



Implementing Senate Bill 250 (Hertzberg)

New Law Ends Shaming Children When Lunch Debt is Unpaid

“Both Democrats and Republicans have been shocked to learn of the school lunch shaming practices that go on in some California schools,” said Senator Bob Hertzberg, author of Senate Bill 250 after the measure won a unanimous vote of 77-0 in the Assembly and 40-0 in the Senate. “We know that kids need healthy meals to succeed in school, and denying them lunches or shaming them because their parents haven’t paid makes no sense whatsoever.” The bill, which received significant national coverage,¹ was signed by Governor Jerry Brown in October and went into effect on January 1, 2018. This paper summarizes the impact of the bill on reducing hunger and eliminating shame for children in school environments.

National School Lunch Program is an Essential Service for Children and Learning

The National School Lunch Program (NSLP) is one of the most important federal programs to combat child hunger and improve school attendance and outcomes. NSLP Community Eligibility is a proven way to ensure that no child is denied a meal and to remove unnecessary paperwork in the administrative procedure. Unfortunately, this provision is not available at all schools nor has it been adopted at all schools eligible to use it. As a result, children who do not qualify for a free or reduced meal through NSLP because their parents have not applied or they have incomes above 185% of the federal poverty line must pay for a meal at either a reduced price or the full price. It is a common practice in school cafeterias to provide a meal to all students who request one, even those who are not enrolled in the NSLP and arrive without money. In these circumstances, the school meal debt is later collected from the parent or guardian.

With No Protections in Place - Shaming Practices Discovered Across the State

Before SB 250, there was no policy protecting a child from shame or differential treatment when their family has accrued school lunch debt. The lack of a standard statewide policy puts children in harm’s way² and puts school workers in the difficult position of implementing “shaming” policies with little or no guidance.³ SB 250 made California one of the first states to ban the practice of singling out a child because their family owes school lunch debt and require school lunch debt policies to be made publicly available.⁴

Western Center published a report which details the policies of schools to take punitive action against a child in an attempt to coerce the repayment of school lunch debt by a parent or guardian.⁵ Our report found that it was the written policy of a significant number of the most populous school districts that children, whose parents owed school lunch debt, were to be singled out for differential treatment in the

¹ <https://www.politico.com/story/2017/06/08/school-lunch-debt-policies-hard-to-swallow-239332>

<http://www.capradio.org/articles/2017/12/18/california-schools-to-target-parents-for-school-lunch-debt-not-kids/>

² FRAC statement on the issue (similar to the comments w submitted): <http://frac.org/frac-statement-taking-meals-from-children-no-way-for-schools-to-handle-fees-issue/>

³ Testimony given in support of SB 250 in the Senate Education Committee on March 15th by Service Employees International Union (SEIU) California stated that the clarity that would be established by the bill would be a benefit to school food service providers.

⁴ Legislation has passed in Michigan and New Mexico and is pending in Oregon and Hawaii. The Texas legislature recently considered legislation to ban school lunch shaming, but it did not pass.

⁵ <https://wclp.org/resource/ashamed-hungry-an-inventory-of-school-lunch-shaming-policies-in-california/>

lunch line and beyond. In several cases, districts were directing food workers to take these actions when their parents owe as little as \$7.00 in debt.⁶ Some school districts require that a child be denied participation in field trips or for their hands to be stamped.⁷ Alternatively, some school district policies have established policies that protect children from hunger and humiliation.⁸ About half of the school districts reviewed by Western Center do not have any published rules on the topic at all.⁹

Unpaid School Meal Debt is Common but Shaming Kids Doesn't Work to Prevent or Collect It

In 2014, the School Nutrition Association surveyed its members and found that 71% of districts reported that their school nutrition program had unpaid student meal debt at the end of the 2012/13 school year. There is no breakdown by state but they do break it down by region with the Western region reporting about 65% of responding districts with unpaid meal debt.¹⁰ The size of the debt reported varies significantly based on the size of the district but also depends on the district's policy as some districts don't charge any students the cost of a meal because they employ the NSLP Community Eligibility Provision. This is under current law. If we believe that policies which implore parents to clear unpaid debt by denying their child food or treating them differently in the cafeteria (i.e. making them wait at the end of the line) actually results in increased payments, then it could be assumed that the size of the debt could increase, forcing schools to make up the difference. However, there is no research showing that shaming a child or treating them differently in the cafeteria for the unpaid school meal debt owed by their parent increases the likelihood of payment.

Current State and Federal Law and Regulation

While current federal¹¹ and state law¹² and guidance establishes protections for children certified for the NSLP, there is no current policy protecting a child who has not been certified for school meals from being treated differently in the cafeteria as a result of unpaid school meal fees. There is also no law that protects a child from denial of food as a disciplinary action outside of the cafeteria. There is a 1988 federal guidance on the topic of denying food to children not certified in the NSLP or using food for punishment, but we are not aware of federal government enforcement of this policy.¹³ Representative Keith Ellison (D-MI) introduced federal legislation in 2010 to establish the rights of children not served by the program using policy tools very similar to SB 250, but it never received a hearing.¹⁴ In 2016, bi-partisan federal legislation was introduced.¹⁵

⁶ An example from the Santa Monica/Malibu School District found at <http://www.smmusd.org/foodservices/FAQs.html> which states, "The Partial Meal Policy (Administrative Regulation 3551) will be strictly enforced in all of our schools. In our elementary schools (grades K-5), full price students will be allowed to owe for only 3 consecutive complete meals, a value not to exceed \$9.00. If a child does not have money and has exceeded his/her three meal credits, a partial meal will be offered to the student. Please note: there is NO credit or partial meal service for secondary students (grades 6-12). The partial meal will be a nutritionally adequate meal consisting of a cheese sandwich and nonfat milk."

⁷ San Juan Unified School District requires a child will have their hand stamped,

http://district.schoolnutritionandfitness.com/sanjuanusd/files/Meal_Charges_for_Full_Pay_Students.pdf

⁸ A favorite from our review was El Segundo School District policy, found at <http://elsegundo.healtheliving.net/what-we-do/meal-payments/> which states, "We don't want to see any child go hungry! If your child forgets their money they will receive a meal, but we appreciate you sending payment to the cafeteria as soon as possible in appreciation of taking care of your student! The public school food service program is mandated to be self-supporting and your payments cover the cost of the food, equipment and the salaries of our cafeteria staff."

⁹ FRAC Webinar on topic of lunch shaming policies: <https://frac.peachnewmedia.com/store/streaming/seminar-launch.php?key=wVNsl1xziUwldrO4SP3X5c9naZEbn09CSSPRrENV1KU%3D>

¹⁰ School Nutrition Operations Report: The State of School Nutrition 2014 (see pg. 48).

¹¹ SP 45-2012: Preventing Overt Identification of Children Certified for Free or Reduced Price School Meals, 2012, <http://www.fns.usda.gov/preventing-overt-identification-children-certified-free-orreduced-price-school-meals>.

¹² California Code of Education Section 49557

¹³ United States Department of Agriculture, FNS INSTRUCTION 791-1, July 12, 1988.

¹⁴ A federal bill was attempted in 2010, HR5167 (Rep. Keith Ellison, D-MI) but was not passed and has not been renewed in this congress:

<https://www.congress.gov/bill/111th-congress/house-bill/5167/text?q=%7B%22search%22%3A%5B%22%5C%22stigma%5C%22+ellison%22%5D%7D&resultIndex=1>

¹⁵ H.R.2401 - Anti-Lunch Shaming Act of 2017 <https://www.congress.gov/bill/115th-congress/house-bill/2401/all-info>

While there is no current federal law impacting school lunch shaming policies, a new USDA policy requires, no later than July 1, 2017, all schools operating NSLP to have a written and clearly communicated meal charge policy in order to ensure a consistent and transparent approach to this issue. This new policy emanated from efforts that began in 2013, when the Obama Administration solicited comments on the topic of unpaid school meal debt and alternative meal policies and the USDA subsequently established a workgroup to further inform the drafting of regulation.¹⁶ The Food Research and Action Center and the Western Center on Law and Poverty, both co-sponsors of SB 250, participated on that workgroup. Following the workgroup, the USDA issued two new regulations, but neither resulted in protections against using a refusal of food as a means to coerce a parent's payment or in any way punish or discipline a child.¹⁷ SB 250 requires that these policies, already required by federal guidance to be established, be posted and that they prevent the shaming or differential treatment of a child based on school meal debt owed by their parent or guardian. Western Center is conducting an inventory of school districts to ensure that they are complying with the new law.

SB 250 Codifies Longstanding Federal Guidance Preventing Use of Food to Punish Pupils

Additionally, SB 250 goes beyond the problem of unpaid debt, it codifies a long-standing federal guidance, but not codified anywhere in federal law, that would protect children from the denial of food from being used as a punishment in any circumstance.¹⁸

Partnerships Work! This victory would not be possible without our partners, who co-sponsored SB 250, informed its policy and helped organize to achieve its signature. They are:



Coalition of Welfare Rights Organizations (CCWRO); MAZON A Jewish Response to Hunger; Food Research and Action Center (FRAC); State Employees International Union (SEIU) – California; and, Children's Defense Fund.

For more information about Western Center's Anti-Hunger work, please see our website at www.wclp.org, or contact: Jessica Bartholow at jbartholow@wclp.org or 916-282-5119.

¹⁶ Meal Fee Request for Information: <https://www.federalregister.gov/articles/2014/10/16/2014-24575/request-for-information-unpaid-meal-charges> Responses/Comments: <http://www.regulations.gov/#!docketBrowser:rpp=100;so=DESC;sb=docId;po=0;dct=PS;D=FNS-2014-0039>

¹⁷ Unpaid Meal Charges: Local Meal Charge Policies - No later than July 1, 2017, all SFAs operating NSLP and/or SBP must have a written and clearly communicated meal charge policy in order to ensure a consistent and transparent approach to this issue. State can develop a state level policy; if not, then LEAs must develop individual local policies. Policies developed at the SFA level must be provided to the State agency during the Administrative Review.

<http://www.ode.state.or.us/wma/nutrition/snp/memos/sp46-2016.pdf>

Unpaid Meal Charges: Clarification on Collection of Delinquent Meal Payments

<http://www.fns.usda.gov/sites/default/files/cn/SP47-2016os.pdf>

¹⁸ United States Department of Agriculture, FNS INSTRUCTION 791-1, July 12, 1988.