



- 3) Authorizes a school district or county office of education to use funds made available through any federal or state program the purpose of which includes the provision of meals to a pupil, including the federal School Breakfast Program, the federal National School Lunch Program (NSLP), the federal Summer Food Service Program, the federal Seamless Summer Option, or the state meal program, or do so at its own expense. (EC § 49550)
- 4) Requires the governing board of each school district and each county superintendent of schools to formulate a plan, which must be submitted to the California Department of Education (CDE) for its approval, that will ensure that children eligible to receive free or reduced-price meals and milk shall not be treated differently from other children. These plans are required to ensure each of the following:
  - a) Unless otherwise specified, the names of the children are not published, posted, or announced in any manner, or used for any purpose other than the federal NSLP.
  - b) There is no overt identification of any of the children by the use of special tokens or tickets or by any other means.
  - c) The children are not required to work for their meals or milk.
  - d) The children are not required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance, or consume their meals or milk at a different time. (EC § 49557)
- 5) Requires, if more than one lunch or breakfast or type of milk is offered, that free and reduced-price children have the same choice of meals or milk that is available to children who pay the full price for their meal or milk. (EC § 49557)
- 6) Requires a local educational agency (LEA) 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 LEA's policy; and, 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.
- 7) Provides that an LEA shall 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.

- 8) Prohibits school personnel and volunteers at a local educational agency (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.
- 9) Specifies that if an LEA is required to provide to the department or to the United States Department of Agriculture (USDA) a copy of the meal charge policy required pursuant to memorandum SP 46-2016 issued by USDA, the LEA or governing board or body of the LEA, as applicable, shall make that policy public.
- 10) Prohibits a LEA from taking any action directed at a pupil to collect unpaid school meal fees. Specifies an LEA may attempt to collect unpaid school meal fees from a parent or guardian, but prohibits the use a debt collector.
- 11) Requires an LEA, to the extent that the expense is reimbursable under the federal 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, as identified by the LEA's review, to be eligible for free or reduced-price school meals.
- 12) Specifies that the provisions (6) to (12) above are not intended to allow for the indefinite accrual of unpaid school meal fees.
- 13) Specifies that provisions (6) to (13) above only apply to an LEA that provides school meals through the federal NSLP or the federal School Breakfast Program.
- 14) Defines "local educational agency" to mean a school, school district, county office of education, or charter school.
- 15) Specifies that it is the intent of the Legislature to prohibit school personnel from using denial or delay of a school meal as a way to punish a child for any reason and to establish transparent rules for resolving school meal fee debt owed by the child's parent or guardian when the debt has gone unpaid.

## **ANALYSIS**

This bill, an urgency measure, amends the Child Hunger Prevention and Fair Treatment Act of 2017 to require applicable LEAs 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 paying for a meal would receive, without regard to the LEA's federally-mandated meal charge policy, thus ensuring that all students receive the same meal.

## **STAFF COMMENTS**

- 1) ***Need for the bill.*** According to the author, “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 5 a meal or serving them an alternative meal because they didn’t have lunch money that day. As a result, too many children are left hungry and with negative feelings about their learning environment.”
- 2) ***United States Department of Agriculture (USDA) memorandum.*** The USDA, which administers school nutrition programs at the federal level, issued memorandum SP 46-2016 on July 8, 2016 that requires school food authorities (SFAs) participating in the National School Lunch Program (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. The USDA memorandum required to have a written and clearly communicated meal charge policy in place by July 1, 2017.
- 3) ***No more alternative meals.*** The existing Child Hunger Prevention and Fair Treatment Act of 2017 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*. By referencing the district policy, the act unambiguously allowed for the continued use of alternate meals if the local education agency’s (LEA’s) meal charge policy specified an alternate meal for all full pay students each time they were not able to pay for a meal *that day*. However, some have interpreted the “*under the district policy*” language, in conjunction with the stated intent within the act that “*nothing in this section is intended to allow for the indefinite accrual of unpaid school meal fees,*” as allowing an LEA’s meal charge policy to differentiate between the number of times a student was not able to pay for a meal and only provide the alternate meal after a specified number of such occurrences. In the view of the act’s proponents, such an interpretation swallows the rule they intended. By removing references to the LEA’s meal charge policy, this bill would no longer allow alternate meals for students who do not have money that day.
- 4) ***All students eat.*** The net result of this bill is a requirement for LEAs to serve all students a fully reimbursable meal, whether or not they brought money to school

that day. To be clear, this is only a change as it relates to students who are not enrolled in free or reduced-price meals, as existing law already requires LEAs to provide meals to reduced-price students regardless of whether they brought money that day. This bill now additionally requires local educational agencies (LEAs) to serve students who are subject to the full price of the meal, regardless of whether they have money that day. However, it is important to note that not all students who might qualify for free or reduced-price meals actually apply for the program. This could be a number of reasons, including immigration status and the current climate at the federal level, language barriers, lack of awareness, or even apprehension about divulging income information. Accordingly, it is important to recognize that not all students who qualify for free or reduced-price meals are enrolled in that program, and thus they are required to pay the full cost for the meal. This bill would ensure that those students, as well as all other students, receive the same meal as any student who pays for a meal.

- 5) ***Unpaid meal debt increasing.*** The United States Department of Agriculture's June 2016 report to Congress cited that a study, "conducted during school year 2011–2012, that found that 58 percent of local educational agencies (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... 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."

However, the Child Hunger Prevention and Fair Treatment Act of 2017 appears to have resulted in significantly higher unpaid meal debt. According to information provided by school districts to the School Nutrition Association, and passed on to this committee, many – but not all – school districts saw steep increases in their unpaid meal fees after the act took effect. For example, Los Angeles Unified School District – the largest school district in the state – saw its unpaid meal debt climb from \$393,200 for the 2016-17 school year to \$1,092,700 for the 2017-18 school year, to \$1,574,470 for the current school year, with a final expected total for the 2018-19 school year of \$2,249,242. The issue is not limited to large school districts though. For example, Barstow Unified School District has gone from \$16,000 in the 2016-17 school year to an expected debt of \$55,714 for the 2018-19 school year, San Leandro Unified School district has gone from \$795 in 2016-17 to an expected amount of \$17,988 for 2017-18, and Los Banos Unified School District has gone from \$14,000 to an expected amount of \$92,857. These figures are not necessarily representative of every school district, but they do illustrate the potential fiscal impact that school districts face in a changing school meal debt landscape. This bill – by eliminating the less costly alternative meal – would increase that impact. In light of this concern, ***staff recommends that the bill be amended*** to sunset the bill's proposed change to

the act after two complete local control and accountability plan cycles on July 1, 2026.

- 6) ***How can LEAs recoup or minimize these costs?*** On May 10, 2017, the United States Department of Agriculture published an updated best practices guide for unpaid meal debt. According to the USDA, “*Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation’s Schools* is a best practice guide designed to support State and local stakeholders working every day to address this issue. Throughout the guide, readers will hear from superintendents, principals, school food service professionals, and others who have shared their own challenges and successes addressing unpaid meal charges.” This resource can serve to help local educational agencies (LEAs) identify successful strategies to mitigate the costs associated with unpaid meal debt, such as moving the point of service to the beginning of the lunch line.

Additionally, LEAs can pursue universal meal provisions under the National School Lunch Program, such as the community eligibility provision or Provision 2.

Provision 2 is a long-standing option available to any school for providing breakfast, lunch, or both at no charge. Reimbursement is based on the percentage of meals served in each category (free, reduced-price, and full-price) at the time the school begins a four-year cycle. In the first year (the base year), a school determines how many of its students are eligible for free, reduced-price, and full-price meals. A school can use direct certification or household applications to determine students’ eligibility. From this count of students, the school calculates what percentage of the student population is eligible for free, reduced-price, and full-price meals. The percentages apply for the remainder of the four-year cycle.

Community Eligibility (CEP) CEP enables high-poverty schools to serve breakfast and lunch to all students at no charge without collecting school meal applications. CEP is designed to benefit high-poverty schools. It relies upon enrollment through direct certification, which identifies students participating in means-tested programs like CalFresh and CalWORKS. CEP operates on a four year cycles, similar to Provision 2. CEP uses a formula to determine the federal reimbursement for meals served to students: % of Identified Students x 1.6 = percent of Meals Reimbursed at the “Free” (Highest) Rate All other meals are reimbursed at the “paid” (lowest) rate of reimbursement. For example, if 60 percent of students meet the “identified” criteria, 96% of meals will be reimbursed at the “free” (highest) rate of per-meal federal reimbursement (60 percent x 1.6 = 96 percent), with the remaining 4% of meals reimbursed at the lower “paid” rate.”

- 6) ***Related and previous legislation.*** SB 499 (McGuire, 2019) would establish the California-Grown for Healthy Kids Program to increase the provision of universally free school meals meals with California-grown fruits and vegetables, which would include supplemental funds of \$0.10 per breakfast served to eligible school food authorities. SB 499 is scheduled to be heard by the Senate Education Committee on April 3, 2019.

AB 1871 (Bonta, Chapter 480, Statutes of 2018) requires charter schools, commencing with the 2019-20 school year, to provide each low-income pupil with one nutritionally adequate free or reduced-price meal during each schoolday.

SB 138 (Thurmond, Chapter 724, Statutes of 2017) requires the California Department of Education, in consultation with the State Department of Health Care Services, to develop and implement a process to use Medi-Cal data to directly certify children whose families meet the income criteria into the school meal program; requires school districts and county offices of education with high poverty schools and high poverty charter schools currently participating in the breakfast or lunch program to provide breakfast and lunch free of charge to all students at those schools; and, authorizes a school district, county office of education or charter school to opt-out due to fiscal hardship.

SB 250 (Hertzberg, Chapter 726, Statutes of 2017) requires a local educational agency (LEA) 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 LEA's policy; requires a 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.

**SUPPORT**

American Federation of State, County and Municipal Employees, AFL-CIO  
California State PTA  
Coalition of California Welfare Rights  
Los Angeles County Office of Education  
SEIU – California  
Western Center on Law & Poverty

**OPPOSITION**

None received

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