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Senate Bill 250: USDA Meal Charge Policy

Nutrition Services Division Management Bulletin

Purpose: Policy, Beneficial Information

To: School Nutrition Program Operators

Number: SNP-05-2018

Attention: Superintendents, Chief Business Officers, and Food Services Directors

Date: January 2018

Reference: Senate Bill 250 (Hertzberg) and U.S. Department of Agriculture Food and Nutrition Service Policy Memorandum SP 46-2016

Subject: Senate Bill 250: Child Hunger Prevention and Fair Treatment Act of 2017 and USDA Meal Charge Policy Requirements

This management bulletin (MB) provides guidance related to Senate Bill 250 (Hertzberg) Child Hunger Prevention and Fair Treatment Act of 2017 (Chapter 726, Statutes of 2017) and to the U.S. Department of Agriculture (USDA) unpaid meal charge policies. SB 250 can be found on the California Legislative Information Web page located at http://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB250 and the USDA Policy Memorandum 46-2016: Unpaid Meal Charges: Local Meal Charge Policies can be found on the USDA Food and Nutrition Service School Meals Policy Web page at <https://www.fns.usda.gov/school-meals/policy>.

Purpose of Senate Bill 250

SB 250 Child Hunger Prevention and Fair Treatment Act of 2017 (also known as the No Shaming Act), effective January 1, 2018, was developed to prevent the shaming of children who do not have the money to pay for a meal or whose family has unpaid meal debt. This law affects all public school districts, county offices of education (COE), and charter schools that participate in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

What Does Senate Bill 250 Mean?

There are several components to SB 250 that require clarification:

Section 3 of SB 250 adds Section 49557.5 to the California *Education Code* (EC).

Section 2 and EC 49557.5(c) state that it is the intent of the law to prohibit school personnel from denying or delaying a school meal as a way to punish a child for any reason and to establish transparent rules for resolving unpaid school meal fees owed by the child's parent or guardian. Therefore, school personnel and volunteers cannot deny or delay students from receiving meals based on **any** disciplinary action and the local educational agency (LEA) must make the unpaid meal charge policies clear to all parents and guardians.

EC sections 49557.5(a) and 49557(h) define those entities affected by this law as LEAs which are schools, school districts, COEs, and charter schools participating in the federal NSLP and/or SBP.

EC 49557.5(b)(1) states that a pupil whose parent or guardian has unpaid meal charges is not shamed, treated differently, or **served a meal that differs from what a pupil whose parent or guardian does not have unpaid meal fees would receive** under the LEA's meal charge policy. Schools participating in the Community Eligibility Provision or Provision 2 are not affected by this law, as all students receive their meals at no cost, therefore there is no unpaid meal debt.

A paid pupil, who has unpaid meal charges, is to be served a reimbursable meal for the duration established in the LEA's meal policy. An alternate reimbursable meal must be nutritionally adequate as defined in EC 49553, and all paid children with unpaid meal debt or no money to pay for the meal receive the same meal.

EC 49557.5(b)(2) emphasizes that all LEAs participating in the NSLP and/or SBP must have an approved federal meal charge policy in place, per the USDA, as of July 1, 2017, and that policy must be communicated in writing to families at the start of the school year and families transferring to the school midyear.

EC 49557.5(d) states that the LEA **may not** take any action directed at a pupil to collect unpaid meal debt, but must direct these efforts to the parent or guardian of the child. The section states that an LEA cannot use a debt collector, as defined in Section 803 of the federal Consumer Credit Protection Act (Title 15, *United States Code* [15 U.S.C.], Section 1692a), which is stricter than USDA guidance.

EC 49557.5(e) requires the LEA to conduct a direct certification match and encourages the household to submit a household application no later than 10 days after the pupil's school meal account has reached a negative balance. While USDA regulations require LEAs to conduct direct certification at least three times per year, the CDE highly recommends conducting the direct certification match on a monthly basis. All LEAs affected by this law have access to the direct certification results (CalFresh, CalWORKs, and Medi-Cal [free and reduced-price]) on the California Department of Education's (CDE) California Longitudinal Pupil Achievement Data System (CALPADS).

Before sending the notification to parents or guardians regarding debt balances, the LEA must attempt to directly certify the student for free or reduced-price (F/RP) meals. If the LEA cannot directly certify the student—or find their names on a homeless, migrant, runaway, foster, Head Start list from the liaison, or the foster list available on CALPADS—then the LEA shall provide the household with a paper or electronic application. Please note that the LEA cannot mandate that a household complete and return the application.

EC 49557.5(g) states that the law is not intended to allow for the indefinite accrual of unpaid meal fees.

The LEA must describe their meal charging thresholds (how many meals they will serve to students with unpaid meal charges or the monetary threshold) in their formal meal policy, which will vary between LEAs.

Federal and State Requirements

Federal Meal Charge Policy Requirements

- **Reimbursable Meals for Children Qualifying for Free Meals:** Children who qualify for free meals may never be denied a meal, even if they have accrued a negative balance from other purchases. Note: School food authorities (SFA) may prohibit a child from charging a la carte meals or "extra items" if the account is negative, but may not deny the child a reimbursable meal.
- **Local Meal Charge Policies:** Effective July 1, 2017, all SFA's must have a policy in place for children who are participating at the reduced-price and paid rate, but either do not have the money in their account or on

hand to cover the cost of the meal at the time of service. Such a policy ensures that school food service professionals, school administrators, families, and students have a shared understanding of expectations in these situations.

- **Policy Communication:** SFAs must ensure the policy is provided in writing to all families at the start of each school year and to families transferring to the school midyear. SFAs must provide the unpaid meal charge policy to all school or district-level staff responsible for policy enforcement. This includes school food service professionals responsible for collecting payment of meals at the point of service, staff involved in notifying families of low or negative balances, and staff involved in enforcing any other aspect of the policy. School social workers, school nurses, liaisons for homeless, migrant, and/or runaway students, and other staff members assisting children in need should also be informed of the policy.
- **Delinquent Meal Charge Debt:** Also known as unrecovered debt, delinquent debt refers to meal charges that have not been paid by the student(s) or parent(s) during the fiscal year. SFAs must include policies regarding the collection of delinquent or unrecovered debt in the written meal charge policy and communicate the policy to households. After an SFA has taken all reasonable steps to recover the unrecovered or delinquent debt, and if the SFA is unsuccessful in collecting the debt by the end of the fiscal year, then the CDE considers the debt as bad debt.
- **Recordkeeping:** Once delinquent debts are converted to bad debts, records relating to those charges must be in accordance with the record retention requirements outlined in Title 7, *Code of Federal Regulations* (7 CFR), sections 210.9(b)(17) and 210.15(b).
- **Bad debt must be covered by nonfederal funding sources (e.g., Parent-Teachers Association or district general fund) to repay the nonprofit school food service account (NSFSA) for the total amount:** Title 2, *Code of Federal Regulations*, Section 200.426: Bad debts are an unallowable cost to federal programs. According to federal guidance, unpaid meal charges are designated as unrecovered or delinquent debt until it is deemed uncollectable, at which time it becomes bad debt. Additionally, the district bad debt and collection policy must be included as part of the LEA's Unpaid Meal Charge Policy requirement per the Policy Communication section above. The state requirements regarding federal bad debt are different; please review the Bad Debt section under the State Meal Charge Policy Requirements below.

State Meal Charge Policy Requirements

- **LEAs Affected by the State Law:** This law applies to schools, school districts, COEs, and charter schools participating in the federal NSLP and/or SBP.
- **Students Shall Not Be Shamed:** A pupil whose parent or guardian has unpaid meal charges is not shamed, treated differently, or served a meal that differs from what a pupil whose parent or guardian does not have unpaid meal fees would receive under that LEA's meal policy. Students receiving reduced-priced meal benefits cannot be served an alternative meal.
- **Federal Meal Charge Policy must be available for CDE and USDA Review:** All LEAs participating in the NSLP and/or SBP must have a meal charge policy in place per the USDA, as of July 1, 2017, and that policy must be communicated in writing to families at the start of the school year and to families transferring to the school midyear. SB 250 refers to this federal policy in determining the meal charge policies for each school district.

- **LEAs may not take action against students for unpaid meal debt or use a debt collector:** The LEA **may not** take any action directed at a pupil to collect unpaid meal debt, but must direct these efforts to the parent or guardian of the child. The LEA cannot use a debt collector, as defined in Section 803 of the federal Consumer Credit Protection Act (15 U.S.C. Section 1692a), which conflicts with USDA guidance.
- **Meals Cannot be Delayed or Denied to Students:** School personnel and volunteers cannot deny or delay students from receiving meals based on any disciplinary action. For example, a teacher cannot hold students back from going to lunch as a discipline action.
- **LEAs are required to conduct direct certification matches and encourage households to submit household meal applications:** The law requires LEA's to review direct certification match lists and encourage the household to submit a household application no later than 10 days after the pupil's school meal account has reached a negative balance. Before sending the notification, the LEA must attempt to directly certify the student for F/RP meals. If the LEA cannot directly certify the student—or find their names on a homeless, migrant, runaway, foster, Head Start list from the liaison, or the foster list available on CALPADS—then the LEA shall provide the household with a paper or electronic application. **Please note that the LEA cannot mandate that a household complete and return the meal application.**
- **Reimburse school meal fees paid during the time the students would have been determined eligible:** To the extent of federal regulations, LEAs shall reimburse school meal fees paid by parents/guardians during the time that the student would have been determined eligible for F/RP meals. For example, if the parent/guardian submitted a household meal application on September 1, and the LEA informed the household that the student qualifies for F/RP meals on September 8, the LEA would return any meal fees collected between September 1 and September 8.
- **Bad Debt:** Is defined as unrecovered or delinquent debt that, after all reasonable steps have been taken, has not been recovered by or before the end of the fiscal year in which the debt was incurred. Although USDA Policy Memo SP 47-2016 states that unpaid meal charges may be carried over to the next fiscal year, the policy memo also states that, "SFAs [are] to rely on state and local policies for such determinations [emphasis added]." The CDE does not permit LEAs to carry the unpaid meal charges to the next fiscal year, as stated in the CDE MB SNP-06-2015: Clarification for the Use of Alternate Meals in the NSLP and SBP, Bad Debt Policies, and the Handling of Unpaid Meal Charges. This policy remains in effect for all California SFAs.

Federal and State Guidance related to Unpaid Meal Charges

All SFAs operating the NSLP and/or SBP must have a written unpaid meal charge policy in place by July 1, 2017. The SFA must communicate the policy to all families with children within the SFA and all school or district-level staff members responsible for the policy's enforcement.

On July 8, 2016, the USDA distributed Policy Memo 46-2016: Unpaid Meal Charges: Local Meal Charge Policies on the USDA Food and Nutrition Service School Meals Policy Web page at <https://www.fns.usda.gov/school-meals/policy>.

In April 2017, the CDE provided additional guidance in MB SNP-03-2017: Unpaid Meal Charges and Excess Account Balances on the CDE School Nutrition Programs MB Web page at <https://www.cde.ca.gov/ls/nu/sn/mb.asp>.

The USDA developed the guidance manual Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation's Schools on the USDA Food and Nutrition Service Web page at <https://fns-prod.azureedge.net/sites/default/files/cn/SP29-2017a1.pdf>. This guidance offers many best practice tips.

Additional Resources

The resources below are helpful tools for LEAs to be successful in addressing unpaid meal charges.

CDE MB: SNP-03-2018: Clarification for the Use of Alternate Meals in the National School Lunch and School Breakfast Programs, and Additional Guidance on the Handling of Unpaid Meal Charges

USDA Policy Memo: SP-57-2016: Unpaid Meal Charges: Guidance and Q&As (<https://www.fns.usda.gov/unpaid-meal-charges-guidance-and-qas>)

USDA Policy Memo: SP 46-2016: Unpaid Meal Charges: Local Meal Charge Policies (<https://www.fns.usda.gov/unpaid-meal-charges-local-meal-charge-policies>)

USDA Policy Memo: SP 43-2016: Ensuring Access to Free and Reduced Price School Meals for Low-Income Students (<https://www.fns.usda.gov/ensuring-access-free-and-reduced-price-school-meals-low-income-students>)

USDA Policy Memo: SP 17-2014: Discretionary Elimination of Reduced Price Charges in the School Meal Programs (<https://www.fns.usda.gov/discretionary-elimination-reduced-price-charges-school-meal-programs>)

Guidance: USDA Overcoming the Unpaid Meal Challenge: Proven Strategies from Our Nation's Schools (<https://fns-prod.azureedge.net/sites/default/files/cn/SP29-2017a1.pdf>)

Webinar: The Challenges of Unpaid Meals: Proven Strategies from Our Nation's School (https://fns-prod.azureedge.net/sites/default/files/cn/cnwebinar_unpaidmeals.pdf)

Web page: Provisions: Claiming Alternatives (<https://www.cde.ca.gov/ls/nu/sn/provisions.asp>)

Web page: Community Eligibility Provision (<https://www.cde.ca.gov/ls/nu/sn/cep.asp>)

Contact Information

If you have any questions regarding this subject, please contact the Resource Management Unit by e-mail at SNPCAFEFUNDQUESTIONS@cde.ca.gov.

Questions: Nutrition Services Division | 800-952-5609

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