

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2360 (Rodriguez) – As Amended April 3, 2018

[Note: This bill is double referred to the Committee on Agriculture and will be heard by that committee as it relates to issues under its jurisdiction.]

SUBJECT: Pupil nutrition: school district and food bank partnerships

SUMMARY: Requires the California Department of Food and Agriculture (CDFA)—in collaboration with the Department of Education (CDE), Strategic Growth Council (SGC), and other relevant entities and experts—to establish guidelines and best practices by January 1, 2020 for food banks and school districts to create partnerships that increase access to fresh produce for pupils in grades K-12. Specifically, **this bill:**

- 1) Requires the guidelines to include:
 - a. Recommended responsibilities of a school district and a food bank, to ensure accountability and consensus between the two entities.
 - b. Directions on how to create a partnership.
 - c. An example of a written partnership agreement.
 - d. Information on state and federal food handling regulations and donation laws.
 - e. Recommendations for cost control, food safety, and food transportation.
 - f. Information on state and federal resources that could support a partnership.
- 2) Requires CDFA, CDE, and SGC to post the guidelines on their respective websites by January 1, 2020
- 3) Requires CDE and CDFA to distribute the guidelines to school districts and food banks, respectively, by January 1, 2020.

EXISTING LAW:

- 1) Requires school districts or county offices of education with students in kindergarten or grades K-12 to provide one nutritionally-adequate meal to each free or reduced-price eligible student during each school day (Education Code (EC) 49550).
- 2) Defines “nutritionally adequate meal” as breakfast or lunch that qualifies for reimbursement under federal child nutrition program regulations (EC 49553).
- 3) Requires CDE to update its guidance on the donation of leftover food, to allow public school cafeterias to donate food to food banks or other nonprofit charitable organizations for

distribution to persons free of charge, or to make leftover food available to pupils during regular school meal times (EC 49581).

- 4) Defines “food bank” as a surplus food collection and distribution system, operated and established to assist in bringing donated food or agricultural products to nonprofit charitable organizations and individuals, for the purposes of reducing hunger and meeting nutritional needs (Food and Agricultural Code (FAC) 58501; Health and Safety Code (HSC) 113783).
- 5) Requires food banks to be a nonprofit tax exempt organization; maintain records for proper control of inventory; demonstrate the availability of adequate liability insurance; show local support through funding sources, letters of endorsement, and a board of directors reflective of the community served; and have access to storage facilities and refrigeration equipment for the purpose of collecting, receiving, handling, storing, and distributing donated agricultural products (FAC 58503.1).
- 6) Requires a food bank that receives donated whole uncut fruits or vegetables, or unrefrigerated eggs, from a community food producer to retain records related to the food’s donation for 30 days (HSC 114376).
- 7) Specifies that a food bank that receives and distributes, without charge, food that is fit for human consumption at the time of distribution is not liable for injuries or deaths resulting from the food, unless the injury or death is a direct result of the gross negligence or intentional misconduct of the organization (Civil Code 1714.25).
- 8) Authorizes a local educational agency (LEA) to minimize waste and reduce food insecurity by providing sharing tables, where food service staff, pupils, and faculty can return certain food items and make them available to students during regular school meal times, and by allowing sharing table food not taken by students to be donated to a food bank or other nonprofit charitable organization (HSC 114079).
- 9) Requires CDE to seek federal statutory amendments that allow the Summer Food Service Program for Children to serve more children during school vacation periods, under an ongoing school lunch-breakfast program (EC 49548.2).
- 10) Requires that the State Emergency Food Assistance Program (SEFAP), administered by the California Department of Social Services, be renamed the “CalFood Program,” which provides food and funding for the provision of emergency food to food banks, established pursuant to the federal Emergency Food Assistance Program (7 C.F.R. Parts 250 and 251), for the purpose of distributing food to low income households (Welfare and Institutions Code 18995).
- 11) Establishes the Office of Farm to Fork within CDFA and requires the office to work with the agricultural industry, marketing organizations, food policy councils, public health groups, nonprofit and philanthropic organizations, academic institutions, district agricultural associations, county, state, and federal agencies, and other organizations to increase the amount of agricultural products available to underserved communities and schools (FAC 49001).
- 12) Requires the Office of Farm to Fork to:

- a. Identify opportunities and provide technical assistance for collaboration between farmers, regional and local food banks, partner agencies, and nonprofit charitable organizations in the gleaning, collection, and distribution of agricultural products for the purposes of reducing hunger and increasing access to healthy foods (FAC 49001).
- b. Increase access to nutrition education programs and information in schools (FAC 49001).
- c. Provide tools to facilitate relationships between local producers and school food procurement personnel (FAC 49001).

FISCAL EFFECT: Unknown

COMMENTS:

The Office of Farm to Fork: origins and goals. In 2008, SB 732 (Steinberg) established the Strategic Growth Council (SGC), a cabinet-level committee tasked with coordinating the activities of state agencies to accomplish a variety of goals, including the promotion of public health and equity, protecting natural resources and agricultural lands, and revitalizing community and urban centers.

In 2010, executive order S-04-10 established the Health in All Policies (HiAP) Task Force—jointly staffed by SGC, the California Department of Health, and Public Health Institute—to bring together twenty-two state departments, agencies, and offices, for the purpose of developing action plans on a variety of topics, including transportation, violence prevention, parks and community greening, healthy housing, healthy food, health public policy, and equity in government practices. The task force conducts research on issues relating to these topics, facilitates stakeholder engagement, and drafts consensus documents that express shared views and goals across member agencies, including CDE and CDFa.

The concept of establishing an “Office of Farm to Fork” originated from a “Farm to Fork Implementation Plan,” developed by the HiAP Task Force. The plan was endorsed by SGC in 2012 and enacted through AB 2413 (Perez) in 2014, which established the office within CDFa and charged it with increasing access to healthy foods in underserved communities and schools throughout California. The Office of Farm to Fork was organized, with HiAP’s assistance, as a collaborative among CDE, CDFa, and the California Department of Public Health.

Because the Office of Farm to Fork is already charged with generating guidance to encourage collaborations between food banks and a variety of organizations, for the purpose of increasing access to healthy foods in underserved communities and schools, ***the committee should consider*** assigning responsibility for generating guidelines for food bank-school partnerships to this office, rather than to an independent collaboration among CDE, CDFa, and SGC.

Significant numbers of children are food insecure. According to the United States Department of Agriculture (USDA), food insecure households are those that are “uncertain of having, or unable to acquire, enough food to meet the needs of all their members because they [have] insufficient money or other resources for food.” USDA further categorizes food insecure households as “low food security” (households able to obtain enough food to avoid substantial disruptions to their eating patterns, or able to cope with low resources by eating less varied diets,

accessing food assistance programs, etc.) or “very low food security” (households in which normal eating patterns are disrupted and food intake is disrupted, due to insufficient funds or resources).

USDA reports the following statistics regarding food insecurity in US households in 2016: 12.3 percent (15.6 million) were food insecure; 7.4 percent (9.4 million) experienced low food security; and 4.9 percent (6.1 million) experienced very low food security. USDA further states that in 2016, 6.5 million children lived in food insecure households, and that rates of food insecurity were higher than the national average (12.3 percent) in several demographic groups, including households with children (16.5 percent), households with children under age 6 (16.6 percent), households with a single parent (31.6 and 21.7 percent for households headed by a single woman or man, respectively), African American and Hispanic households (22.5 and 18.5 percent, respectively), and low income households (31.6 percent). According to the California Association of Food Banks (CAFB), California has an average food insecurity rate that is similar to the national average (12.5 percent). In addition, the organization states that 4.9 million Californians (1 out of 8 people) are food insecure, of whom 1.9 million are children.

Food insecurity at home impacts learning at school. An extensive body of research suggests that food insecurity negatively impacts school performance in children. In a review of available studies, entitled *Health and Academic Achievement*, the Centers for Disease Control (CDC) indicates that insufficient nutrition in students is associated with lower grades, higher rates of absenteeism, higher rates of grade repetition, and decreased cognitive performance on a variety of measures, including alertness, attention, memory, and problem solving. Furthermore, hunger may have long-term impacts on school performance: in a 2017 study published in the journal *Child Development*, researchers report that hunger during early childhood, even before children have enrolled in school, is associated with later cognitive, social, and emotional deficits. Furthermore, the authors found that these deficits are more profound, the earlier children are exposed to food insecurity.

In an effort to address childhood hunger and its impacts on learning, USDA allocates funds to the National School Lunch Program, which is managed at the state level and aims to provide nutritionally-balanced, low-cost or free lunches to qualifying children each school day. Research supports the learning benefits of these programs: a 2005 review of published studies on nutrition and student performance, published in the *Journal of School Health*, confirms that food insecurity is a “serious problem affecting children’s ability to learn,” and that among “severely undernourished populations, school breakfast programs seem to improve academic performance and cognitive functioning.” The CDC confirms this, stating that student participation in school breakfast programs are associated with increased academic grades and standardized test scores, reduced absenteeism, and improved cognitive performance.

Although free and reduced-price lunch programs can mitigate hunger during school hours, they do not address the issue of food insecurity in students’ homes, which also impacts their school performance. Feeding America, a national nonprofit representing US food banks, states that although 21 million children receive free or reduced-cost lunches during the school year, only 3.9 million continue to have access to those subsidized meals during the summer. A 2012 survey conducted by Share Our Strength’s No Kid Hungry campaign included responses from 1,000 K-8 teachers, 62 percent of whom state that their classrooms include children who regularly come to school hungry due to food insecurity at home. Survey respondents also reported that hungry students display poor academic performance, behavior problems, and health issues, including

lethargy, headaches, stomachaches, and difficulty concentrating. According to CAFB, several California food banks are addressing food insecurity in students' homes using various child nutrition programs, including backpack programs that provide students with nutritious, easy-to-prepare food to take home over weekends, and school pantries, which involve establishing food pantries on school campuses. During summer breaks when school is not in session, some food banks implement community summer food programs funded through USDA's Summer Food Service Program. In 2017, food banks participating in Feeding America's network provided 5.7 million meals to more than 178,000 hungry children through such programs.

CalFresh is undersubscribed. In addition to the National School Lunch Program, USDA's Supplemental Nutrition Assistance Program (SNAP; known as CalFresh in California) provides food assistance to needy households by supplying them with funds each month to purchase food. CalFresh is the state's largest food assistance program; in 2017, the program supplied 4.1 million Californians with benefits each month, with the average benefit level being \$136 per month. However, a 2017 report by USDA reveals that SNAP programs are undersubscribed in states across the country, and California ranks near the bottom of this list, at 47th in the country for the number of eligible people who participate in the program. In 2014, only 66% of nearly 6 million eligible Californians participated in CalFresh.

Although it is unclear why SNAP is undersubscribed, CAFB states that one of the primary reasons may be lack of information regarding eligibility requirements. The organization states that it is addressing this issue using federal funding, through the California Department of Social Services, to administer CalFresh Outreach funds throughout the state. In 2016, CAFB distributed \$1.7 million to 50 food banks for CalFresh Outreach programs, some of which coordinate with schools to obtain referrals for families that may be eligible for benefits.

Deportation fears may be decreasing SNAP registration in immigrant communities. According to the US Department of Agriculture, in 2015, 1.5 million noncitizens received SNAP benefits, as did 3.9 million citizen children living with noncitizen adults. While all citizens—including US-born children of legal and undocumented immigrants—are SNAP eligible, strict federal rules restrict SNAP eligibility to only a few categories of non-citizens, including refugees, trafficking victims, Cuban and Haitian immigrants, and legal permanent residents who have lived in the country for five years. Mixed households, generally consisting of undocumented parents and their citizen children, are eligible for SNAP benefits, although only citizens in a household are included in benefits calculations.

In June 2011, the US Department of Agriculture codified a provision stating that there are no immigration consequences for legal immigrants participating in SNAP, a position the department reaffirmed this year. Despite this statement, anecdotal reports made by food banks and SNAP outreach programs indicate an increase in the number of immigrants who are either not registering for or are withdrawing from SNAP, and relying instead upon food pantries and soup kitchens that do not require registration. A 2002 analysis by Harvard University economist George Borjas states that for every 10 percent decrease in immigrant households receiving public assistance, there is a 5 percent increase in food insecurity, suggesting that programs like SNAP are key to reducing hunger among immigrant adults, immigrant children, and the citizen children of immigrant parents.

According to CAFB, schools are trusted entities within immigrant communities and can therefore serve as ideal intermediaries between food banks, CalFresh outreach programs, and

families who avoid needed services due to deportation fears. In addition, the organization states that more generally, partnerships between schools and food banks can alleviate food insecurity in low-income communities by providing convenient opportunities for students to collect donated food before leaving school for weekends and school breaks.

Donated foods, including from food banks, are not incorporated into school meals. According to CAFB, food banks do not donate food for the purpose of contributing to meals served in school for the following reasons:

1. School districts prefer to purchase foods using available federal and state funding streams, which must be used according to strict federal and state requirements regarding meal nutritional content and expenditures associated with food facilities and staff.
2. Reliance on donated foods would make it difficult to meet federal nutritional requirements, due to inconsistency in the availability of certain meal components.

Committee amendments. Because needy students are already receiving free or reduced-price meals that have demonstrable benefits for student learning, CAFB reports that existing partnerships between food banks and school districts focus on two primary initiatives that address the highest area of need: student hunger at home. First, these partnerships connect students in food insecure homes with CalFresh, in an effort to provide students with a consistent source of nutrition in the household; and second, partnerships help students access nutritious foods during school breaks and weekends. These programs are coordinated using a blend of federal, state, and local resources. Thus, ***staff recommends*** the following amendments:

- 1) Require guidance to suggest ways for food bank-school partnerships to facilitate CalFresh Outreach Programs.
- 2) Specify that the purpose of partnerships is to address lack of access to fresh produce outside of school hours, and provide guidance on how this may be done.
- 3) Require guidance to provide information not only on state and federal resources, but on local resources that may support partnerships.
- 4) Require guidance to be structured as a model program, with inclusion of a model written agreement between schools and food banks.

Previous legislation. SB 732 (Steinberg), Chapter 729, Statutes of 2008 established the Strategic Growth Council in state government, as well as requirements for its composition and activities.

AB 2413 (Pérez), Chapter 583, Statutes of 2014 established the Office of Farm to Fork, as well as the requirements for its composition and activities.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics
California Federation of Teachers
California Medical Association
California School Nurses

Opposition

The California Right to Life Committee, Inc.

Analysis Prepared by: Naomi Ondrasek / ED. / (916) 319-2087