

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
SB 265 (Hertzberg) – As Amended June 10, 2019

**SENATE VOTE:** 38-0

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

**SUMMARY:** Requires, until July 1, 2026, a school district, county office of education (COE) or a charter school, in which there is a school that is required to serve a free or reduced-price meal during the schoolday, to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed, treated differently or denied a meal of the pupil's choice because of unpaid meal fees.

**EXISTING LAW:**

- 1) Requires a school district, COE or a charter school, 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, treated differently or served a meal that differs from what a pupil whose parent or guardian does not have unpaid school meal fees would receive under that local educational agency's (LEA's) policy. Specifies that this requirement does not prohibit a school from serving an alternative reimbursable meal to a pupil who may need one for dietary or religious reasons. (Education Code (EC) 49557.5)
- 2) Requires a school district, COE or a charter school to notify a parent or guardian of the negative balance of a pupil's school meal account no later than 10 days after the pupil's school meal account has reached a negative balance. Before sending this notification to the parent or guardian, the LEA must exhaust all options and methods to directly certify the pupil for free or reduced-price meals, and, in a case where the LEA 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 with the notification and contact the parent or guardian to encourage application submission. (EC 49557.5)
- 3) Prohibits school personnel and volunteers at an LEA that serves nutritionally adequate meals to pupils during the instructional day from allowing any disciplinary action that is taken against the student to result in the denial or delay of a nutritionally adequate meal to that pupil. (EC 49557.5)
- 4) Specifies that if a school district, COE or a charter school is required to provide to the California Department of Education (CDE) or to the United States Department of Agriculture (USDA) a copy of the meal charge policy, the school district, COE or a charter school shall make that policy public. (EC 49557.5)
- 5) Prohibits a school district, COE or a charter school from taking any action directed at a pupil to collect unpaid school meal fees. Specifies a school district, COE or a charter school may

attempt to collect unpaid school meal fees from a parent or guardian, but prohibits the use of a debt collector. (EC 49557.5)

- 6) Requires a school district, COE or a charter school, to the extent that the expense is reimbursable under the federal National School Lunch Program (NSLP), 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 to be eligible for free or reduced-price school meals. (EC 49557.5)
- 7) Specifies that the provisions above are not intended to allow for the indefinite accrual of unpaid school meal fees. (EC 49557.5)
- 8) Prohibits a public school district or COE 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)
- 9) 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. (EC 49550)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, “By prohibiting LEAs from serving alternative meals for students not enrolled in a free or reduced-price meal program (and otherwise subject to the full cost of the meal) who do not have money that day, this bill could lead to additional costs for LEAs. The extent of the costs is unknown, but are likely to be deemed a new reimbursable state mandate. There are currently school districts with significant unpaid meal charges ranging from the low thousands to over a million dollars.”

#### **COMMENTS:**

***Need for the bill.*** According to the author, “Punishing a child for the debt of their parents is unacceptable. The Legislature has made clear its commitment to ending lunch shaming. I’ve introduced SB 265 to make it crystal clear what the intent of SB 250 (2017) was: we will officially end the practice of delaying or denying food, or providing alternative meals to innocent students.”

***Alternative meals under current law.*** Current law specifies that pupils with unpaid meal debt shall not be given a meal that differs from what a pupil who does not have unpaid meal debt is provided, *under the district policy*. Districts are authorized by federal law to have alternative meal policies for children who cannot pay for their meal. By referencing the district policy, current law allows students to be served alternative meals. It is the practice of some school districts to serve pupils with school meal debt one-half of a cheese sandwich and four 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.

***Alternative meals under this bill.*** This bill prohibits that a pupil whose parent or guardian has unpaid school meal fees from being denied a meal of the pupil’s choice because of the fact that the pupil’s parent or guardian has unpaid meal fees, and ensures that the pupil is not shamed or treated differently from other pupils. The bill authorizes a school district, COE or a charter

school to serve an alternative reimbursable meal to a pupil as a regular menu item, but this bill allows a student with meal debt to receive the meal of their choosing, which is likely to be the main meal served, and not an alternative meal unless the pupil chooses this option.

**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 requires SFAs 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.** The USDA's June 2016 report to Congress cited a study conducted during the 2011-12 school year, 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.

**Arguments in support.** Los Angeles County Office of Education supports the bill and argues, “In 2017, there was a statewide report showing that approximately one third of the largest school districts in the state had written meal charge policies instructing school lunch officials to take actions against a child that equated to public shaming of the child when school meal debt owed by their parent or guardian went unpaid. SB 250 (Hertzberg) made that practice illegal, but some

schools are still maintaining policies that discriminate against children, denying children as young as five a meal or serving them an alternative meal because they did not have lunch money that day. As a result, too many children are left hungry and with negative feelings about their learning environments.”

**Related legislation.** SB 250 (Hertzberg), Chapter 726, Statutes of 2017, requires a school district, COE or a charter school to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed, treated differently or served a meal that differs from what a pupil whose parent or guardian does not have unpaid school meal fees would receive under the school policy; requires an LEA to attempt to directly certify a family for the free and reduced lunch program when a student has unpaid school meal fees and before the LEA notifies the parent or guardian within 10 days of reaching a negative balance; and prohibits school personnel from allowing any disciplinary action that is taken against the student to result in the denial or delay of a nutritionally adequate meal, to that pupil.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

American Academy of Pediatrics, California  
American Federation of State, County And Municipal Employees, AFL-CIO  
California State PTA  
Coalition of California Welfare Rights  
Los Angeles County Office of Education  
National Association of Social Workers, California Chapter  
SEIU California  
Western Center on Law & Poverty, Inc.

### **Opposition**

None on file

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