

SENATE BILL REPORT

ESHB 2610

As Passed Senate - Amended, March 6, 2018

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

Committee Activity: Early Learning & K-12 Education: 2/22/18, 2/23/18 [DPA-WM, DNP, w/oRec].

Ways & Means: 2/24/18, 2/26/18 [DPA(WM), DNP, w/oRec].

Floor Activity:

Passed Senate - Amended: 3/06/18, 31-17.

Brief Summary of Bill (As Amended by Senate)

- Requires schools to take certain actions regarding free and reduced-price meal applications and direct certification of students for these meals.
- Directs schools to take certain actions when a student has not paid for five or more previous meals and prohibits certain actions when there are unpaid meals.
- Tasks the Office of the Superintendent of Public Instruction (OSPI) with collecting, analyzing, and promoting best practices in local meal charge policies.
- Directs OSPI to develop and implement a plan to increase the number of schools participating in the community eligibility provision starting in the 2018-19 school year.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Wellman, Chair; Rolfes, Vice Chair; Billig, Hunt, Mullet and Pedersen.

Minority Report: Do not pass.

Signed by Senators Hawkins and Padden.

Minority Report: That it be referred without recommendation.

Signed by Senator Zeiger, Ranking Member.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Ways & Means.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Braun, Ranking Member; Honeyford, Assistant Ranking Member; Bailey, Becker, Brown, Schoesler and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

Staff: Jeffrey Naas (786-7708)

Background: Free and Reduced-Price Meals. The National School Lunch Program and the School Breakfast Program are federally assisted meal programs operating in public and nonprofit private schools and residential child care institutions that provide free and reduced-price meals to students. School lunch and breakfast programs are subsidized by the U.S. Department of Agriculture (USDA), the state, and student co-pays based on income.

Federal law requires public and private schools choosing to participate in these programs to make free and reduced-price meals available to all eligible children. State law requires certain school districts to implement lunch and breakfast food service programs based on percentages of eligible children in certain grades.

Student Eligibility. Students whose families have income at or below 130 percent of the federal poverty level are eligible for free meals. Students whose families have income between 130 percent and 185 percent of the federal poverty level are eligible for reduced price meals. For the period of July 1, 2017, to June 30, 2018, 130 percent of the poverty level is \$31,980 for a family of four and 185 percent is \$44,510. Student eligibility for these programs is determined by meal application or by direct certification.

Meal Applications. School districts must provide applications to families applying for free and reduced-price meals unless the household has been directly certified. Federal guidance requires school districts to take reasonable steps to ensure meaningful access for individuals with limited English proficiency to the information and services they provide.

Federal regulations permit school district officials to complete an application for a student known to be eligible for meal benefits if, after household applications have been disseminated, the household has not applied.

Direct Certification. Federal law provides that certain students are deemed categorically eligible for free school meals, which includes students who are or have household members participating in the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance for Need Families (TANF) Program, or the Food Distribution Program on Indian Reservations. Students are also categorically eligible if they are homeless, migrant, runaway, in foster care, or enrolled in Head Start or other eligible prekindergarten program. Direct certification systems match student enrollment lists against assistance agencies whose participants are categorically eligible for free meals. School districts are required to conduct direct certification at least three times per year.

Local Meal Charge Policies. USDA required all school districts participating in the National School Lunch Program, the School Breakfast Program, or both to have a written policy by July 1, 2017, to address situations where students participating at the reduced price or paid rate do not have money to cover the cost of a meal at the time of the meal service.

Community Eligibility Provision (CEP). Under the Healthy, Hunger-Free Kids Act of 2010, the National School Lunch Program includes a universal meal program called CEP. CEP allows schools with high numbers of low-income children to serve free breakfast and lunch to all students without collecting school meal applications. CEP is available to public, private, and tribal schools.

A school, group of schools, or district is eligible for 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 are directly certified through basic food, Temporary Assistance for Needy Families, and foster children. Other eligible students include migrant or homeless students and students participating in Head Start and the Early Childhood Education and Assistance Program (ECEAP). In the 2017-18 school year, 232 school sites are participating in CEP.

Summary of Amended Bill: Meal Applications. Each school that participates in the National School Lunch Program, the School Breakfast Program, or both, must annually distribute and collect an application for all households of children in K-12 to determine student eligibility for free or reduced-price meals. If a parent or guardian of a student needs assistance in a language other than English, the school must offer appropriate assistance.

If a student who, based on information available to the school, is likely eligible for free or reduced-price meals but has not submitted an application, the school must, in accordance with federal regulations, complete and submit the application for the student.

These requirements do not apply to a school that provides free meals to all students in a year in which the school does not collect applications to determine student eligibility for free or reduced-price meals.

Specific Student Populations and Direct Certification. Local homeless student liaisons must improve systems to identify homeless students and coordinate with the applicable school nutrition program to ensure that each student has proper access to free school meals and that accountability and reporting requirements are satisfied. Schools and districts must also improve systems for students in foster care, runaway students, and migrant students.

At least monthly, schools and districts must directly certify students for free school meals if the students qualify because of enrollment in assistance programs, including but not limited to SNAP, TANF, and Medicaid.

Unpaid Meals. If a student has not paid for five or more previous meals, the school must:

- determine whether the student is categorically eligible for free meals;
- if no meal application has been submitted for the student, make no fewer than two attempts to contact the student's parent or guardian to submit an application; and
- have a principal, assistant principal, or school counselor contact the parent or guardian to offer certain assistance.

Communications about amounts owed for meals to a student under the age of 15 may only be directed to the student's parent or guardian.

A school district must notify a parent or guardian of the negative balance of a student's school meal account no later than ten days after the balance is reached. Within 30 days of sending the notification, the school district must exhaust all options to directly certify the student for free or reduced-price meals. Within these 30 days, the student may not be denied access to a school meal unless the school district determines that the student is ineligible for free or reduced-price meals. If a student is not directly certified, the school district must provide the parent or guardian with a paper copy of or an electronic link to a meal application and encourage them to apply.

Prohibitions. School and district personnel and school volunteers may not:

- take any action that would publicly identify a student who cannot pay for school meals, including but not limited to requiring the student to wear a wristband, hand stamp, or other identifying marker, or by serving an alternative meal;
- require a student who cannot pay for school meals to perform chores or other actions in exchange for a meal or for the reduction or elimination of a school meal debt, unless all students perform similar chores or work;
- require a student to dispose of an already served meal because of the inability to pay or because of money owed;
- allow any disciplinary action that is taken against a student to result in the denial or delay of a nutritionally adequate meal; or
- require a parent or guardian to pay fees or costs in excess of the actual amounts owed for meals previously served to the student.

Best Practices in Local Meal Charge Policies. OSPI must collect, analyze, and promote to school districts and applicable community-based organizations best practices in local meal charge policies that are required by USDA.

Participation in CEP. OSPI must work jointly with certain entities to develop and implement a plan to increase the number of schools participating in CEP for the 2018-19 school year and subsequent years.

The plan must describe how OSPI will:

- identify and recruit eligible schools to implement CEP, with the goal of increasing the participation rate of eligible schools to at least the national average;
- provide comprehensive outreach and technical assistance to school districts and schools;
- support breakfast after the bell programs to adopt CEP;
- work with school districts to group schools in order to maximize the number of schools implementing CEP; and
- determine the maximum percentage of students eligible for free meals where participation in CEP provides the most support for a school, school district, or group of schools.

OSPI must convene the organizations working jointly on the plan, on a monthly basis, to report on the status of the plan and coordinate outreach and technical assistance efforts to schools and school districts, until June 30, 2019.

Beginning in 2018, OSPI must report annually the number of schools that have implemented CEP to the Legislature by September 1 of each year. The report must:

- identify any barriers to implementation;
- recommend policy and legislative solutions to overcome those barriers;
- identify reasons potentially eligible schools and school districts decide not to adopt CEP; and
- identify approaches in other states to adopting CEP.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: Many children live in a family that struggles to put food on the table on a regular basis. Hungry students struggle to learn. Children should have a quality education, safety, and two meals. Currently, schools deal with meal debt in different ways. This bill addresses lunch shaming and stigmatizing students who cannot pay for their lunch, which impacts students across the state. When students have to throw away a lunch or receive an alternative lunch, everyone in the lunchroom knows that the student is not able pay. The best way to avoid lunch shaming is to make sure that eligible children receive free meals. This bill asks schools to proactively reach out to families. Families may not understand the system or application process. There are concerns about the financial and administrative burdens this bill could place on school districts.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Strom Peterson, Prime Sponsor; Lauren McGowan, Senior Director, United Way of King County; Aaron Czyzewski, Director, Advocacy and Public Policy, Food Lifeline; Donna Parsons, OSPI.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): No one.

Staff Summary of Public Testimony (Ways & Means): *The committee recommended a different version of the bill than what was heard.* None.

Persons Testifying (Ways & Means): No one.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.