupil for free or reduced-price meals and (2), in a case where the local educational agency is not able to directly certify the pupil, provide the parent or guardian with an application and contact the parent or guardian with written and oral communications to encourage application submission.
- 3) Prohibits school personnel and volunteers at a local educational agency required to serve a free or reduced-price meal during the schoolday from taking disciplinary action that directly results in denying or delaying a nutritionally adequate meal, to a pupil.
- 4) Specifies that if a local educational agency is required to provide to the department or to the United States Department of Agriculture a copy of the meal charge policy required pursuant to memorandum SP 46-2016 issued by the United States Department of Agriculture, the local educational agency or governing board or body of the local educational agency, as applicable, shall make that policy public.
- 5) Prohibits a local educational agency from taking any action directed at a pupil to collect unpaid school meal fees. Specifies a local educational agency may attempt to collect unpaid school meal fees from a parent or guardian, but shall not use a debt collector.

- 6) Requires a local educational agency, to the extent that the expense is reimbursable under the federal National School Lunch Program, to reimburse school meal fees paid by a pupil's parent or guardian when fees were paid or unpaid fees debt accrued during any time that the pupil would have been determined, as identified by the local educational agency's review, to be eligible for free or reduced-price school meals.
- 7) Specifies that nothing in this measure is intended to allow for the indefinite accrual of unpaid school meal fees.
- 8) Defines "local educational agency" to mean a school, school district, or county office of education.
- 9) Specifies that it is the intent of the Legislature to prohibit school personnel from using denial or delay of a school meal as a way to punish a child for any reason and to establish transparent rules for resolving school meal fees debt owed by the child's parent or guardian when the debt has gone unpaid.

**EXISTING FEDERAL LAW:**

- 1) Authorizes a universal meal service option known as Provision 2 that allows a local educational agency to certify children for free and reduced-price meals for up to 4 consecutive school years in the schools that serve meals at no charge to all enrolled children.
- 2) Authorizes a universal meal service option known as the Community Eligibility Provision (CEP), which allows a local educational agency that directly certifies for free meals at least 40% of the students in either the district overall, a group of schools within the district, or an individual school, to receive meal reimbursement based on a formula that equate to 1.6x the free reimbursement rate for students directly certified for free or reduced-price meals, plus the standard reimbursement rate for paid meals.

**EXISTING STATE LAW:**

- 1) Prohibits a public school district or county office of education from denying a meal from any Free or Reduced-price eligible pupils, and requires that these pupils receive the same meal as all other students. (Education Code 49550 and 49557)
- 2) Requires each district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday. (Education Code 49550)
- 3) Requires the governing board of each school district and each county superintendent of schools to formulate a plan, which must be submitted to the California Department of Education (CDE) for its approval, that will ensure that children eligible to receive free or reduced-price meals and milk shall not be treated differently from other children. These plans are required to ensure each of the following:
  - a) Unless otherwise specified, the names of the children are not published, posted, or announced in any manner, or used for any purpose other than the federal National School Lunch Program (NSLP).

- b) There is no overt identification of any of the children by the use of special tokens or tickets or by any other means.
- c) The children are not required to work for their meals or milk.
- d) The children are not required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance, or consume their meals or milk at a different time. (Education Code 49557)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, to the extent that this measure can be interpreted to require schools to serve meals to students without money while also prohibiting them from offering alternative meals, the bill could potentially result in a new unknown state reimbursable mandate. However, the bill includes the intention to not allow for the indefinite accrual of unpaid meals fees and does not explicitly require that meals be provided. So it is unclear if the bill would result in mandated activities. Currently, there are school districts with significant unpaid meal charges with statewide totals in the low millions.

**COMMENTS:** This bill requires all school districts and county offices of education that are required to provide free and reduced priced meals to students to ensure that students are not shamed or treated differently due to unpaid meal fees. Further the bill specifies that students shall not be delayed or denied access to a nutritionally adequate meal due to disciplinary action. Lastly the bill requires school districts, after the value of 5 paid meals is due, to attempt to directly certify a family for free or reduced priced meals and then attempt to collect unpaid fees.

According to the author, there is no statutory prohibition on punishing a child with denial of school meal (provided that they are not suspended) or treating children differently because of their school meal participation status. Currently, state law protects children who are enrolled in the National School Lunch Program (NSLP), but not those who are not. In recent years, there have been reports of students who are punished and publicly shamed for the school meal debt that went unpaid by their parent or guardian. Some schools are taking food away from students for debts as low as 30 cents. Children are left hungry and may go an entire day without food. There are policies in school districts in California such as Los Angeles Unified that give students with unpaid meal fees a half cheese sandwich and four ounces of juice. San Juan Unified School District has a published policy to continually stamp the hand of a child until the child is able to bring money to cover the unpaid meal fees that is legally the responsibility of their parent or guardian. A lack of a standard statewide policy puts children in harm's way and puts school workers, who are often forced to make these decisions, in a bad position with little or no guidance. SB 250 will ensure that the rules about what to do when a school meal debt goes unpaid are clear to the families and school nutrition workers alike and will prevent situations in which children are treated differently in a school environment as a result of their parents not paying a school lunch debt.

**Alternative Meals:** The bill specifies that pupils with unpaid meal debt shall not be treated differently than those pupils without unpaid meal debt. In essence, this means that a pupil with unpaid meal debt cannot be served a different meal than a pupil without unpaid meal debt. As referenced in the author's statement, it is the practice of some school districts to serve pupils with school meal debt, one-half of a cheese sandwich and 4 ounces of juice. Some children receive this same lunch every day. One could argue that providing an alternative meal to children with

unpaid meal debt is shaming in and of itself, as all the other students know that the child is getting a different meal. In order to clarify the meaning behind "treating a student differently," *staff recommends* the bill be amended to clarify that LEA's cannot provide students with unpaid meal debt a different meal.

***Parent Notification:*** The bill specifies that a LEA may attempt to collect unpaid school meal fees only after a parent has incurred the equivalent of 5 school meals, and the LEA has provided the parent an application for the free and reduced meal program. In an effort to notify parents immediately upon the accrual of unpaid school meal fees, *staff recommends* the bill be amended to specify that a LEA may notify a parent as soon as they have unpaid school meal debt, and along with that notification should be an application for the free and reduced meal program.

***United States Department of Agriculture (USDA) Advisory.*** The USDA issued a memorandum on July 8, 2016 that requires school food authorities (SFAs) participating in the NSLP and the School Breakfast Program "to institute and clearly communicate a meal charge policy, which would include, if applicable, the availability of alternate meals." The USDA memorandum specifies that "because all students in participating schools may receive reimbursable school meals, all SFAs must have a policy in place for children who are participating at the reduced-price or paid rate, but either do not have money in their account or in hand to cover the cost of the meal at the time of service. Such a policy ensures that school food service professionals, school administrators, families, and students have a shared understanding of expectations in these situations." The USDA memorandum gives deference to state agencies and SFAs in developing the specifics of individual policies, including the level at which the policy is developed, but does require the policy to include specifics regarding the collection of delinquent meal charge debt. Whether developed at the state or local level, the USDA memorandum gives SFAs until July 1, 2017 to have a written and clearly communicated meal charge policy. CDE has indicated that it is allowing local SFAs to develop their own policies within state-issued parameters, but CDE has not finalized its guidance.

***School Meal Program Debts.*** In the USDA's June 2016 report to Congress, cited that a study, "conducted during school year 2011–2012, found that 58 percent of LEAs incurred unpaid meal costs during school year 2010–2011. Over 93 percent of these LEAs served a reimbursable school meal on credit or an alternate meal to children who were not certified for free meals, approved for free or reduced price meals, and were unable to pay for a meal. Nearly all LEAs that incurred unpaid meal costs took action to recover the costs, most often by billing the families. The study also found that nearly 65 percent of State agencies had not established policies or standard practices regarding the service of meals to students without the funds to pay. Only 15 percent of States had such a policy, and an additional 20 percent had a standard practice in place. Of the States with policies or standard practices, the majority indicated that they allowed individual LEAs to determine whether and how to provide a meal to students unable to pay based on local conditions. In terms of financial impact, for the LEAs that reported lost revenues as a result of unpaid meals, the average net revenue lost after recovery attempts was less than 1 percent of total expenditures for the year. However, some larger LEAs reported significant debts, indicating that the extent of the issue and the type of policy needed to address it varies. Overall, the study determined that lost revenue from unpaid meals did not appear to have a meaningful impact on the ability of the LEAs in the study to operate at the break-even level."

***Committee Amendments:*** *Staff recommends* the following amendments:

- 1) In an attempt to clarify that treating a pupil differently includes the practice of giving that pupil a different meal, amend the bill to clarify that a LEA shall ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed or served a different meal than a pupil whose parent or guardian does not have unpaid school meal fees.
- 2) Clarify that a school district shall not take disciplinary action during the school day against any pupil that directly results in denying or delaying a nutritionally adequate meal.
- 3) Rewrite 49557.5 (d) to say the following: A local educational agency may notify a parent or guardian of a pupil's negative balance in a school meal account. Before sending a notice to a parent or guardian, a local educational agency shall (1) exhaust all options and methods to directly certify the pupil for free or reduced-price meals and (2), in a case where the local educational agency is not able to directly certify the pupil, provide the parent or guardian with a paper copy of, or an electronic link to, an application in the notice of a pupil's negative balance in a school meal account and contact the parent or guardian to encourage application submission.
- 4) To ensure that all California public school students are protected from shaming, the bill should be amended to include charter schools that are currently participating in the National School Lunch Program.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California State PTA  
California Teachers Association  
Children's Defense Fund  
Coalition of California Welfare Rights Organization  
Food Research and Action Center  
MAZON A Jewish Response to Hunger  
National Association of Social Workers, California Chapter  
Service Employees International Union  
Western Center on Law and Poverty

##### **Opposition**

None on file.

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