

HOUSE BILL REPORT

ESHB 2610

As Passed Legislature

Title: An act relating to a hunger-free students' bill of rights.

Brief Description: Creating the hunger-free students' bill of rights act.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Peterson, Bergquist, Pollet, Gregerson, Appleton, Valdez, Ryu, Jinkins, Macri, Tarleton, Hudgins, McBride, Doglio, Stonier, Fey, Goodman, Santos, Frame and Stanford).

Brief History:

Committee Activity:

Education: 1/15/18, 1/25/18 [DP];

Appropriations: 2/3/18, 2/6/18 [DPS].

Floor Activity:

Passed House: 2/13/18, 59-39.

Senate Amended.

Passed Senate: 3/1/18, 28-21.

House Refused to Concur.

Senate Receded.

Senate Amended.

Passed Senate: 3/6/18, 31-17.

House Concurred.

Passed House: 3/7/18, 69-29.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Prohibits school personnel, school district personnel, and school volunteers from taking any action that would publicly identify a student who cannot pay for a school meal or previously served meal.
- Establishes new requirements for schools and districts regarding school meals, including duties related to notifications, the distribution of applications for free and reduced-price meals, and increasing access to free meals for qualifying students.
- Requires the Office of the Superintendent of Public Instruction (OSPI) to develop and implement a plan to increase the number of students participating

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in the Community Eligibility Provision of the United States Department of Agriculture and to provide related annual reports to the Legislature.

- Requires the OSPI to collect, analyze, and promote to school districts and community-based organizations best practices in local meal charge policies.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass. Signed by 12 members: Representatives Santos, Chair; Dolan, Vice Chair; Stonier, Vice Chair; Muri, Assistant Ranking Minority Member; Bergquist, Johnson, Kilduff, Lovick, Ortiz-Self, Senn, Slatter and Valdez.

Minority Report: Do not pass. Signed by 6 members: Representatives Harris, Ranking Minority Member; Caldier, Hargrove, McCaslin, Steele and Volz.

Minority Report: Without recommendation. Signed by 1 member: Representative Stokesbary.

Staff: Katie Choate (786-7296) and Ethan Moreno (786-7386).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Graves, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

Staff: Jordan Clarke (786-7123).

Background:

Federal School Nutrition Programs.

The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) are child nutrition programs funded by the United States Department of Agriculture (USDA). In Washington, the Office of the Superintendent of Public Instruction (OSPI) administers the program. The NSLP and the SBP are designed to promote the health and well-being of children by providing nutritionally balanced, low-cost or no-cost meals to children each school day. The NSLP and the SBP provides reimbursement for meals served that meet federal requirements. Public or nonprofit private schools and public or nonprofit private residential child care institutions may participate in the NSLP and the SBP.

Free and Reduced Price Meals.

To qualify for free school meals, a student's family income must be at or below 130 percent of the federal poverty level. Students whose families have an income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. Students whose families earn more than 185 percent of the poverty level pay full price, but the meals are federally subsidized to some extent. In the 2016-17 school year, 473,309 Washington students, or 43 percent, were enrolled in the free or reduced price meals (FRPMs) program.

Community Eligibility Provision.

The Community Eligibility Provision (CEP) of the federal Healthy, Hunger-Free Kids Act provides an alternative to household applications for FRPM by allowing schools with high numbers of low-income students to serve free meals to all students. A school, group of schools, or district is eligible for the CEP if at least 40 percent of its students are identified as eligible for free meals through means other than household applications (for example, students directly certified through the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families, and foster, homeless, and migrant students). In Washington in the 2016-17 school year, there were 58 districts and 208 school sites participating in the CEP.

The McKinney-Vento Act.

In 2015 the federal McKinney-Vento Homeless Education Assistance Act (Act) was reauthorized requiring the delivery of services to remove barriers to the enrollment and retention of homeless children and youth in schools. Every school district or local education agency (LEA) is required to implement the Act. In implementing the Act, the LEAs must appoint a local homeless liaison who is responsible for ensuring that homeless children and youth are identified, enrolled immediately in school, and linked to services. A local homeless liaison must be an employee of the school district they are serving and may be a school social worker, school counselor, educator, federal programs administrator, or school support staff.

The law also requires the LEAs to identify homeless children and youth and enable homeless children and youth to participate in federal, state, and local nutrition programs for which they are eligible.

In the 2015-16 school year, the most recent available data, 39,671 Washington students or 3.7 percent were identified as homeless.

Summary of Engrossed Substitute Bill:

School Meal-Related Actions and Communications.

School personnel, school district personnel, and volunteers are prohibited from taking any action that would publically identify a student who cannot pay for a school meal or for meals previously served to the student, including requiring the student to wear an identifying marker or serving the student an alternative meal. These same personnel are also prohibited from:

- requiring a student who cannot pay for a school meal or previous meals to perform chores or other actions in exchange for a meal or the reduction of school meal debt;
- allowing a disciplinary action taken against a student result in the denial or delay of a nutritionally adequate meal; and

- requiring parents or guardians to pay fees or costs in excess of the actual amounts owed for meals previously served to the student.

Communications from a school or school district about amounts owed for previously served meals to a student under the age of 15 may only be directed to the student's parent or guardian. School districts must notify the student's parent or guardian of a negative balance on their school meal account within 10 days of the student earning a negative balance. Within 30 days of sending this notice the district must exhaust all options to directly certify the student for FRMPs. If the school district is unable to directly certify the student for FRMPs, the district must provide the parent with application information for FMRPs in the notification.

If a student has not paid for five or more previous meals, the school is required to take specified actions, including determining whether the student is categorically eligible for free meals, and having school personnel contact the parent or guardian to offer assistance with an application for FRMPs or other matters.

With limited exceptions, schools participating in the NSLP or the SBP must annually distribute and collect applications for households of children in kindergarten through grade 12 to determine student eligibility for FRMPs. If necessary, these schools must provide language assistance with the application materials to parents and guardians. Schools are required in accordance with federally granted authority to complete and submit an eligibility application for a student if, based upon information available to the school, the student is likely eligible for FRMPs.

Improved Student Identification Practices and Monthly Certification Duties.

School districts with local liaisons for homeless children and youths to identify homeless students and must improve systems to identify homeless students and coordinate with the applicable school nutrition program to ensure that these students have proper access to free school meals and that applicable accountability and reporting requirements are satisfied. Additionally, schools and school districts must improve systems to identify students in foster care, runaway students, and migrant students to ensure that each student has proper access to free school meals and that applicable accountability and reporting requirements are satisfied.

Schools and school districts must also, at least monthly, directly certify students for free school meals if the students qualify because of enrollment in an assistance program.

New Duties for the Office of the Superintendent of Public Instruction.

The OSPI is directed to collect, analyze, and promote to school districts and applicable community-based organizations best practices in local meal charge policies that are required by a specific memorandum of the USDA.

The OSPI is directed also to develop and implement a plan to increase the number of schools participating in the CEP for the 2018-19 school year and subsequent school years. In developing and implementing this plan, the OSPI must work jointly with specified entities and persons, including community-based organizations and national experts focused on hunger and nutrition. The plan must describe how the OSPI will comply with certain actions, including:

- identifying and recruiting eligible schools to implement the CEP, with the goal of increasing the participation rate of eligible schools to at least the national average;
- providing comprehensive outreach and technical assistance to school districts and schools to implement the CEP; and
- supporting breakfast after the bell programs authorized by the Legislature to adopt the CEP.

Until June 30, 2019, the OSPI must convene the entities and persons working on the plan each month to report on the plan's status and to coordinate outreach and technical assistance efforts to schools and districts. Annually, beginning September 1, 2018, the OSPI must report certain data to the Legislature, including the number of schools that have implemented the CEP, barriers to implementation and recommended solutions, and approaches in other states to adopting the CEP.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Education):

(In support) Students who need access to food need to be in an environment that is safe and non-stigmatizing. Stakeholders want to protect students and provide them an opportunity to learn at their best ability. This bill requires schools to offer food assistance. Food is part of the foundation for basic needs, and is needed for students to properly perform in school. No student should be at an academic disadvantage based on their race, culture, or socioeconomic status. This bill provides security for students.

Best practices for lunch time regulations recommend a clear lunch length because time is a barrier. The current language is too vague and students cannot eat a full meal and take care of personal hygiene during their lunch break. Students should have enough time to actually eat their lunch. Twenty minutes is recommended and in a study done by the University of Washington Public Health, the average lunch time in the state was 13 minutes.

Stakeholders would also like access and availability for foster kids in the same way that homeless children are identified in this bill. It is not the responsibility of children to take the responsibility of their parents. Foster children need access to healthy meals.

(Opposed) None.

(Other) Stakeholders worry about the financial burden to school districts for administrative time under the bill and for meals that aren't paid for, and outreach requirements to families. This bill also does not include public preschools. The USDA just mandated meal charge policies requiring local policies to be adopted, and the bill may be in conflict with these newly adopted rules.

Staff Summary of Public Testimony (Appropriations):

(In support) One in five Washington children do not know where their next meal will come from. This bill would ensure that no hungry child misses a school meal. It addresses the issue of shaming children for uncollected payments for school meals, which has risen to national attention. This shaming could be in the form of a handstamp that marks the child's debt for all students to see, or when a meal that everyone else is eating is taken away from a student and replaced with a sandwich. Schools and school districts deserve to be paid for the meals they provide to students, but this bill takes the responsibility of the meal debt and puts it on the shoulders of the adults responsible. Communications about debt will go directly to the parent and not the child, and parents and school administration will then work together to ensure that eligible students enroll in the free and reduced price meal program.

(Opposed) There is a fiscal impact issue with the way the bill is currently written. It is impossible for schools to know the impact of this legislation if it passes because students who do not currently eat school meals due to finances, and do not have charges, may start eating. In addition, parents who struggle to pay, but still pay, for school meals may decide not to pay. The meal still needs to be funded, and one of the consequences might be that districts may need to dismantle other meal programs in order to cover the costs of this unfunded mandate. An estimated impact to implement the bill for one mid-sized school district with 10,000 students is \$176,000 per year in loss of revenue. If the bill does not move forward, legislators could work with stakeholders to find a solution that is fiscally sound.

(Other) The OSPI agrees with both testimonies. There are some significant financial concerns for districts as the bill is currently written, but the OSPI does support the underlying policy and proposal.

Persons Testifying (Education): (In support) Representative Peterson, prime sponsor; Joe Hofman, State Board of Education; Amy Ulrich, Washington State Parent Teacher Association; and Claire Lane, Anti-Hunger and Nutrition Coalition.

(Other) Donna Parsons, Office of the Superintendent of Public Instruction.

Persons Testifying (Appropriations): (In support) Christina Wong, Northwest Harvest.

(Opposed) Mitch Denning, Alliance of Educational Associations.

(Other) Dave Mastin, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying (Education): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.