
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 1502 **Hearing Date:** June 7, 2017
Author: Thurmond
Version: March 28, 2017
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Free or reduced-price school meals: direct certification

SUMMARY

This bill additionally authorizes the California Department of Education (CDE) to conduct the required data match of local school records, which currently only the California Department of Health Care Services (CDHCS) is authorized to conduct, to determine program eligibility for the National School Lunch Program and the School Breakfast Program, as required by federal law.

BACKGROUND

Existing federal law:

- 1) Requires local educational agencies to directly certify for free meals those children who are members of a household receiving assistance under the Supplemental Nutrition Assistance Program, known as (CalFresh) in California. (Title 7 Code of Federal Regulations § 245.6(b)(1))
- 2) Requires direct certification via CalFresh to occur three times per school year: once at or around the beginning of the school year, 3 months after the initial effort, and 6 months after the initial effort. (7 CFR § 245.6(b))
- 3) Authorizes local educational agencies to directly certify for free or reduced-price meals those children who are members of a household receiving assistance under CalFresh or Temporary Assistance to Needy Families, known as California Work Opportunity and Responsibility to Kids (CalWorks) in California, or who are enrolled in Medicaid, known as Medi-Cal in California. (7 CFR § 245.6(b)(2), § 245.6a(g))
- 4) Establishes the Healthy Hunger-Free Kids Act of 2010, which provides performance awards to States that best ensure that children who are members of households receiving benefits under the Supplemental Nutrition Assistance Program are directly certified for free school meals. (Public Law 111-296)

Existing state law:

- 1) Requires CDE to create a computerized data matching system using existing databases from the department and the California Department of Health Care Services (CDHCS) to directly certify recipients of CalFresh, the California Work Opportunity and Responsibility to Kids program (CalWORKs), and other

programs authorized for direct certification under law, for enrollment in the National School Lunch Program and School Breakfast Programs. (Education Code § 49561)

- 2) Requires the California Department of Education (CDE) to design a process using an existing agency database that will conform to data from California Department of Health Care Services (CDHCS) to meet the direct certification requirements of the federal school meal programs. (EC § 49561)
- 3) Requires CDE to design a process using computerized data that will maximize enrollment in school meal programs and improve program integrity, while ensuring that pupil privacy safeguards remain in place. (EC § 49561)
- 4) Requires CDHCS to conduct the data match of local school records and return a list to CDE to determine program eligibility as required by federal law. (EC § 49561)
- 5) Specifies that each state agency identified in 1) above is responsible for the maintenance and protection of data received by the respective agency, and requires the state agency that possesses the data to follow privacy and confidentiality procedures consistent with all applicable state and federal law. (EC § 49561)
- 6) Requires all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of free or reduced-price meal eligibility shall be confidential, and may not be open to examination for any purpose not directly connected with the administration of any free or reduced-price meal program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any free or reduced-price meal program. (EC §49558)

ANALYSIS

This bill additionally authorizes CDE to conduct the required data match of local school records, which currently only the CDHCS is authorized to conduct, to determine program eligibility for the National School Lunch Program and the School Breakfast Program, as required by federal law. Specifically, this bill would:

- 1) Require CDE or CDHCS to conduct the data match of school records to determine program eligibility, as required by federal law.
- 2) Require the use of any data by the department in the data match process to conform to specified privacy and confidentiality protections.
- 3) Deletes the requirement on CDHCS to return a list to CDE, including only the data fields submitted by CDE and an indicator of program eligibility, as required by federal law.
- 4) Requires each state agency involved in the data match process to amend any applicable existing agreements before CDE may conduct the data match, and

requires the California Department of Education (CDE) and that state agency to execute a written agreement that outlines the use of the data in the data match process and incorporates privacy and confidentiality procedures consistent with all applicable state and federal law.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Direct Certification (DC) is the federally-mandated process that districts operating School Nutrition Programs (SNPs) must use to certify school-age CalFresh recipients as eligible for free school meals without the completion of a meal application. The Healthy, Hunger-Free Kids Act of 2010 established DC percentage benchmarks for states to meet, which is currently at ninety-five percent. California’s DC match rate is approximately 63 percent.

Currently, the California Department of Health Care Service (CDHCS) is the only agency authorized to perform the DC match using CDE and California Department of Social Services (CDSS) data. The DC match is conducted in a blind manner to prevent the disclosure of confidential information. This means that not one single agency can openly identify student level records or public assistance recipient data. Under this method, the CDE is unable to evaluate what may be causing a student that receives public assistance not to be directly certified, and thus limits the CDE’s ability to continuously improve matches through software remedies or automation and other process improvements.”

- 2) ***2016 Direct Certification Technical Assistance Report.*** In the February 2016 direct certification Technical Assistance Report, the U.S. Department of Agriculture Food and Nutrition Service (FNS) pointed out the data limitations with California’s current direct certification match process and recommended that the CDE take full ownership of the match process. In addition, with help from the FNS, the CDE surveyed five other states with direct certification match rates that are approaching or meeting the 95 percent benchmark and found that all five state’s education departments perform direct certification matches and are able to dissect data regularly to improve upon those matches.

By authorizing the CDE to conduct the match, CDE anticipates an additional 396,875 students may be directly certified.

- 3) ***Direct Certification Implementation Grant.*** In September 2016, CDE was awarded a \$143,688 federal Tier I Direct Certification Improvement Grant. According to FNS, “The CDE’s current DC rate is well below the required 95 percent benchmark established in law. The current state level DC match is performed by other state agencies and the process is entirely blind to protect data. Due to these constraints, the CDE and partner agencies are unable to perform the DC improvements recommended by the U.S. Department of Agriculture (USDA).

The CDE is working to implement the USDA’s recommendation that CDE obtain Supplemental Nutrition Assistance Program (SNAP) data from partner agencies to perform statewide matches. The CDE proposes to hire a technical consultant

who has expertise in technology systems and school meal programs to work with CDE staff to prepare an implementation plan to increase DC rates statewide. In addition, CDE will perform targeted intervention with LEAs to increase DC rates at local levels. The proposed grant objectives include: 1) Understanding the automated DC methods used by other high-performing states; 2) Examining available systems and software for use with a statewide match; 3) Preparing an implementation plan for a new statewide match; 4) Testing implementation recommendations on SNAP data extracts and evaluating match results; 5) Developing training and resources, and disseminating information to LEAs on DC and DC with Medicaid best practices; and 6) Providing regional trainings and intensive, targeted technical assistance to LEAs. We believe these activities will yield better DC rates from LEAs and ready implementation of DC matching systems, software, algorithms, and processes for CDE to perform more productive statewide matches.”

- 4) ***Related and previous legislation.*** SB 138 (McGuire, 2017) requires the California Department of Education (CDE) to share student Medi-Cal participation data it receives from the California Department of Health Care Services (CDHCS) with local educational agencies, who would then be required to use that data to directly certify pupils for free and reduced-price school meals. SB 138 is pending referral in the Assembly.

SB 250 (Hertzberg, 2017) requires a local educational agency with a school that is required to serve a free or reduced-price meal during the school day and that is not eligible for a universal meal service plan to ensure that any student whose parent or guardian has unpaid school meal fees is not shamed or treated differently, or delayed or denied a nutritiously adequate meal, regardless of whether the student is eligible for free or reduced-price meals. SB 250 is pending referral in the Assembly.

SB 708 (Mendoza, Chapter 390, Statutes of 2015) authorized school districts and county offices of education to make electronic applications for free or reduced-price meals available, and requires both paper and electronic applications to contain clear instructions for families that are homeless or are migrants.

AB 608 (Gordon, 2015) would have required county human services agencies to add additional information to the list of food providers to be made available to families applying for CalFresh benefits. The bill additionally required counties to inform applicants that, if the household is approved for CalFresh benefits, young children are income eligible for the California Supplemental Nutrition Program for Women, Infants, and Children and that all children in the household are directly certified for free and reduced school meals. AB 608 was held in the Senate Appropriations Committee’s suspense file.

AB 402 (Skinner, Chapter 504, Statutes of 2011) authorized school districts and county offices of education to share information provided on the School Lunch Program application with the local agency that determines CalFresh program eligibility, or to an agency that determines eligibility for nutrition assistance programs, and required each county to determine eligibility for CalFresh based

on the information shared by a school district or county office of education and to enroll determined eligible pupils.

AB 2300 (Laird, Chapter 673, Statutes of 2008) requires the CDE, in consultation with the CDHCS, to develop and implement a process for using data from the Medi-Cal program to directly enroll children in the school meal programs.

SUPPORT

Children's Defense Fund – California
National Association of Social Workers
State Superintendent of Public Instruction, Tom Torlakson

OPPOSITION

None received.

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