
TESTIMONY

Testimony To: House Committee on Agriculture, Food Resiliency, and Forestry

Respectfully Submitted by: Rosie Krueger, State Director of Child Nutrition Programs

Subject: Recommended Technical Changes to H.165

Date: February 14, 2023

Thank you for the opportunity to provide feedback on suggested technical changes to H. 165 to make the legislation implementable. Page numbers and lines refer to the bill as introduced.

Replace References to Cost with Defined “Universal Meals Supplement”

Throughout the bill, there are references to the State reimbursing the “cost” of paid meals. AOE understands that the intent is for the state to reimburse a set dollar amount per meal, as is defined specifically on page 7, line 3. AOE has begun referring to this set amount as the “Universal Meals Supplement.” However, the frequent references to “reimbursing the cost” may be confusing when added to existing statute, since readers may assume that the state will reimburse actual cost to provide meals, rather than a set dollar amount. We suggest adding “Universal Meals Supplement” as a defined term, and changing references to “reimbursing the cost” to refer back to that defined term.

Clarification of Payment to Independent Schools

AOE understands that the intent of the legislation is to fund only the Universal Meals Supplement for students attending independent schools on public tuition. We suggest several clarifying changes to the language:

1. On page 5, line 12-13 it is implied that independent schools need only provide free meals to students attending on public tuition. Page 6, line 17 says that funds will only be available to independent schools that participate in Provision 2 or CEP. Under federal rules, CEP and Provision 2 schools are required to provide free meals to all students. If the intent is for independent schools to be required to provide free meals to all students in order to receive the universal meals supplement for students attending on public tuition, we recommend striking the words “attending on public tuition” on page 6, line 12/13.
2. On page 5, line 19/20, replace “the approved independent school” with “the public school school food authority.” In this situation, the AOE



would not make payment to the independent school directly, but instead to the public school school food authority (SFA), as AOE's agreement is with the SFA and not with individual sites.

3. Strike "is its own school food authority and" on page 6, line 1-2. Language in this section responds to AOE's request for clarification on how to handle payments to independent schools in CEP or in a non-base year of Provision 2. If it is the legislature's intent that independent schools that are part of a public school SFA be treated the same way as those that are their own SFA, then this section needs to apply to both types of independent school situations.
4. AOE recommends striking language on page 8, line 5-10 "An approved independent school may cause to operate the same school lunch and the same school breakfast program made available to students who qualify for these meals under the Child Nutrition Act and the National School Lunch Act, each as amended, to each student attending on public tuition every school day at no charge." This language is unnecessary and confusing. Independent schools already have authority to operate these programs this way under federal law, and do not need state authority to do so.

Strengthen AOE Authority to Require SFAs Maximize Federal Funds

Page 5, line 2-7 and page 6, line 17 to page 7, line 2 reflects language from Act 151 that allowed Vermont to maximize federal funds draw down in School Year 22-23. However, if the legislation is made permanent, AOE recommends further strengthening this by adding in both places "At the start of each school year, the Agency of Education may require that a school food authority requesting the universal meals supplement begin a new cycle of the relevant federal provision and group sites in a manner that the Agency determines will maximize the drawdown of federal funds." Without this language, some SFAs may decide to continue on with a current cycle because it is easier, even if the SFA could draw down more federal funds by starting a new cycle or re-arranging their groupings.

Clarify Status of Child Care Centers with Pre-Ks

The bill does not address how to handle meals served at non-profit child care centers that are a part of a public school school food authority. We recommend addressing these situations.

Background: Non-profit childcare centers with state-recognized Pre-K programs are allowed to operate as sites in the federal school meals programs under a larger SFA. Under USDA rules, these locations may not be their own school food authority, but they may be a site under an SFA because of the presence of the state-recognized Pre-K program. As a site, they can serve meals through the federal school meals programs to all attending children (including children younger than Pre-K). The same rules about Free/Reduced/Paid meals and options for CEP/Provision 2 apply at these sites. During the pandemic, several public school SFAs added these sites in order to allow them to receive federal funding for these meals. During SY22-23, AOE has considered these

sites part of the public school SFA, and provided the universal meals supplement for meals served at these sites to any “paid” status children.

Childcare Centers do have the option of participating on their own in the Child and Adult Care Food Program, another USDA child nutrition program. CACFP meals in childcare centers are reimbursed by the federal government based on individual child eligibility, except for Head Start programs, where all meals are reimbursed at the free rate. CEP and Provision 2 are not options for child care centers participating in the CACFP, and no similar options exist under this program.

Pre-K students in programs that are operated by a school district would have access to the school meals programs without any changes to the bill.

Clarify Status of State Approved Educational Programs

16 V.S.A. § 1262a includes Approved Education Programs, as defined in 16 V.S.A. § 11(a)(34) as eligible to receive the state funding for reduced price meals, but H. 165 does not address these programs. There are currently six state approved education programs, and none of them operate the federal school meals programs. However, some of these programs have historically operated these programs either as their own SFA or as a site under another SFA. We recommend addressing their eligibility for the universal meals supplement in the event that one or more of these programs again decide to participate.

Clarify Meaning of Second Breakfasts

AOE had requested language clarifying whether the universal meals supplement should be paid out for second breakfasts served in CEP schools. This language was included on page 5, line 7-8, and page 6, line 9. However, some readers of the bill are now apparently confused about whether this language refers to breakfasts served to children who already had breakfast at home. It was not AOE’s intention to suggest prohibiting funding for those meals, as determining who had eaten at home would be extremely impractical. AOE suggests identifying these further as “second breakfasts as allowed under 7 CFR 220.9(a).”

Provide Direction if Costs Exceed Appropriation

Section 4 of the bill provides a specific appropriation from the education fund to the AOE for the upcoming school year. AOE recommends providing direction to the agency on what to do if costs exceed the appropriation. Because payments are made on an ongoing basis throughout the year, pro-rating payments from the start of the year is not likely to be a realistic option. Further, AOE recommends including language that waives the requirement that public schools offer universal meals in the event that adequate funding is not appropriated, in order to prevent the occurrence on an unfunded mandate in the future.