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S.B. 168
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Yuko and Maharath

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SUMMARY

- Requires public and chartered nonpublic schools to provide a free, printed meal application to prospective and enrolled students.
- Requires districts and schools to complete and file an application for a student who is eligible for free and reduced-price lunches but has not yet submitted a meal application.
- Requires districts and schools to provide a reimbursable meal to a student who requests a meal, unless the student's parent has specifically provided written permission to the school to withhold a meal.
- Requires a district's or school's homeless education liaison to coordinate with its nutrition department to ensure that homeless students receive free meals.
- Requires districts and schools to perform specified actions for students with five or more unpaid meals, including parental notification, verifying eligibility for meal assistance, and offering assistance with meal applications.
- Prohibits districts and schools from (1) publicly identifying or stigmatizing a student who cannot pay for a meal or who owes a meal debt, (2) requiring such a student to do chores or other work to pay for meals, and (3) requiring a student's parent to pay fees or costs from collection agencies hired to collect a meal debt.
- Entitles the bill the "Hunger-Free Students' Bill of Rights Act."

DETAILED ANALYSIS

Overview

The bill prescribes protections for and services that must be provided to students who are eligible for free or reduced-priced meals. It generally applies to school districts, community schools, STEM schools, college-preparatory boarding schools, and chartered nonpublic schools that participate in the National School Breakfast Program or National School Lunch Program.

Under those programs, a participating district or school may receive reimbursements for providing free or reduced-price meals to eligible low-income children (see “**Background**” below).

Meal applications

The bill requires each school district or school that participates in the federal meal programs to provide each prospective and enrolled student with a free, printed meal application in every school enrollment packet. If a district or school uses electronic meal applications, the enrollment packet must include an explanation of the electronic meal application process and instructions for how parents may request a free, paper meal application. The applications and instructions must be in a language that parents can understand. If a parent cannot read or understand a meal application, the district or school must offer assistance in completing the application.¹

If a district or school becomes aware that a student is eligible for free or reduced-price lunch and has not submitted a meal application, the bill requires the district or school to complete and file an application for the student in accordance with federal law.²

The bill specifies that the provisions described above do not apply to districts and schools that provide free meals to all enrolled students during a school year in which the district or school does not collect meal applications from students.³ (Under the Community Eligibility Provision of the federal “Healthy Hunger-Free Kids Act” a district or school in which at least 40% of the students are eligible for free lunches may agree to serve free lunches and breakfasts to all students and not collect free and reduced-price applications. In return the district or school will receive an increased reimbursement rate for eligible students.⁴)

Provision of meals to students

Regardless of whether a student has money to pay for a meal or owes money for earlier meals, the bill requires each district or school to provide a reimbursable meal to a student who requests a meal, unless the student’s parent has specifically provided written permission to the school to withhold a meal. Additionally, the bill prohibits a district or school from requiring a student discard a meal after it has been served because of the student’s inability to pay for the meal or because money is owed for previously provided meals.⁵

¹ R.C. 3313.818(A). See “**COMMENT**” below.

² R.C. 3313.818(B).

³ R.C. 3313.818(C).

⁴ Section 104(a) of the Healthy Hunger-Free Kids Act of 2010, Publ. Law 111-296, 124 Stat. 3183, 3193-3199.

⁵ R.C. 3313.818(E).

Homeless students

The bill requires the local homeless education liaison for each district or school to coordinate with the district's or school's nutrition department to ensure that a homeless student receives free school meals and is monitored according to the district's or school's policies. This bill states that this requirement does not apply to chartered nonpublic schools.⁶ (Under the federal "McKinney-Vento Homeless Assistance Act," school districts must enroll homeless students in their "school of origin" and provide other specified services to them while they are homeless.⁷)

Unpaid meal debt

If a student owes money for the equivalent of five or more meals, each district or school must do the following:

1. Check the list of students who are eligible for free lunches to determine the student's eligibility;
2. Make at least two attempts, not including the application or instructions included in a school enrollment packet, to contact the student's parent and request that the parent complete and submit a meal application; and
3. Require a principal, assistant principal, or counselor to contact the parent to offer assistance with a meal application, determine if there are other issues within the household that have caused the child to have insufficient funds to purchase a school meal, and offer any other assistance that is appropriate.⁸

The bill prohibits a district or school from publicly identifying or stigmatizing a student who cannot pay for a meal or who owes a meal debt. Practices that are explicitly prohibited by the bill include requiring that a student wear a wristband or hand stamp.

The bill also provides that if a district or school requires all students to do chores or work, it cannot require a student who cannot pay for a meal or who owes a meal debt to do chores or other work to pay for meals. However, the bill does not state whether a district or school can require a student to work for meals if it does not otherwise require all students to work.⁹

⁶ R.C. 3313.818(D).

⁷ 42 United States Code (U.S.C.) 11431 *et seq* see also <https://education.ohio.gov/getattachment/Topics/Every-Student-Succeeds-Act-ESSA/McKinney-Vento-Topic-Discussion-Guide.pdf.aspx>.

⁸ R.C. 3313.818(F).

⁹ R.C. 3313.818(G).

This bill prohibits a district or school from providing student with a meal that is of lower quality than a meal served to other students. Finally, it prohibits a district or school from requiring a parent to pay fees or costs from collection agencies hired to collect a meal debt.¹⁰

All communications about a student's meal debt must be directed to the student's parent and not to the student. The bill expressly states that a district or school is not prohibited from sending home with a student a letter addressed to the student's parent.¹¹

Background

The Ohio Department of Education, in conjunction with the U.S. Department of Agriculture (USDA), administers the National School Lunch and School Breakfast programs under the federal "National School Lunch Act" and "Child Nutrition Act of 1966."¹² Under current federal guidelines, students from families with incomes at or below 185% of the federal poverty guidelines are eligible for reduced-price meals, and students from families with incomes at or below 130% of the federal poverty guidelines are eligible for free meals. Children who receive Temporary Assistance for Needy Families, Food Stamps, or who are homeless, runaways, or migrants are also eligible for free lunch.¹³

If a student qualifies for free or reduced-price lunches under the National School Lunch Program, the federal government provides cash subsidies and USDA food commodities for the school district or school in order to offset the cost of students paying less for lunches. These students must receive lunches at the rate at which they qualified (either free or reduced).¹⁴

School districts

State law requires each school district to establish and maintain a school breakfast program in every school where at least $\frac{1}{5}$ of the students qualify for free breakfast, and a lunch program in every school where at least $\frac{1}{5}$ of the students qualify for free lunch under federal law. However, if the district board determines that it cannot afford to offer a school breakfast or lunch program, the board may opt to not offer either program, but must communicate this decision publicly to residents of the district.¹⁵

Nevertheless, this opt-out is not available with respect to any school where at least $\frac{1}{3}$ of the students qualify for free breakfast or free lunch. In that case, the district must provide the program at that school, though it may charge for reduced price or paid breakfasts to cover incurred costs. School districts also must establish breakfast programs in schools where the parents of at least $\frac{1}{2}$ of enrolled students have requested one. In this case, schools may charge

¹⁰ R.C. 3313.818(I).

¹¹ R.C. 3313.818(H).

¹² 42 U.S.C. 1751 *et seq* and 1771 *et seq*.

¹³ 42 U.S.C. 1758(b)(12).

¹⁴ <https://fns-prod.azureedge.net/sites/default/files/cn/NSLPFactSheet.pdf>.

¹⁵ R.C. 3313.813(C), not in the bill.

for each breakfast to cover costs incurred from the program. If a school district for good cause (including economic impossibility of compliance) cannot provide meals under the $\frac{1}{3}$ requirement or by parent request, the State Board must grant an extension of time to comply.¹⁶

Community schools

Community schools also must provide a breakfast program if at least $\frac{1}{5}$ of the students qualify for free breakfast, and a lunch program if at least $\frac{1}{5}$ of the students qualify for free lunch under federal law. The governing authority of a community school may charge for each reduced price or paid breakfast to help cover costs. However, if the governing authority determines that it cannot provide meals due to financial reasons, it may choose not to, but must communicate this choice to all parents of its students in the manner it deems appropriate. Internet- or computer-based community schools (e-schools) are not required to provide meal programs.¹⁷

Breakfast program

H.B. 166 of the 133rd General Assembly requires the Department of Education to establish a program, under which qualifying higher-poverty public schools must offer breakfast to all enrolled students either before or during the school day. The program is phased in over a three-year period. (This applies to schools operated by school districts, community schools (except e-schools), and STEM schools.)¹⁸

Meal applications

Meal applications are used to apply for free or reduced-price meals under the programs. According to the USDA, schools send home meal applications at the beginning of the school year, but applications are accepted throughout the school year.¹⁹ The USDA also provides translated applications in a variety of foreign languages.²⁰

COMMENT

The section number 3313.818 is used in S.B. 168 but was also used and subsequently enacted by H.B. 166 of the 133rd General Assembly. S.B. 168 may be amended to change the section number.

¹⁶ R.C. 3313.813(C)(2) and (5)(b) and (c), not in the bill.

¹⁷ R.C. 3314.18, not in the bill.

¹⁸ R.C. 3313.818 of H.B. 166 of the 133rd General Assembly, not in the bill.

¹⁹ <https://www.fns.usda.gov/school-meals/applying-free-and-reduced-price-school-meals>.

²⁰ Those translated applications can be accessed at <https://www.fns.usda.gov/school-meals/translated-applications>.

HISTORY

Action	Date
Introduced	06-19-19
