



# ISSUE BRIEF

## CHILDHOOD NUTRITION REAUTHORIZATION: KEY PROVISIONS & STATUS OF IMPLEMENTATION

### **BACKGROUND: HEALTHY HUNGER-FREE KIDS ACT BECOMES LAW**

The Healthy, Hunger-Free Kids Act (HHFK) was signed by President Obama on December, 2010 and became Public Law 111-296. It reauthorizes six major nutrition programs—including school breakfast and lunch—for five years. This coincides with the President's goal to end childhood hunger in the U.S. by 2015.

NSBA urges the Administration to assure that implementation of PL 111-296 is cost neutral to school districts, involves school boards and school governance representatives in the design and policy for implementation, and phases-in provisions of the bill in a manner that reflects the academic, operational, and financial circumstances of school districts. Below are key provisions of the bill and the status of implementation.

### **KEY PROVISIONS OF PL 111-296 IN EFFECT FOR THE 2011-2012 SCHOOL YEAR**

Implementation of the reauthorization is well underway by the U. S. Department of Agriculture. Three provisions of the bill already in effect for the 2011–2012 school year include: 1) Indirect Cost Guidance to schools and school food authorities (SFA); 2) paid meal pricing requirements; and 3) local school wellness policy implementation and expansion.

**Indirect costs**—The bill gives the Secretary of Agriculture authority to regulate the indirect costs that school districts may attribute to school meal operations. Indirect costs are those costs necessary for the general operation of the program such as operating and maintaining buildings, equipment, and administrative support. School districts must already follow federal policy on indirect costs from the Office of Management and Budget (Circular A-87). PL 111-296 requires the Secretary of Agriculture to issue additional Guidance, and in July 2011 issued detailed procedures, definitions, and examples of the types of costs that are reasonable and necessary to provide school meals. Depending on current school district practices, some districts may have to change the way costs are allocated and possibly recover less reimbursement from the SFA. The State Agency responsible for school meal programs is required to conduct oversight and provide technical assistance for this provision.

**Paid meal pricing**—PL 111-296 regulates the price schools charge for unsubsidized (paid) meals. Effective July 2011, schools are required to charge students a price that is on average equal to the difference between free meal reimbursement and paid meal reimbursement. For example, reimbursement for a free lunch for the 2010-2011 school year was \$2.72 and reimbursement for a paid lunch was \$.26, making the difference in reimbursement \$2.46. If the average price of a paid lunch is less than \$2.46 the district must either, 1) increase the price of paid meals, or 2) cover the difference with non-Federal funds. This provision also applies to non-program food (food and beverages purchased using funds from the SFA account other than a reimbursable meal).

The Department of Agriculture issued Guidance and an Interim Rule in **summer 2011** to govern how districts calculate the cost and price of meals. LEAs that already established the price of paid meals for this year could find themselves in a dilemma if they discover that the price is too low based on the new guidance and rule. The Department offers a modicum of flexibility *for this year only*, by broadening the types of non-federal funds that may be used to make up the difference. The State Agency responsible for school meal programs is responsible for assuring that all SFAs have made a good faith effort to comply with this provision.

The Department acknowledges that increasing the price of paid meals will decrease participation. The interim rule estimates that 1.6 million children come from families just over the income limit to qualify for subsidized meals (185 percent—200 percent of poverty level) and are therefore most vulnerable to an increase in the price of paid meals. The Department anticipates that impacted children who do not pay the increased price will either, 1) bring food from home; 2) acquire food from other sources; or 3) “choose” not to eat during the school day.

**Local school wellness policies (LSWP)**—School districts are already required to have LSWP’s that establish goals for nutrition education, physical activity, and other school-based activities that promote student wellness, as well as nutrition guidelines to promote student health and reduce childhood obesity for all foods available on each school campus. PL 111-296 expands requirements for development, implementation, assessment, and reporting on LSWPs and establishes new reporting requirements on the school nutrition environment generally. The Act also requires LEAs to designate one or more district officials or school officials, as appropriate, to ensure that each school complies with the local school wellness policy.

Although the Secretary of Agriculture will not issue regulations until fall 2012, the Department issued an Implementation Memo in July 2011 encouraging school districts to prepare now. State agencies are largely responsible for technical assistance and oversight of this provision.

## **ADDITIONAL PROVISIONS**

**Updated standards for free and reduced price breakfast and lunch**—The Secretary of Agriculture is authorized to increase reimbursement by six cents per school lunch that complies with updated standards issued by the Department. For many school districts the increase will not be sufficient to cover the actual cost of meeting the higher standards. Using the Department of Agriculture’s conservative estimate, once phased in school districts will have to pay an additional 8 cents over the reimbursement increase per free and reduced lunch. The annual unreimbursed cost for 5,000 lunches per day would be \$72,000—or more than the cost of a teacher salary.

Final standards for school meals are expected **winter** 2012, at which time districts are expected to come into compliance. However, the reimbursement increase does not take effect until 2013, creating a one-year gap in the reimbursement increase for districts. This and other anticipated costs for school districts exacerbate concerns about the cumulative impact of all the mandates in PL 111-296. Compliance with the new standards is *voluntary*, although districts will be under pressure to raise their standards for school meals due to the mandatory standards for non-program foods described below.

**Standards for food sold outside the subsidized school meal programs**—PL 111-296 requires the Secretary to issue *mandatory* national standards for all foods sold, 1) outside the school meal program; 2) on the school campus; and 3) at anytime during the school day. Many school districts rely on revenue from vending machines, school stores, a la carte lines, bake sales, etc., and may need to alter their offerings or fundraising strategy to meet the new standards. **The Department is expected to issue draft rules in the winter of 2012.**

**Training and certification requirements**—School districts will have to comply with a new program of required education, training, and certification for all school food service directors. School districts will also have to meet new requirements established by the Secretary for training and certification for all school food service personnel. The Department is not expected to draft regulations to implement this provision until fall 2012, but the Department intends to establish an action plan and form a committee to recommend professional standards for school food service as a precursor to regulations.

## **NSBA POSITION**

The National School Boards Association (NSBA) is deeply committed to fostering a healthy and positive learning environment for children to achieve their full potential. At a time when education is acknowledged as a priority for America's success and competitiveness, it is imperative that federal policy—including implementation of the child nutrition reauthorization—assures that educational systems are supported, not undermined by unfunded mandates or under-resourced requirements. Unfortunately, PL 111-296 imposes numerous new responsibilities on school districts without sufficient federal funding and resources. Some provisions of the bill are designed to redirect financial resources from elsewhere in the district to the school food authority and/or shift additional costs to students and their families. For school districts forced to make budget cuts due to the economy, this is a draconian dilemma. New responsibilities that result in unfunded or underfunded mandates from costly requirements of the new law will inevitably result in the loss of programs, jobs, or both at the local level.

In 2011, NSBA successfully lobbied for language in the FY 2012 Agriculture Appropriations bill prohibiting the Department from using federal appropriations to implement certain standards that limit the flexibility of school districts in implementing them.

Congress should support school districts, local communities, and states that are assuming greater responsibility for health and nutrition through administrative and regulatory flexibility, adequately funded incentives, and grants that enable them to further expand their local commitment.

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