



"Leadership in Public School Governance"

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TO: Members, Assembly Committee on Education
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: May 30, 2019
RE: OPPOSITION to ASSEMBLY BILL 84, relating to school lunch and breakfast programs in certain schools

The Wisconsin Association of School Boards (WASB) acknowledges that Assembly Bill 84 is a well-intentioned attempt to address a serious issue—what the appropriate response of school officials should be toward students with unpaid meal charges. Nevertheless, the WASB has a number of strong concerns about the provisions of this bill.

Some center on the unintended long-range consequences this bill will produce. Others are more short-term concerns. However, all are practical in nature. Because of those concerns we cannot support the bill in its present form. We are willing to work with the author to address our concerns.

School meal programs provide nutritionally balanced, low-cost or no-cost breakfasts and lunches to school children each school day. These meal programs operate under laws, regulations and funding administered at the federal level by the U.S. Department of Agriculture (USDA) and at the state level by the Department of Public Instruction (DPI). Schools are not required to participate in these programs. For example, 361 of Wisconsin's 421 school districts currently offer school breakfast programs.

Participating schools and school districts receive federal financial subsidies and USDA provided foods for each reimbursable meal they serve. In exchange, participating schools and school districts must serve lunches that meet Federal meal pattern requirements and offer the lunches at a free or reduced price to eligible children. The state also provides limited state funding for school breakfasts and school lunches.

Federal law assigns all school children into one of three categories according to their family incomes. Children from families with incomes at or below 130 percent of the federal poverty level are eligible to receive free meals through these programs. Children from families with incomes between 130 percent and 185 percent of the federal poverty level are eligible to receive reduced-price meals. Children from families with incomes above 185 percent of the federal poverty level pay full price. Within each of these categories, the federal government reimburses a portion of the cost of the meals provided by participating schools and districts. As noted, the state also provides some assistance.

The USDA could have addressed the issue of handling unpaid school meal charges by adopting a uniform national policy. Instead, it left this decision to states and local school districts. That is one reason why this bill is before you today. The question of whether the state should be stepping in and, if so, how is something you will have to decide.

To inform your thinking, you should know that each school board and district has developed meal charge policies that are communicated to parents and students—at the beginning of each school year or when a student transfers into the district. Those policies spell out how a district will address unpaid meal charges. In addition, those policies typically spell out how a school or district will remind families of low account balances through discreet methods such as phone calls, text messages and emails sent directly to parents and guardians. In developing these policies, school boards have worked to develop multiple payment options, including online payment methods. All of these policies are designed to reduce and hopefully eliminate situations where a child shows up in the school cafeteria without food from home or resources for a school meal.

Schools also work hard to ensure all eligible children are appropriately certified to receive free or reduced-price meals and also to ensure that families are informed of the school district's meal charge policies.

It is important to note that this bill is not aimed at needy students who qualify for free school meals. These students do not accrue unpaid meal charges because they need not pay for their meals. Even if these students accrued unpaid meal charges before they became eligible for free lunches, this bill does not affect them.

Under existing federal law, a school district cannot deny a student access to a federally-reimbursable meal that is being served at any meal period if the student is currently eligible to receive free meals, even if the student's household owes an unpaid food service debt that was accrued prior to the date of the student's eligibility.

Rather, this bill aims to address situations in which students who are not eligible for free meals (either those who pay reduced price or pay full price (known as "paid meal" students) arrive at school with no food from home and no money to purchase a school-provided meal.

Under existing federal law, a school district also cannot deny a student access to a federally-reimbursable meal that is being served at any meal period if the student has sufficient funds to pay for the meal on the day of service, even if earlier charges remain unpaid. This policy decision is intended to afford parents or guardians peace of mind that they can provide money for their child to purchase a meal without having to worry that the school might deny the meal and apply the money to an existing unpaid balance.

School meal programs, including school breakfast and school lunch programs, make wholesome meals available to school children in an effort to give those children the well-balanced nutrition they need to be healthy, stay focused and be able to learn throughout the school day.

School meal programs are expected to be both financially self-sustaining and run on a non-profit basis. They operate under the expectation that families that can afford to contribute will pay an appropriate portion of the cost of their children's meals.

When children who are not certified to receive free meals enter the school cafeteria with neither food nor funds, this can create a difficult situation for the child and school staff.

It is hard for us to imagine that any school official goes to work wanting to stigmatize a child or cause a child distress during the school day over school meals. And yet, we are aware some regrettable incidents have occurred.

The WASB and its members certainly do not condone the most egregious forms of "meal shaming" such as taking trays of food away from students who no money or who have negative lunch account balances and dumping their food in the garbage. That should not happen. For the most part, we express few issues with banning the most serious "shaming" practices described in the bill.

That said, we are very concerned about several provisions, including the mandate in this bill that districts must serve a "quality" meal, as that term is defined in the bill, to any pupil who requests such a meal, regardless of the pupil's ability to pay for the meal. Among our concerns are that this an open-ended and potentially expensive mandate that would create additional costs for schools or school districts and/or reduce local flexibility to hold down costs.

[Coupled with other provisions that would make it harder or more expensive for school meal programs to recoup school meal debts from parents who can and should be paying either all or a portion of their children's' meal costs, this could lead some schools to withdraw from providing school meals if losses mount jeopardizing access to school meals for truly students.]

As we read the bill, this provision would mandate that a school must provide a meal to a student required by law to pay the full "paid meal" price even if the student has no money to purchase that meal. And because the bill places no time limits on how long a school or school district must do so and places no numerical limits on how many times a district must do so, it appears this mandate lasts for an indefinite period. Under this mandate, a student from a financially able family who wants to "game the system" could effectively force a school or school district to continue to provide that student with school meals until he or she graduates or leaves the school or district.

When I was younger, my father used to tell me, "Dan, there is no such thing as a free lunch." He had apparently not read the proposal before you today.

This is a serious and significant change that should not be undertaken lightly. Under current law, full-price pricing policies for school meals are matters of local discretion. This includes decisions about whether or not to extend credit to children who forget their meal money or whether or not to provide an alternate meal to such children.

It follows that under current law a school could decide not to provide meals to children who must pay the full price for their meals but do not have the money to do so.

Many school boards have addressed this situation by adopting local district policies that allow them to offer an alternate meal students who are unable to pay. It appears this bill would eliminate this option or at least severely restrict it.

In general terms, an alternate meal is a meal that is offered to a student who is unable to pay for (or charge) the meal that the student would have otherwise been permitted to select without any school-imposed restrictions. In other words, an alternate meal can be thought of as a backup plan for situations where a student is not able to individually select and pay for his/her food on a particular day, but where the student still needs or requests food that is provided by the school. Alternate meals that are provided at no cost (or charge) to the student or family are sometimes called “courtesy meals.” Many schools have been creative in their approach to these meals.

To avoid overtly identifying a student as unable to pay or having an unpaid meal balance, many schools have created a procedure under which the meal is provided in a plain brown bag or in an insulated lunch bag, and under which the meal can be picked up (e.g., in the school office) or delivered (e.g., to the student’s classroom) prior to the meal period. The process can be similar to how the school handles forgotten lunches that are dropped off at school by a family member.

Other schools take the approach of including the alternate meal as a regular menu item that is available for purchase by others to help ensure that children who are unable to pay will not be the only children eating the designated alternate meal.

The point is that school districts currently have discretion regarding what type of alternate meal will be offered and whether there will be any charge for the alternate meal.

Any school that is thinking about offering alternate meals must consider is the interplay with federal nutrition standards.

Since 2010, the USDA has been implementing a variety of new nutrition standards that must be met by schools that operate a federally-subsidized food service program. For example, federally-reimbursable meals included on daily menus must meet specific “meal pattern” requirements.

While some people equate alternate meals with cheese or peanut butter sandwiches, a carton of milk and some fruit, there are actually many different methods of structuring an alternate meal option. If a school district, for example, intends to claim federal reimbursement for the alternate meals, the meals must meet the nutrition standards and other requirements for a reimbursable meal. If a district does not seek reimbursement for an alternate meal but imposes a charge for the meal that is to be paid by the family, the “smart snacks” nutrition standards and other pricing requirements must be met. Or, if the district neither claims federal reimbursement nor imposes any charge for alternate meals, then the only applicable nutrition standards would be those that have been set locally.

This bill upends that local discretion and decision-making.

Essentially, what the bill does is to mandate that a school must provide a regular school meal to each pupil whose family income would require them to pay full price who requests one for as long as the student requests one. This is an invitation for students whose incomes do not qualify them for a free or reduced price meal to “game the system.” A school or district would be unable to substitute a cheaper (or “inferior meal” as the bill calls it) to a student whose family is able to pay but, for whatever reason, neglects or refuses to pay.

Under the bill, it appears a school or district would have only one option: Allow reduced price eligible students or “paid meal” students who have no money to select any reimbursable meal that is on the menu that day as his/her alternate meal, and then claim federal reimbursement at the appropriate level (i.e., at either the reduced-price rate or the regular paid rate).

As we noted, there is no time limit under the bill as to how long this situation could continue (or the student could continue to “game the system”). In theory, a student could “game the system” in this way until he or she either graduates or leaves the district.

We also have concerns about the provision in the bill that provides that if a school board determines that a pupil enrolled in the school is eligible for free or reduced-price meals, but no application has been submitted on behalf of the pupil, the school board must complete and apply on behalf of the pupil. It is unclear to us how this provision would operate. Further, we think this would be very difficult in practice.

It is unclear how a school board would make this determination or complete this application without access to confidential information about family income. We guess that not many boards will know the economic status of families unless they request this information when a family registers. Some schools might use alternative household forms to collect economic information for entering this into the DPI’s WISEdata database for economic status; however, we have no way to know the extent of this.

Even though a school may participate in a direct certification program, under which data from Medicaid, TANF and SNAP is matched against student rosters, there is no guarantee that a student will show up in an individual run. Participating school districts are required to run a direct certification match at least 3 times per school year of their full enrollment but that does not conform to the timeline in the bill. It should be noted that if a school district participates in a direct certification program and there is a match, there would be no need to complete the application as the student’s status as eligible for free or reduced-priced meals would be directly certified. The bill does not take this into account.

We also have concerns that the bill will increase school district debt collection costs by prohibiting a school district from requiring a pupil or the pupil's parent or guardian to pay fees or costs charged by a collection agency retained by the governing body to collect outstanding debt related to unpaid meal charges.

Among other applicable financial and accounting constraints, a school district's food service program and the district's Nonprofit School Food Service Account (NSFSA) must be operated in compliance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (often referred to as the "Uniform Guidance"). This means, for example, that federal funds can only be used to pay for what are known as "allowable costs" within the relevant local program.

If a school district allows students to incur a negative balance in their school food service accounts, delinquent debt that the district is actively trying to collect and that has a reasonable chance of being collected can be carried as an accounting asset within the district's NSFSA—even from one school year to the next. However, once the district determines that certain delinquent debt has become uncollectable, it becomes "bad debt" that must be written off as an operating loss within the NSFSA. At that point, the school district must restore the amount of the loss to the NSFSA using non-federal funds. This is because bad debt is not an allowable cost under the Uniform Guidance. If levels of "bad debt" become so large as to make the school meal program unsustainable, a school board might have to seriously consider dropping its school meal programs.

Passage of this bill will likely cause school districts to consider how their procedures for the collection of a food service debt relate to other policies and consequences that the district has established for the nonpayment of other student fees and charges. While some districts disfavor withholding student privileges due to a parent's refusal or inability to pay a fee or charge, nonpayment of a debt in a student food service account may, for example, cause the district to require the family to prepay other future non-food-related fees and charges (e.g., where installment payments would have otherwise been permitted).

We also have concerns about the provision in the bill that would prohibit a school board from communicating directly with a pupil concerning the pupil's inability to pay for a quality meal provided under the bill or to pay other money owed to the governing body related to quality meals provided under the bill. This would prevent school officials from having a private conference with a student behind closed doors about his or her situation and repayment options. This would be true even in cases where the student is an adult (aged 18) and may be living independently.

All of these provisions are strong concerns for school board members and other school officials who must balance their concerns to provide nutritious meals for all children with the demands of "staying in the black." This issue is important as unpaid school meal debt could potentially impact a school's or school district's ability to serve all children high-quality, nutritious meals. It could even cause a school or district to drop its school meal programs. Such a situation would be particularly detrimental to students who qualify for free and reduced-priced lunches.

We are willing to work with the author of the bill to address these concerns. But for now, we must oppose Assembly Bill 84.