

Date of Hearing: January 12, 2022

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 558 (Nazarian, Kalra, Quirk-Silva and L. Rivas) – As Amended January 3, 2022

SUBJECT: School meals: Child nutrition act of 2022.

SUMMARY: Authorizes, upon appropriation by the Legislature in the annual Budget Act, an local educational agency (LEA) to apply for reimbursement up to twenty cents per meal that accommodates a student's dietary restrictions, including but not limited to vegan, vegetarian or religious dietary restrictions, and up to ten cents for plant-based beverages; and, requires that the California Department of Education (CDE) develop guidance by July 1, 2023, for LEAs participating in the federal School Breakfast Program that maintain kindergarten or any of grades 1 to 6, inclusive, on how to serve eligible nonschoolaged children breakfast or a morning snack at an LEA schoolsite. Specifically, **this bill:**

Dietary Restriction Meal Reimbursement

- 1) Authorizes, upon appropriation by the Legislature in the annual Budget Act, an LEA to apply for reimbursement, in an amount up to twenty cents per meal, for meals that include a plant-based food option, a restricted diet option or a vegetarian option, and up to ten cents for a plant-based milk option. Specifies a single meal with both a restricted diet food option and a plant-based milk option is eligible to receive reimbursement for both options, not to exceed the cost of the meal. Specifies that reimbursement for this program be in addition to any other state or federal funding or reimbursement received.
- 2) Requires an LEA applying for the funds described to provide documentation of the number of plant-based food options, restricted diet options, vegetarian options, and plant-based milk options reimbursable under the NSLP (NSLP) that the LEA served in the baseline 2018–19 school year.
- 3) Authorizes meal reimbursement to LEAs for the plant-based food options, restricted diet options, vegetarian options, and plant-based milk options that represent an increase from the number of reimbursable plant-based food options or plant-based milk options served in the baseline 2018–19 school year, as demonstrated by the documentation required.
- 4) Establishes, upon appropriation by the Legislature in the annual Budget Act, a grant up to one thousand dollars to be provided to LEAs to collect the baseline data described.
- 5) Establishes, upon a one-time appropriation by the Legislature in the annual Budget Act, a grant up to one hundred thousand dollars to be provided to LEAs to:
 - a) contract with third parties for professional development training for schoolsite staff on serving these meals, including preparing, procuring, advertising, and creating menus to accommodate a student's dietary restrictions.
 - b) purchase cafeteria equipment to prepare meals to accommodate a student's dietary restrictions, as needed.

- c) provide technical assistance and student engagement and education to accommodate a student's dietary restrictions, including providing taste tests, recipe development, and culinary education.
 - d) provide additional compensation for additional work relating to serving meals that accommodate a student's dietary restrictions pursuant to Section 49569.1, to the extent that funding is made available in the grant for this purpose.
- 6) Prohibits an employee from being required to attend professional development training for which the employee does not receive at least that employee's regular rate of pay or that takes place outside of that employee's normal working hours.
- 7) Requires the CDE to do all of the following:
- a) Adopt regulations, as it deems necessary, to implement the program.
 - b) Establish guidelines for the evaluation of the meal reimbursement and grant program.
 - c) Complete an evaluation of the meal reimbursement and grant program and report the results of the evaluation to the Legislature in compliance with Section 9795 of the Government Code by September 1, 2026. Requires the evaluation to include the number of LEAs that applied for and received meal reimbursement and payments, the number of meals provided by each LEA, the number of LEAs that applied for and received grant funding, and the manner in which LEAs used grant funds.
- 8) Defines LEA to mean a school district, county office of education, or charter school maintaining kindergarten or any of grades 1 to 12, inclusive, that participates in the federal National School Lunch Program (NSLP).
- 9) Defines plant-based food option to mean a food that contains no animal products or byproducts, including meat, poultry, fish, dairy, or eggs, and that is recognized by the United States Department of Agriculture as a meat alternate for purposes of the federal NSLP.
- 10) Defines plant-based milk option to mean a beverage that contains no animal products or byproducts, including dairy, and that is recognized by the USDA as a nondairy fluid milk substitute for purposes of the federal NSLP.
- 11) Defines restricted diet option to mean a food prepared in response to a pupil with at least one dietary restriction, including, but not limited to, religious dietary restrictions or restrictions prescribed by a physician.
- 12) Defines vegetarian option to mean a food that contains no meat, poultry, or fish.

Guidance for LEAs

- 13) Requires that the CDE develop guidance for LEAs participating in the federal School Breakfast Program (SBP) that maintain kindergarten or any of grades 1 to 6, inclusive, on

how to voluntarily serve eligible nonschoolaged children breakfast or a morning snack at an LEA schoolsite.

- 14) Requires that the guidance highlight opportunities to maximize federal reimbursement through the federal SBP and the federal Child and Adult Care Food Program (CACFP).
- 15) Requires that a guardian of an eligible nonschoolaged child be present at the LEA schoolsite in order for the nonschoolaged child to receive breakfast or a morning snack at the schoolsite.
- 16) Requires that the CDE develop the guidance in a manner that does not jeopardize federal funding for school meal programs and that maximizes federal meal reimbursement.
- 17) Requires that the CDE post the guidance on its website by July 1, 2023. Clarifies that the CDE is not required to mail the guidance to LEAs.
- 18) Requires that the CDE evaluate the guidance developed and posted, as well as the impact of the guidance on LEA breakfast programs. Requires that the CDE submit the evaluation to the Legislature by January 1, 2025.
- 19) Requires that an LEA that chooses to implement the CDE's guidance submit to the CDE the applicable information specified for the evaluation for the Legislature.
- 20) Requires that the evaluation include, but is not necessarily limited to, all of the following:
 - a) A copy of the posted guidance;
 - b) The number of LEAs that started to serve breakfast or morning snacks to eligible nonschoolaged children;
 - c) LEA evaluations of federal meal reimbursement and payments to the LEA;
 - d) The number of breakfasts and morning snacks provided by each LEA;
 - e) The total number of eligible nonschoolaged children that received breakfast or a morning snack; and
 - f) Any issues that occurred during implementation that require budget-related or legislative action or oversight.
- 21) Defines eligible nonschoolaged child to mean a child who is not enrolled in school and who is a sibling, half-sibling, or step-sibling of, or a foster child residing with, a pupil who meets the federal eligibility criteria for a free or reduced-price breakfast at an LEA in the SBP that maintains kindergarten or any of grades 1 to 6, inclusive.
- 22) Defines guardian to mean a parent, step-parent, grandparent, or other adult family member or caretaker who is caring for an eligible nonschoolaged child.
- 23) Defines LEA to mean a school district, county office of education, or charter school.

EXISTING LAW:

- 1) Requires, commencing with the 2022–23 school year all of the following:
 - a) A school district or county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period, except when it requires family daycare homes to be reimbursed for 75% of the meals served. The meals provided under this paragraph be nutritiously adequate meals that qualify for federal reimbursement.
 - b) A charter school to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period. The meals provided under this paragraph shall be nutritiously adequate meals that qualify for federal reimbursement.
 - c) An LEA that has a reimbursable school breakfast program to not charge any pupil enrolled in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, any amount for any breakfast served to that pupil through the program, and to provide a breakfast free of charge to any pupil who requests one, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal. The meals provided free of charge pursuant to this paragraph shall be nutritiously adequate, and shall count toward the total of two school meals required to be provided each schoolday. (Education Code (EC) 49501.5)
- 2) Requires each school 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. (EC 49550)
- 3) Requires a charter school to provide each needy pupil with one nutritionally adequate free or reduced-price meal during each schoolday. Requires a charter school that offers nonclassroom-based instruction to meet the requirements for any eligible pupil on any schoolday that the pupil is scheduled for educational activities lasting two or more hours at a schoolsite, resource center, meeting space, or other satellite facility operated by the charter school. (EC 47613.5)
- 4) Defines milk as a nutritious beverage, including, but not limited to, chocolate milk, soy milk, rice milk, almond milk, and other similar dairy or nondairy milk. (EC 35182.5)
- 5) Defines “Non-dairy milk” alternative (e.g., rice milk, soy milk) to mean a beverage that:
 - a) Contains Vitamin A, Vitamin D and at least 25% of the daily recommendation for calcium per 8 ounces;
 - b) Contains no added sweeteners exceeding 28 grams of total sugars per 8 ounces;
 - c) Contains no more than 5 grams of fat per 8 ounces. (CCR, Title 5, Section 15576)

- 6) States that a school district or county office of education may use funds made available through any federal or state program the purpose of which includes the provision of meals to a pupil, including the SBP, the NSLP, the federal Summer Food Service Program, the federal Seamless Summer Option, or the state meal program, or may do so at the expense of the school district or county office of education. (EC 49550)
- 7) Requires that the CDE, in cooperation with school districts and county superintendents of schools, provide information and limited financial assistance to encourage the SBP startup and expansion into all qualified schools. (EC 49550.3)
- 8) Designates that the CDE is the state agency responsible for managing and administering the Summer Food Service Program (SFSP). (42 U.S.C. Sec. 1761) (EC 49547.5)
- 9) Prohibits a public school district or county office of education from denying a meal to any free or reduced-price eligible pupils, and requires that these pupils receive the same meal as all other pupils. (EC 49550 and 49557)

FISCAL EFFECT: Unknown

COMMENTS:

Background. This bill creates an additional per-meal reimbursement to LEAs that elect to increase their meal offerings to accommodate student dietary restrictions including, but not limited to, plant-based food and beverages, vegetarian food, and religious dietary restrictions. The bill creates a grant for LEAs to support those agencies that choose to increase their food and beverage offerings to accommodate student dietary restrictions. The bill also requires that the CDE develop guidance for LEAs participating in the SBP that maintain kindergarten or any of grades 1 to 6, inclusive, on how to serve eligible nonschoolaged children breakfast or a morning snack at an LEA schoolsite, if the LEA elects to do so.

Need for the bill. According to the author, “AB 558, the Child Nutrition Act, will assist the state’s efforts to combat climate change, improve access to healthy food options for low-income communities, accommodate students with religious or cultural needs, and ensure every toddler has access to free breakfast and morning snacks. California is a global microcosm with many different needs. The state’s school meal policy should not only reflect this diversity, but also incorporate the extensive research on the environmental and health benefits of plant-based nutrition. Furthermore, the bill would require the California Department of Education to issue instructions for how school districts could serve younger siblings a federally reimbursable meal at a school site that their older sibling attends. There is no federal prohibition to serving younger siblings of school-age children a morning snack through the Child and Adult Care Food Program at the same time and location as school-aged children receive their federally reimbursed school breakfast program. The Child Nutrition Act is an all-inclusive bill that addresses the food served to our children, and ensures that every child truly has access to healthy, climate-friendly meals.”

USDA meal programs. The CDE, Nutrition Services Division administers many of the USDA meal programs at the state level.

The National School Lunch Program (NSLP). The NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day.

The School Breakfast Program (SBP). The SBP provides reimbursement to states to operate nonprofit breakfast programs in schools and residential childcare institutions. The Food and Nutrition Service of the USDA administers the SBP at the federal level.

The Child and Adult Care Food Program (CACFP). The CACFP is a federal program that provides reimbursements for nutritious meals and snacks to eligible children and adults who are enrolled for care at participating child care centers, day care homes, and adult day care centers. The CACFP also provides reimbursements for meals served to children and youth participating in afterschool care programs, children residing in emergency shelters, and adults over the age of 60 or living with a disability and enrolled in day care facilities.

The Summer Food Service Program (SFSP). The SFSP is a federally-funded, state-administered program. The SFSP reimburses program operators who serve free healthy meals and snacks to children and teens in low-income areas.

The Seamless Summer Option (SSO). Schools participating in the NSLP or SBP are eligible to apply for the SSO. This option allows public schools to combine features of the School Nutrition Programs and the SFSP along with reduced paperwork requirements, making it easier for schools to feed children during the traditional summer vacation periods and, for year-round schools, long school vacation periods.

School meal reimbursement rates. School meal reimbursement, by both the federal government and the state, varies each year. In order to receive reimbursement, schools must follow a certain meal pattern determined by the USDA. Depending on the age range of the students served, a full meal consists of a specified amount of fruits, vegetables, grains, meat/meat alternate, and milk. Most schools throughout the state participate in “offer versus serve,” which allows a student to pick three of the aforementioned five components in order for the school to receive full reimbursement for that student’s meal.

The federal school lunch reimbursement rates are \$3.37 for free lunch and \$2.97 for reduced priced lunch. Schools that serve more than 60% low income students receive \$0.02 more for both free and reduced priced lunches. The state school lunch reimbursement rate is \$0.236 for both free and reduced priced lunch.

During the 2021-22 school year, due to the COVID-19 pandemic, the federal government is providing meal reimbursements to school districts and charter schools to provide free lunch to all students, regardless of free meal eligibility.

Beginning with the 2022-23 school year, the state will require school districts and charter schools to provide two free meals per day to all students, regardless of free meal eligibility. The state will reimburse school districts and charter schools for the cost of the meal, up to the federal free meal reimbursement rates for all students who are not eligible for federal free meals.

Costs of restricted diet meals. The cost of plant-based meals can vary by item and by school district. As one example, Los Angeles Unified School District estimates that the average cost of

a vegan option they serve is \$0.73 vs. \$0.61 for meat and vegetarian options. The difference of \$0.12 per-meal can impact the overall school nutrition program significantly. This bill would provide an increase to the state per meal reimbursement rate for LEAs that increase the number of restricted diet foods and beverages, such as plant based foods, offered to students, to offset this increased cost.

National school lunch requirements. Plant-based meals currently meet the federal NSLP requirements. Plant-based entrees may be composed of meal components such as fruits, vegetables, meat alternates, grains, and fluid milk alternates like soy milk.

The CDE is not aware of any almond milk currently on the market that meets the nutrition requirements of the NSLP, therefore almond milk would not qualify for reimbursement, other than in the case of a student with a dietary restriction.

The USDA-approved plant protein products, as shown below, include nut and seed butters, cooked beans and peas, and soy protein.

| Food | Equals 1 ounce equivalent meat alternate |
|----------------------------|--|
| Cooked dry beans or peas | 1/4 cup |
| Tofu—commercially prepared | 2.2 ounces or 1/4 cup |
| Soy yogurt | 4.0 fluid ounces or 1/2 cup |
| Nuts and seeds* | 1 ounce |
| Nut and seed butters | 2 tablespoons |

*Nuts or seeds may be used to meet no more than one-half of the meat/meat alternate component with another meat/meat alternate to meet the full requirement.

Restricted diet school meals in California and nationally. Several California school districts have implemented district-wide daily or weekly vegetarian meal options for students. Some districts implemented these meal options more than a decade ago. These districts include, but are not limited to, Elk Grove Unified School District, San Diego Unified School District, San Juan Unified School District, Oakland Unified School District, and Yuba City Unified School District. Additionally, Los Angeles Unified School District has implemented plant-based meal options for students.

Washington D.C. enacted legislation encouraging school districts to offer plant-based school meals. Legislation introduced in New York would have required schools to offer plant-based school meals, but that measure was not enacted.

Feeding siblings through either the SBP or CACFP. This bill would require the CDE to issue guidance for how a school district, COE or charter school could voluntarily serve younger siblings a federally reimbursable meal at a school site that their older sibling attends.

Current law does not prohibit serving younger siblings of school-age children a morning snack through the CACFP at the same time and location as school-aged children receive their federally reimbursed SBP. However, because there are specific rules for each program, LEAs that operate both programs are often hesitant to offer this option to younger siblings for fear of becoming ineligible for reimbursement.

Research related to participation in school meal programs. According to the American Public Health Association, “Participation in food assistance programs declined in 2018 because of fear that using government assistance could lead to immigration repercussions, yet household food insecurity has been on the rise— 9.9 percent in 2007 to 17.8 percent in 2018 among immigrant families in the U.S.”

According to the USDA, the NSLP and other USDA child nutrition programs provide nutritious foods that help reduce the harmful impact of food insecurity and improve outcomes for children. In 2014 and 2015, 84% of low-income food-insecure households with school-age children accessed free or reduced-price lunches through the NSLP, either in combination with USDA’s Supplemental Nutrition Assistance Program (SNAP) benefits (46%), which provide food and nutrition assistance to low-income Americans, or alone (38%). An estimated 6% of low-income food-insecure households with school-age children received SNAP benefits, but not free or reduced-price school lunches, and 10% did not participate in either program.”

Food insecurity during the COVID-19 pandemic. According to a 2020 article the American Journal of Public Health, *Food Insecurity During COVID-19: An Acute Crisis With Long-Term Health Implications*, as of March and April 2020, national estimates of food insecurity more than tripled to 38%. Among adults with incomes less than 250% of the 2020 federal poverty level (based on thresholds from the US Census), 44% of all households were food insecure including 48% of Black households, 52% of Hispanic households, and 54% of households with children.

According to a 2021 Centers for Disease Control research brief in Preventing Chronic Disease: Public Health Research, Practice, and Policy, *Very Low Food Security Among Low-Income Households With Children in California Before and Shortly After the Economic Downturn From COVID-19*, low-income households with children in California were surveyed before and during the pandemic for levels of very low food security (VLFS). From April 27 to July 21, 2020, 14% of mothers reported VLFS versus 19.3% from November 21, 2019, to March 14, 2020, suggesting that existing systems to quickly obtain food assistance benefits in California and new federal benefits available in response to COVID-19 may have reduced VLFS.

Arguments in support. The Riverside Unified School District states, “According to standards set forth in the Dietary Guidelines for Americans, children are not eating enough vegetables, legumes, nuts, seeds, and other plant-based foods. Meanwhile, Californians are increasingly suffering from adverse health effects including diabetes, heart disease, and some forms of cancer, all of which put people at greater risk of hospitalization and death from COVID-19. Increased consumption of plant-based foods reduces the risks of developing these costly diet-related diseases and supports lifelong health. Improving access to health-promoting, plant-based foods is especially important to address equity among our state’s low-income children - who are disproportionately Black and Brown. In California, nearly 20% of Black and Latinx adolescents experience obesity, at a rate three times higher than their classmates. School meals are a crucial point of intervention to mitigate racial disparities in health. It is also particularly important that schools offer plant-based dairy alternatives for students who are unable to process lactose. The National Institutes of Health estimates that 60-80% of African Americans and 50-80% of people from a Hispanic background are unable to process lactose. As California’s public schools increasingly serve a racially and ethnically diverse population, we must ensure every student has access to culturally appropriate meals.”

Related legislation. AB 996 (Nazarian) of this Session would have required that the CDE develop guidance for LEAs participating in the SBP that maintain kindergarten or any of grades 1 to 6, inclusive, on how to serve eligible nonschoolaged children breakfast or a morning snack at an LEA schoolsite.

AB 479 (Nazarian and Kalra) of the 2019-20 Session would have established within the CDE the California Climate-Friendly Food Program to provide incentives for making plant-based food and beverages available to students. This bill was held in the Senate Appropriations Committee.

AB 2527 (Nazarian) of the 2019-20 Session would have required the CDE to develop guidance for LEAs participating in the SBP on how to serve eligible nonschoolaged children breakfast or a morning snack at a schoolsite. This bill was held in the Assembly Education Committee.

AB 958 (Aguiar-Curry) of the 2019-20 Session would have created the California Organic to School Pilot Program, and provide schools up to 15 cents per meal for organic, locally grown food. This bill was held in the Assembly Education Committee.

SB 499 (McGuire) of the 2019-20 Session would have established the California-Grown for Healthy Kids Program, administered by the CDE, to increase the provision of universally free school meals made with California-grown fresh fruits and vegetables. The bill proposed to reimburse schools an additional 10 cents for providing fresh, California grown fruits and vegetables as snacks during the school day.

SB 1138 (Skinner), Chapter 512, Statutes of 2018, requires state prisons and hospitals to serve plant-based meals.

ACR 279 (Kalra), Chapter 213, Statutes of 2018, encourages Californians to include more healthy plant-based foods in their diet.

SB 281 (Maldonado), Chapter 236, Statutes of 2005, established the California Fresh Start Pilot Program which gave additional reimbursement to schools for serving fresh fruits and vegetables.

ACR 16 (Nation), Chapter 62, Statutes of 2003, urged CDE and the Department of Public Health to develop school lunch menu plans that include a daily vegan lunch option that is nutritionally balanced.

REGISTERED SUPPORT / OPPOSITION:

Support

Activesgv, a Project of Community Partners
American Academy of Pediatrics, California
Animal Legal Defense Fund
Animal Outlook
Animal Welfare Institute
Balanced
City of Berkeley
Better Food Foundation

California Association of Student Councils
Capistrano Unified School District
Center for Biological Diversity
Center for Good Food Purchasing
Central School District
Cultivate Empathy for All
Earthjustice
Ecology Center
Environmental Working Group
Ethics in Education Network
Factory Farming Awareness Coalition
Family Healthcare Network
Farm Forward
Farm Sanctuary
Food Shift: a Project of Earth Island Institute
Friends of The Earth U.S.
Geyserville Unified School District
Happy and Free Yoga
Humane Society of The United States
Hungry Planet
K-12 Food Pros
Laguna Beach Unified School District
Lean and Green Kids
Monterey Peninsula Unified School District
Morgan Hill Unified School District
Norwalk - LA Mirada Unified School District
Nowadays, INC.
Occidental Arts and Ecology Center
Ojai Unified School District
Orcutt Union School District
Oxnard School District
Palm Springs Unified School District
Physicians Committee for Responsible Medicine
Plant Based Foods Association
Plant Pure Communities
Riverside Unified School District
San Luis Coastal Unified School District
Sandiego350
Santa Barbara Unified School District
School Cafe
Shandon Joint Unified School District
Sierra Harvest
Social Compassion in Legislation
Switch 4 Good
The Plantrician Project
University of California, Merced
Vep Healthcare
Wellstone Democratic Renewal Club

Western Placer Unified School District
World Animal Protection

Opposition

None on file

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