

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 842 (Limón) – As Introduced February 20, 2019

SUBJECT: Child nutrition: school, childcare, transitional kindergarten, and preschool meals

SUMMARY: Clarifies requirements to provide nutritious meals to needy children in childcare settings and specifies conditions for reimbursement of meals. Specifically, **this bill:**

- 1) Expresses the intent of the Legislature to adequately support childcare providers to provide nutrition to children in care, and to ensure that every needy child attending public school, including those under five years of age, are provided nutritionally adequate free or reduced-price meals during each program day.
- 2) Authorizes a childcare and development program to use funds made available to the program through any federal or state program, including the Child and Adult Food Care Program or the state meal program to provide nutritious meals to children in the program, or to do so at the expense of the childcare and development program.
- 3) Requires a school district, county office of education, or charter school maintaining a childcare and development program to provide each needy child that attends the program with one nutritionally adequate free or reduced-price meal during each program day, and authorizes the use of funds available through any federal or state program intended to provide meals to children, or to do so at the agency's own expense.
- 4) Requires that each part-day California state preschool program (CSPP) provide at least one nutritious meal per program day to each child enrolled, and requires each full-day CSPP to provide at least two nutritious meals per program day.
- 5) Defines "nutritious meal" as those that qualify for reimbursement under the most current meal pattern for the federal School Breakfast Program or the National School Lunch Program.
- 6) Requires each school district or charter school offering a transitional kindergarten program to provide each needy child with one nutritionally adequate free or reduced-price meal each program day, and authorizes the use of funds available through any federal or state program intended to provide meals to children, or to do so at the agency's own expense.
- 7) Requires that the reimbursement rate for free and reduced-price meals provided to pupils within a school district, charter school, or county office of education, as well as to children in childcare centers or homes, be established in the annual Budget Act or another statute, and that the reimbursement rates be equivalent regardless of the age of the pupil or child, or the setting of the program.
- 8) Requires meals provided to pupils in schools or children in childcare and development programs to follow the United States Department of Agriculture (USDA) meal patterns, in order to qualify for reimbursement.

- 9) Requires that the reimbursement rates for meals be adjusted annually for increases in cost of living, in the same manner as applied to average daily attendance.
- 10) Removes the requirement that family day care homes, funded through school district programs, be reimbursed for 75 percent of the meals served.
- 11) Defines “needy pupil” as a pupil who meets federal eligibility criteria for free and reduced-price meals and deletes reference to reduced reimbursements for family day care homes.
- 12) Expresses findings and declarations regarding the importance of proper nutrition in the early years of a child’s life.
- 13) Makes other technical and clarifying changes.

EXISTING LAW:

- 1) States that it is the policy of the State of California that no child go hungry at school or a child development program and that schools and subsidized child development programs have an obligation to provide for the nutritional needs and nutrition education of all pupils during the schoolday and all children receiving child development services. (Education Code (EC) 49530)
- 2) Requires each school district or county superintendent of schools serving pupils in any of kindergarten or grades 1 to 12, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday, except for family day care homes that are reimbursed for 75 percent of the meals served. (EC 49550)
- 3) Authorizes any child nutrition entity to apply to the California Department of Education (CDE) for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils at schools and to children receiving child development services. Specifies that state reimbursement for meals is limited to meals provided to pupils eligible for free or reduced-price meals. (EC 49531)
- 4) Defines a nutritionally adequate breakfast as one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program, and defines a nutritionally adequate lunch as one that qualifies for reimbursement under the most current meal pattern for the National School Lunch Program. (EC 49531)
- 5) Defines “needy children” as those children who meet federal eligibility criteria for free reduced-price meals.
- 6) Requires the CDE to participate in the federal childcare food program. (EC 49540)
- 7) Establishes the CSPP and requires these programs to include part-day age and developmentally appropriate programs designed to facilitate the transition to kindergarten for three- and four-year-old children in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development (EC 8235).

- 8) Requires that each contractor include in their CSPP program a nutrition component that ensures that children have nutritious meals and snacks during the time in which they are in the program. Requires the meals and snacks to be culturally and developmentally appropriate for the children being served, and to meet the nutritional requirements of the federal Child Care Food Program or the National School Lunch Program. (5 CCR Section 18278)
- 9) Requires childcare programs operating under Title 22 to offer meals/snacks to children as follows: full-day programs must provide lunch as well as a midmorning and midafternoon snack; part-day programs must provide a midmorning or midafternoon snack. Requires that snacks include at least one serving from each of two or more food groups. (22 CCR Section 101227)
- 10) Defines “transitional kindergarten” as the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate (EC 48000).

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “As we work to expand access to preschool and childcare, we need to make sure the basic needs of low-income families are front and center: whether in preschool or child care, low-income children need access to healthy meals. We have been making strategic investments to build back up our childcare system, but funding for food has continued to be ignored. When our preschool and childcare providers don’t have adequate funds for food, we undermine our own efforts to increase funding for early education. With the state’s financial house back in order, this issue cannot continue to be ignored.”

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, a full meal consists of a specified amount of fruits, vegetables, grains, meat/meat alternate, and milk.

In order to be reimbursed under the National School Lunch Program, a school must make nutritionally adequate meals available to all students. The current federal school lunch reimbursement rates are \$3.31 for free lunch and \$2.91 for reduced-price lunch. The state school lunch reimbursement rate provides an additional \$0.24 for each free and reduced-price lunch.

The current federal school breakfast reimbursement rates are \$1.79 for free breakfast and \$1.49 for reduced-price breakfast. The state meal program reimbursement adds \$0.24 per meal for both free and reduced-price breakfast.

The level of reimbursement for schools and childcare nutrition programs under the state program is set annually through the annual Budget Act and generally includes provisions for increases due to cost of living adjustments.

For the 2018-19 year, children are eligible for free school meals if the family income is \$32,630 or less for a family of four; and are eligible for reduced-price meals based upon a family income of \$46,435 for a family of four.

Child and Adult Care Food Program. The Child and Adult Food Care Program (CACFP) is a state and federally funded program that provides funding to licensed childcare centers, adult day care centers, and organizations that sponsor day care homes to ensure participants receive nutritionally adequate meals while in care. The objectives of the program are to improve the diets of children under 13 years of age by providing children with nutritious, well-balanced meals, and to develop good eating habits in children. The USDA has requirements for preschool meal patterns which specify requirements for foods served in order to qualify for reimbursements under the CACFP. The rules limit servings of juice, prohibit grain-based desserts, and limit the sugar content of cereal and yogurt served.

Any public or private nonprofit institution providing non-residential day care to children is eligible to apply for funding under this program, including:

- Childcare centers
- Sponsored day care homes
- Preschool centers
- Head Start centers
- Outside-school hours care centers

The current CACFP reimbursement rate is \$1.79 for free breakfast, \$1.49 for reduced-price breakfast and \$3.31 for free lunch and supper and \$2.91 for reduced-price lunch and supper. Child care programs operated by public schools are also eligible to receive state funding supplements of \$0.18 per meal for free and reduced-price breakfast and lunch.

Childcare providers in daycare homes currently receive lower reimbursement rates of \$1.31 for breakfast and \$2.46 for lunch and supper. There is currently no additional state reimbursement for these providers, unless they are sponsored through a public school nutrition authority. In prior years, the state had provided state funding to supplement the federal reimbursement for meals and snacks. However, this funding was eliminated in 2012 during the recession.

Transitional kindergarten (TK). TK programs are part of the K-12 public school system and are the first year of a two-year kindergarten program. Eligibility is limited to children born in specified months of the year. Although the children in TK are generally four years old, schools serving TK children provide meals through the regular school meal program and are not required to follow the preschool meal pattern. According to the CDE, all schools are required to offer children in all grades from TK through 12th grade at least one meal per day, regardless of the length of the school day. Therefore, under current law, eligible children attending half-day programs for TK and/or kindergarten are entitled to one meal per day and the provision of a snack does not fulfill this requirement.

Access of young children to nutritious meals and snacks. According to the California Food Policy Advocates, more than 1.7 million fewer meals were served in childcare centers in 2016-17 compared to 2010-11, prior to cuts in state funding for meal reimbursements. On an average day during March 2017, approximately 118,000 children participated in breakfast and 156,000 children participated in lunch in CAFCP centers. Compared to 2010-11, there were more than 14,000 fewer children participating in CACFP meals at childcare centers. Some of this may be related to cuts to childcare slots over this period, particularly during the years of the recession.

The California Food Policy Advocates study further notes that in 2016-17, approximately 31 million breakfast and lunches were served to children in family child care homes. Almost 13,000 childcare homes or 47 percent of all licensed family childcare homes were approved to operate CAFCP meal programs. This represents a loss of 1,629 sites or 52 percent of the total sites from the prior year. Again, this may be partially explained by an overall reduction in the availability of licensed childcare homes over this period.

Research conducted by the University of California's Nutrition Policy Institute evaluated children's access to meals in California's preschool and childcare settings. One-quarter of survey respondents provided only snacks and no meals to children enrolled in part-day programs. According to the CDE, CSPP programs must follow the federal Child Care Food or the National School Lunch program. Part-day programs can serve either a meal or a snack, and depending upon the length of a full-day program, must serve one meal and one snack or two meals.

Parity in reimbursement rates. This bill requires that reimbursement rates for meals provided to children and pupils be equivalent, regardless of whether the child is in a public school, a childcare center, or a family child care home. As noted earlier, child care homes currently receive a lower reimbursement rate for meals. In addition, childcare centers and childcare homes do not receive supplementary funding for meals provided by the state, unless they are sponsored by a public school food authority.

Current law requires public school meals to meet specified criteria to qualify for reimbursement, including following USDA meal patterns and not serving food containing artificial trans fat, or food that has been fried or produced using prohibited oils or fats. Current law encourages, but does not require child development programs to comply with these guidelines.

Arguments in support. According to the Resource and Referral Network, "children need nutritious food every day to grow, develop, and thrive. But nearly one quarter of California's families can't afford to meet their basic needs. As the state works towards universal preschool and expanded access to childcare, we need to make sure the most basic needs of low-income families are being met: whether in preschool or childcare, low-income children need access to meals. Food is a basic need for young children and must be adequately funded. Unlike schools, all childcare centers and family childcare home providers are not compensated by the state for serving meals to low-income children. Childcare providers want to do all that they can to help our youngest children, but stagnant wages and the high cost of living in California makes it hard to put fresh, healthy food on the table. In fact, many family childcare providers are low-income and qualify for nutrition assistance for their own families. Just as the state supports public schools in serving meals to low-income children, we must extend support to preschool and childcare providers."

Recommended amendments. Committee staff recommends the bill be amended to:

- 1) Delete Section 3 of the bill and instead, amend Section 49550 by clarifying that any school district, county office of education, or charter school maintaining a childcare and development program be required to provide each needy child with one nutritionally adequate free or reduced-price meal during the school day.

- 2) Delete Section 5 which references meals provided to pupils in Transitional Kindergarten as they are currently included in existing provisions to provide meals to students in kindergarten through 12th grade.
- 3) Require, in Section 6, in order for all meals to qualify for the same reimbursement rate, that any meals provided to pupils in schools, or to children in childcare centers or homes, meet all requirements specified in Section 49430.7, namely: following the USDA meal pattern; not serving a food item that has been deep fried, par fried, or flash fried; not serving food containing artificial trans-fat; and not serving items that the manufacturer has deep fried, pan fried, or flash fried in a prohibited oil or fat.
- 4) Remove the cross-reference to the Welfare and Institutions Code in defining a “needy pupil” in Section 7 and replace with a cross reference to Education Code 49552, which defines a needy pupil as a child who meets federal eligibility criteria for free and reduced price meals.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Community Food Bank
 American Academy Of Pediatrics, California
 Angels Child Care Food Program
 Bay Area Hispano Institute For Advancement, Inc.
 California Alternative Payment Program Association
 California Association Of Food Banks
 California Catholic Conference
 California Child Care Resource And Referral Network
 California Family Childcare Network
 California Food And Farming Network
 California Food Policy Advocates (Sponsor)
 Child Care Law Center
 Child Development Associates
 Child Development Resources Of Ventura County, Inc.
 Childcare Business Institute
 Children's Council San Francisco
 CocoKids
 Community Action Marin
 Evergreen Child Care Center
 Food Bank Of Contra Costa And Solano
 Food For People, The Food Bank For Humboldt County
 From The Heart Preschool & Enrichment
 Healthy & Active Before 5
 Mission Neighborhood Centers, Inc.
 San Francisco-Marin Food Bank
 Second Harvest Food Bank Of Santa Clara & San Mateo Counties
 Solano Family & Children's Services
 United Domestic Workers Of America-AFSCME Local 3930/AFL-CIO
 United Families, Inc.

Western Center On Law & Poverty, Inc.
Wu Yee Children's Services
Numerous individuals

Opposition

None on file

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