
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: SB 499 **Hearing Date:** April 3, 2019
Author: McGuire
Version: February 21, 2019
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: School meals: California-Grown for Healthy Kids Program.

SUMMARY

This bill establishes the California-Grown for Healthy Kids Program to increase the provision of universally free school meals with California-grown fruits and vegetables, which would include supplemental funds of \$0.10 per breakfast served to eligible school food authorities.

BACKGROUND

Existing state law:

- 1) 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 school day. (Education Code § 49550)
- 2) Requires the California Department of Education (CDE) to award grants of up to fifteen thousand dollars (\$15,000) per schoolsite on a competitive basis to school districts, county superintendents of schools, or entities approved by the department for nonrecurring expenses incurred in initiating or expanding a school breakfast after the start of the school day program. (EC § 49550.3)
- 3) Authorizes the governing board of a school district to authorize expenditures from the cafeteria fund or cafeteria account to provide school breakfast after the start of the school day. (EC § 38101)
- 4) Specifies, commencing with the 2019–20 school year, an educational entity that participates in the federal School Breakfast Program may, to the maximum extent practicable, provide universal breakfast, and requires an educational entity seeking to use the school food service account to supplement meal cost for universal breakfast to submit the following documentation to CDE for approval before implementing universal breakfast:
 - a) On or before July 1 of each year, an application signed by the educational entity's governing board or governing body, certifying that the educational entity will provide breakfast at no charge to all children and agrees to cover any costs of providing free meals to all students above the amount provided in federal assistance with nonfederal funds.

- b) Specifies this requirement would exclude educational entities that are currently participating in Provision 1, 2, or 3, and the community eligibility provision (CEP).
- 7) Requires a school district or a county superintendent of schools to provide breakfast and lunch free of charge to all pupils at a very high poverty school, in order to provide pupils in very high poverty schools with optimal nutrition for learning and to ensure that schools receive the maximum federal meal reimbursement. (EC § 49564)
- 8) Requires a charter school to be considered a very high poverty school if it participates in the federal National School Lunch Program or the federal School Breakfast Program, or both, and meets the definition of a high poverty school; and, specifies a very high poverty school and charter school shall comply with the requirement to provide breakfast and lunch free of charge to all pupils, and the governing body of such charter school may exercise the authority to adopt a resolution stating that it is unable to comply with, and demonstrate the reasons why it is unable to comply with, the requirements due to fiscal hardship. (EC § 49564)
- 9) Requires a school district or county superintendent of schools that has a very high-poverty school in its jurisdiction to apply to operate a federal universal meal service provision, which may include, but is not limited to, the CEP or Provision 2. (EC § 49564)
- 10) Requires a school district or county superintendent of schools to begin providing a universal meal to all pupils at a very high poverty school upon state approval to operate a universal meal service and authorizes a school district or county superintendent of schools to stop providing the universal meal service at a school if the school ceases to be a very high poverty school. (EC § 49564)
- 11) For purposes of the local control funding formula, authorizes a school part participating in a special assistance alternative, including Provision 2, Provision 3, or the Community Eligibility Provision, to establish a base year by determining the pupils at the school who are eligible for free or reduced-price meals and using each pupil's eligibility status in that base year to report eligibility for up to each of the following three school years. (EC § 42238.01)

ANALYSIS

This bill establishes the California-Grown for Healthy Kids Program to increase the provision of universally free school meals with California-grown fruits and vegetables, which would include supplemental funds of \$0.10 per breakfast served to eligible school food authorities. Specifically, this bill:

- 1) For purposes of the local control funding formula, authorizes a school participating in a special assistance alternative, including Provision 2, Provision 3, or the Community Eligibility Provision, to establish a base year by carrying over the number of pupils at the school who were eligible for free or reduced-price meals from the school year in which the school applied to use a federal

- universal school meal provision, and using each pupil's eligibility status in that base year to report eligibility for up to each of the following three school years.
- 2) States the intent of the Legislature, in order to support pupil health, achievement, and equity, to increase the prevalence of hunger-free schools in California by providing nutritious, universally free school meals so that no pupil goes hungry in a public school.
 - 3) Establishes the California-Grown for Healthy Kids Program within the California Department of Education, to increase the provision of universally free school meals made with California-grown fresh fruits and vegetables, and required the California Department of Education (CDE) to administer, in consultation with the Office of Farm to Fork in the Department of Food and Agriculture.
 - 4) Specifies that California-Grown for Healthy Kids Program is intended to encourage public schools maintaining prekindergarten, kindergarten, or any of grades 1 to 12, inclusive, to provide universally free school meals prepared with fresh, California-grown fruits and vegetables in order to increase school meal access among pupils in need, improve the quality of school meals available to those pupils, support California agriculture, and promote the consumption of fresh fruits and vegetables by all schoolage children.
 - 5) Requires fruits and vegetables that are provided pursuant to the program to be provided free of charge to all pupils.
 - 6) Encourages a school food authority, in making procurement decisions pursuant to the program, to purchase fresh fruits and vegetables from socially disadvantaged farmers or from local producers, when commercially available.
 - 7) Requires a school food authority, in order to qualify for supplemental funding through the program, to do at least both of the following:
 - a) Make universally free school breakfast available in all schoolsites.
 - b) Provide universally free breakfast and lunch to all pupils in very high poverty schools, as defined in state law.
 - 8) Encourages school food authorities to provide breakfast and lunch free of charge to all pupils in all schoolsites by using federal universal meal provisions, including, but not limited to, the Community Eligibility Provision or Provision 1, 2, or 3 of the federal Richard B. Russell National School Lunch Act, and a school that does not use federal universal meal provisions to provide universal breakfast pursuant to specified state law.
 - 9) Specifies that program funds shall be available to school food authorities that meet all of the following criteria:
 - a) Provide at least one additional serving of fresh, California-grown fruits or vegetables, or both, at breakfast or lunch.

- b) Spend at least 90 percent of the funding for the direct purchase of fresh, California-grown fruits and vegetables.
 - c) Do not spend any of the funding for the purchase of juice.
- 10) Specifies that a school food authority that meets the criteria described in (9) is eligible to receive supplemental funding, appropriated for purposes of the program in the annual Budget Act or in another statute, for reimbursement of ten cents (\$0.10) per breakfast served, to be paid in quarterly installments by the California Department of Education, to supplement, but not supplant, school meals provided under the state meal program, federal School Breakfast Program, or federal National School Lunch Program, and requires those funds to be deposited into the nonprofit school food service account of the school food authority.
- 11) Authorizes program funds described to be combined with other public or private funding sources to ensure that at least two servings per day of California-grown fruits or vegetables, or both, are provided pursuant to the program.
- 12) Authorizes a school food authority that already offers two servings of California-grown fruits or vegetables per day through breakfast and lunch at each schoolsite to be reimbursed at ten cents (\$0.10) per breakfast for providing fresh, California-grown fruits or vegetables as snacks made freely available to all pupils during the schoolday.
- 13) Encourages a school food authority that does not operate school breakfast programs is to apply for funding to establish school breakfast programs using funds appropriated for that purpose in the annual Budget Act.
- 14) Specifies that strategies to increase consumption of fresh, California-grown fruits and vegetables may include, but are not limited to, one or more of the following:
- a) Offering fruit or salad bars with a minimum of three choices of fruits or vegetables, or both.
 - b) Serving school breakfast after the start of the school day, through grab-and-go breakfasts, nutrition breaks, or classroom breakfasts with one to two servings of fruits or vegetables, or both.
 - c) Using certain practices to minimize waste and reduce food insecurity.
 - d) Providing pupils with adequate time to eat.
- 15) Requires a schoolsite participating in the California-Grown for Healthy Kids Program, as a condition of receipt of program funds, to offer nutrition education activities and provide pupils with culturally appropriate meals. Activities may include, but are not limited to, all of the following:
- a) Educational sampling and tasting, with pupil cultural preferences incorporated into school menu planning.

- b) An offering of fruits or vegetables in the classroom that is reinforced with nutrition education or agricultural bulletins.
- c) A school campus farmers' market that highlights California produce.
- d) A produce sampling program that supports a school garden's harvest by featuring what is growing in the school garden.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Unfortunately, a student's access to healthy school meals is not just a matter of food availability. There are two outstanding barriers to students benefitting from school meals: stigma and the quality of food. Incentivizing universally free meal programs at schools, and ensuring that those meals include fresh fruits and vegetables is one of the best ways to eliminate those obstacles.

California must better utilize our own resources—including the healthy, fresh produce grown in our state—to support student health and learning. According to the Farm to School Census, only 55% of California school districts surveyed participate in farm to school activities, such as serving locally produced foods. A 2014 report by the Office of Farm to Fork names the extra costs that it takes to buy directly from a local farm or purchase local foods as one of the biggest deterrents for school food professionals to purchase locally."

- 2) ***Desire for increased universal breakfast participation.*** According to the CDE, "Recent guidance from the U.S. Department of Agriculture (USDA) and the Food and Nutrition Services encourages the California Department of Education (CDE) to allow for the use of funds from the Cafeteria Fund to cover the cost of meals and provide a free breakfast to all students, including paid and reduced priced eligible students. Schools are interested in participating in Universal Classroom breakfast, but are unable to cover the costs for all students. As a result, breakfast participation is low."
- 3) ***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.
- 4) ***Community Eligibility Provision (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. The community eligibility provisions 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% of students meet the "identified" criteria, 96 percent of meals will be reimbursed at the "free" (highest) rate of per-meal federal reimbursement (60 percent x 1.6 = 96percent), with the remaining 4% of meals reimbursed at the lower "paid" rate."

- 6) **Actual numbers vs. projected numbers.** This bill provides local educational agencies (LEAs) an additional way to calculate their base year, for purposes of the local control funding formula, to report the number of pupils eligible for free or reduced-price meals when utilizing a universal school meal provision, such as community eligibility. By allowing LEAs to carry over the number of pupils at the school who were eligible for free or reduced-price meals from the school year in which the school applied to use a federal universal school meal provision, it appears that this method better aligns to the California Department of Education's timeline for making such an election, enabling LEAs to have actual numbers in the budget calculations, rather than using estimates, which they are required to due under the existing methodology time constraints when electing to use the community eligibility provision. This change will eliminate a potential disincentive to switch to community eligibility.
- 7) **Technical amendment.** This bill makes several references to numbers of servings, however "serving" can be a complicated term, particularly across breakfast and lunch. **Staff recommends that the bill amended** to reference exceeding minimum nutrition standards for fruits and vegetables as a meal component at breakfast or lunch instead of specific serving amounts. This should eliminate confusion around one vs. two servings and avoid all the other iterations of serving sizes that pop up in the meal pattern, and makes it easier to be consistent with fruits and vegetables across breakfast and lunch.
- 8) **Related and previous legislation.** SB 265 (Hertzberg, 2019) amends the Child Hunger Prevention and Fair Treatment Act of 2017 to require applicable local educational agencies 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 school would receive, without regard to the LEA's federally-mandated meal charge policy, thus ensuring that all students receive the same meal. SB 265 is scheduled to be heard by the Senate Education Committee on April 3, 2019.

AB 3043 (Berman, Chapter 593, Statutes of 2018) among other things, authorizes a school district to use cafeteria funds to also supplement the cost of providing universal breakfast.

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.

AB 909 (Alejo, 2012) would have established the Farm to School program, which would have authorized a school district to receive an additional \$0.05 per meal served if 80 percent of the district's expenditure for fresh produce in the school meal program was derived from California produce. AB 909 was held in the Assembly Appropriations Committee.

SUPPORT

A Better Course

Alameda County Community Food Bank

American Academy of Pediatrics

California Academy of Nutrition & Dietetics

California Association of Food Banks

California Farm Bureau Federation

California Federation of Teachers

California Food and Farming Network

California Food Policy Advocates

California School-Based Health Alliance

Coalition of California Welfare Rights Organizations

Community Alliance with Family Farmers

Feeding San Diego

Food Bank of Contra Costa & Solana

Food for People, the Food Bank for Humboldt County

Friends of the Earth U.S.

Hunger Action Los Angeles

Los Angeles Community Action Network

San Diego Hunger Coalition

San Francisco Unified School District

San Luis Obispo County Food System Coalition

Second Harvest Food Bank of Santa Clara & San Mateo Counties

SPUR

Western Center on Law & Poverty

OPPOSITION

None received

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