
THIRD READING

Bill No: AB 95
Author: Hoover (R), et al.
Amended: 5/1/23 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/14/23

AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas,
Wilk

ASSEMBLY FLOOR: 71-0, 5/8/23 (Consent) - See last page for vote

SUBJECT: Pupil nutrition: pupil meals

SOURCE: Author

DIGEST: This bill clarifies that a school may sell an additional meal to a pupil after that pupil has already received a nutritiously adequate meal that qualifies for federal reimbursement.

ANALYSIS:

Existing law:

- 1) Requires, commencing with the 2022–23 school year, a school district or county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide two school meals free of charge during each schoolday to any pupil who requests a meal without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period, except for family daycare homes. The meals provided shall be nutritiously adequate meals that qualify for federal reimbursement. (EC § 49501.5)
- 2) Specifies that in order to provide pupils in high-poverty schools with optimal nutrition for learning and to ensure that schools receive the maximum federal meal reimbursement on or before June 30, 2022, a school district or county

superintendent of schools that has a high-poverty school in its jurisdiction shall apply to operate a federal universal meal service provision, which may include, but is not limited to, the Community Eligibility Provision (CEP) or Provision 2. (EC § 49564.3)

- 3) Defines “Competitive foods” as all food and beverages other than meals reimbursed under programs authorized by the federal Richard B. Russell National School Lunch Act (Public Law 113-79) and the federal Child Nutrition Act of 1966 (42 U.S.C. Sec. 1771 et seq.) available for sale to pupils on the school campus during the schoolday. (EC § 49430(c))
- 4) Authorizes a school district or county office of education to use funds made available through any federal or state program for the provision of meals to a pupil, including the federal School Breakfast Program, the federal National School Lunch Program 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)
- 5) Requires every public school to post the school district’s nutrition and physical activity policies in public view within all cafeterias or other central eating areas. (EC § 49432)

This bill clarifies that a school may sell an additional meal to a pupil after that pupil has already received a nutritiously adequate meal that qualifies for federal reimbursement.

Comments

- 1) *Need for the bill.* According to the author, “In the state of California our public schools provide nutritious meal options for students free of charge with the goal of ensuring that all students have access to healthy and satisfying meals so they can focus on their education without being distracted by hunger. AB 95 builds upon the Universal Meals program by authorizing schools to sell a second entrée to students at breakfast or lunch, after the student receives their reimbursable meal. As one can imagine, sometimes one serving at breakfast or lunch may not be enough for the growing 8th grader or a young-student athlete, particularly given the amount of time before they may eat again. This bill would ensure that any student who is still hungry can have access to food with ample nutrition without being turned away.”
- 2) *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 certain meal service options determined by the United States Department of Agriculture (USDA). Depending on the age range of the students served, a full meal consists of a specified amount of fruits, vegetables, grains, meat/meat alternatives, and milk. Most schools throughout the state participate in “offer versus serve,” which allows a student to pick three of the aforementioned five components in order for the school to receive full reimbursement for that student’s meal.

National School Lunch Program

Description	Free	Free+8 cents*	Reduced-Price	Reduced-Price+8 cents*	Paid	Paid+8cents*
Agencies that served less than 60% free/reduced-price lunches in 2021–22	\$4.33	\$4.41	\$3.93	\$4.01	\$0.77	\$0.85
Agencies that served 60% or more free/reduced-price lunches in 2021–22	\$4.35	\$4.43	\$3.95	\$4.03	\$0.79	\$0.87
Commodity Value	\$0.4300	\$0.4300	\$0.4300	\$0.4300	\$0.4300	\$0.4300

Note: Payments listed for free and reduced-price lunches include both section 4 and section 11 funds of the National School Lunch Act.

The current federal school lunch reimbursement rates are \$4.41 for free lunch and \$4.01 for reduced-priced lunch. Schools that serve more than 60% low-income students receive \$0.02 more for both free and reduced-priced lunches. The state school lunch reimbursement rate is \$0.8950 for both free and reduced-priced lunches.

- 3) *Meals Service Options: USDA Meal Programs or Competitive Food.* The California Department of Education, Nutrition Services Division administers many of the USDA meal programs at the state level:

The National School Lunch Program (NSLP). The NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential childcare institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day.

- a) *The School Breakfast Program (SBP).* The SBP provides reimbursement to states to operate nonprofit breakfast programs in schools and residential childcare institutions. The Food and Nutrition Service of the USDA administers the SBP at the federal level.
- b) *The Child and Adult Care Food Program (CACFP).* The CACFP is a federal program that provides reimbursements for nutritious meals and snacks to

eligible children and adults who are enrolled for care at participating childcare centers, daycare homes, and adult daycare centers. The CACFP also provides reimbursements for meals served to children and youth participating in afterschool programs, children residing in emergency shelters, and adults over the age of 60 or living with a disability and enrolled in daycare facilities.

- c) *The Summer Food Service Program (SFSP)*. The SFSP is a federally-funded, state-administered program. The SFSP reimburses program operators who serve free healthy meals and snacks to children and teens in low-income areas.
- d) *The Seamless Summer Option (SSO)*. Schools participating in the NSLP or SBP are eligible to apply for the SSO. This option allows public schools to combine features of the School Nutrition Programs and the SFSP along with reduced paperwork requirements, making it easier for schools to feed children during the traditional summer vacation periods and, for year-round schools, long school vacation periods.

All public non-charter schools participating in the NSLP or SBP must follow state and federal requirements for competitive foods and beverages. All charter or private schools participating in the NSLP or SBP must follow only the federal requirements.

This bill requires schools to provide a federally reimbursed meal service option before selling an entrée from that meal service, which is then a competitive food.

- 4) *Competitive Foods*. Competitive foods and beverages, also known as “Smart Snacks,” are those that are sold, to students on the school campus during the school day, and outside of the federally reimbursable meal programs.

Competitive food and beverage requirements in California began in 1976 with rules that govern food and beverage sales by student organizations. Since 2001, due to awareness of the obesity epidemic, there have been numerous state laws passed which currently shape the competitive foods environment in California schools for all foods and beverages sold to students. In July 2014, schools implemented the USDA competitive food regulations called Smart Snacks in School (SSIS). In January 2016, California passed SB 1169 (McGuire, Chapter 280, Statutes of 2016), which streamlines state competitive food rules with the federal SSIS rule. Today’s rules encompass a comprehensive approach to food

and beverage sales by all groups or individuals during the school day and throughout the school campus.

- 5) *Solving For Food Insecurity Among Students: Universal Meals*. Beginning the 2022-23 school year, the state required school districts and charter schools to provide *all students two free meals per day, regardless of free meal eligibility*. The state reimburses school districts and charter schools for the cost of the meal up to the federal free meal reimbursement rates for all students who are not eligible for federal free meals.

Related/Prior Legislation

SB 348 (Skinner, 2023) (1) requires charter schools to provide two meals, rather than one, beginning the 2024-25 school year; (2) requires a local educational agency (LEA), county superintendent of schools, or charter school to serve breakfast meals on each four-hour schoolday, as specified; (3) requires the California Department of Education (CDE) to submit a waiver to the USDA to allow school to serve meals to student in non-congregate setting on short days; (4) permits a LEA, county Office of Education (COE), or charter school to choose to participate in a state or federal reimbursement program or competitive foods, as specified; (5) requires the CDE to conduct a survey to make a recommendation on the appropriate amount of time that is adequate for a pupil to eat school meals; (6) requires CDE, in collaboration with the Department of Social Services (DSS) to maximize participation in the federal Summer Electronic Benefit Transfer For Children (SEBTC), as specified; and (7) requires CDE, in conjunction with specified stakeholders, to develop nutrition requirements, as specified.

AB 1178 (L.Rivas, 2023) requires, contingent on appropriation, the CDE to reimburse with state funds federal summer meal program operators for meals served to the guardian of a student receiving a meal from a summer meal program.

AB 558 (Nazarian, Chapter 905, Statutes of 2022) required, by July 1, 2023, the CDE, in consultation with the State DSS, to develop guidance for LEAs that maintain kindergarten or any of grades 1 to 6, inclusive, on how to serve eligible non-school aged children breakfast or a morning snack at an LEA schoolsite.

AB 130 (Committee on Budget, Chapter 44, Statutes of 2021) established a California Universal Meals Program with changes to the state meal mandate and new requirements for high poverty schools to apply for a federal provision.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/15/23)

None received

OPPOSITION: (Verified 6/15/23)

Kern County Superintendent of Schools

ARGUMENTS IN OPPOSITION: According to the Kern County Superintendent of Schools, “On behalf of Kern County Superintendent of School Office as well as the 46 school districts in Kern County, I am writing to express our opposition to AB 95, which would amend Education Code to require a school district of residence to approve and intradistrict transfer requires for a student if their school of attendance is in the red or orange performance bands in two or more of the states measures for three consecutive years, as measured by the California School Dashboard.”

ASSEMBLY FLOOR: 71-0, 5/8/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Holden, Hoover, Jackson, Jones-Sawyer, Kalra, Lackey, Low, Lowenthal, Maienschein, Mathis, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO VOTE RECORDED: Arambula, Juan Carrillo, Cervantes, Hart, Irwin, Lee, McCarty, Ortega, Ward

Prepared by: Kordell Hampton / ED. / (916) 651-4105
6/16/23 13:16:46

**** **END** ****