

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 628
Ways and Means

(Delegate Reznik, *et al.*)

Primary and Secondary Education – Breakfast and Lunch Programs – Universal
Expansion

This bill requires the State Board of Education to ensure that by fiscal 2025 schools that participate, respectively, in the federal School Breakfast Program must offer a free breakfast to all students and in the National School Lunch Program must offer a free lunch to all students. Beginning in fiscal 2025, the State is responsible for reimbursing a local board of education or a participating nonpublic school for the cost of offering free breakfasts and lunches meeting U.S. Department of Agriculture (USDA) guidelines. The State must (1) for schools participating in the federal Community Eligibility Provision (CEP) pay the difference between the federal funds allocated to those schools and the cost of offering each student a meal, and (2) for other eligible schools, pay the difference for each student between the USDA free meal rate and paid meal rate. Some provisions exempting elementary schools from the requirement to provide a free breakfast are repealed. **Provisions of the bill generally take effect July 1, 2023; provisions related to exemptions for elementary schools take effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase significantly beginning in FY 2025 to allow public schools to provide additional free meals to students. Maryland State Department of Education (MSDE) administrative costs increase beginning in FY 2024. **This bill establishes a mandated appropriation beginning in FY 2025.**

Local Effect: Local school systems that currently cover a portion of the student cost of paid meals realize savings equivalent to the student costs covered by the State under the bill. Local school systems may realize cost savings due to the elimination of student meal payments in some schools. Federal funding for school meals may increase substantially.

Small Business Effect: None.

Analysis

Bill Summary: Beginning in fiscal 2025, participating local boards and nonpublic schools are prohibited from charging students for any portion of these school meals. It is the intent of the General Assembly that the State and each participating local board and nonpublic school maximize the use of all available federal funds in carrying out the requirements of the State free feeding program.

Elementary schools are no longer exempt from the requirement to provide free school breakfasts by requesting and receiving an exemption from the State Superintendent of Schools or for having less than 15% of its enrolled students approved for free and reduced-price eligible meals (FRPM). Accordingly, the provision that such exemptions continue from year to year under certain conditions is also repealed.

Current Law:

School Nutrition Programs

The School Breakfast Program and the National School Lunch Program are federally assisted meal programs for schools. The School Breakfast Program subsidizes public and participating nonprofit private schools of high school grade or lower and participating residential child care institutions for breakfast meals served to children. Similarly, the National School Lunch Program subsidizes public and participating nonprofit private schools of high school grade or lower and participating residential child care institutions for lunches served to children. In both programs, federal funds pass through MSDE to participating schools and institutions.

Maryland Meals for Achievement

Maryland Meals for Achievement (MMFA) is a joint effort of MSDE and local boards of education or sponsoring agencies for eligible nonpublic schools. MMFA provides funding for schools that make an in-class breakfast available to all students enrolled in schools in which 40% or more of the students qualify for FRPMs. A school that for one year falls below the 40% FRPM student population eligibility threshold is eligible for MMFA funding in that year. However, the school is no longer eligible for MMFA funding if its percentage of students falls below 40% in a second consecutive year.

Schools are selected to participate in the program and must serve breakfasts that meet MSDE guidelines and the nutritional standards of USDA for schools that participate in the

federal school breakfast program. Participating schools must serve breakfasts in the classroom after arrival of students to the school. However, secondary schools (middle schools and high schools) that participate in MMFA may serve breakfast in any part of the school, including from “Grab and Go” carts, after arrival of students to the school. The Governor must include in the annual budget bill \$7.55 million for MMFA.

Maryland Cares for Kids Act

Under the Maryland Cares for Kids Act (Chapter 560 of 2018), the State is responsible for the *student share* of the costs of (1) reduced-price breakfasts provided under the federal School Breakfast Program by fiscal 2022 and (2) reduced-price lunches provided under the National School Lunch Program by fiscal 2023; the responsibility is phased-in beginning with fiscal 2020. A local board of education or participating nonpublic school is prohibited from charging a student who is eligible for a reduced-price breakfast beginning in fiscal 2022 or a reduced-price lunch beginning in fiscal 2023, for any portion of the cost of a meal.

Community Eligibility Program, Compensatory Aid, Low-income Eligibility

The Healthy, Hunger-Free Kids Act of 2010, in part, amended the federal National School Lunch Act to provide an alternative to household applications for FRPM in high-poverty local education agencies (LEAs) and schools. This alternative is referred to as CEP. To be eligible, LEAs and schools must meet a minimum level of students directly certified for free meals (40% of enrollment) in the year prior to implementing the option, agree to serve free lunches and breakfasts to *all* students, and agree to cover with nonfederal funds any costs of providing free meals to all students above amounts provided in federal assistance.

Reimbursement is based on claiming percentages derived from the percentage of students directly certified as increased by use of a multiplier determined by USDA. An LEA may participate in CEP for all schools in an LEA or only some schools, depending on the eligibility of the individual schools and financial considerations based on the anticipated level of federal reimbursement and other nonfederal support that may be available.

Since fiscal 2004, the compensatory aid formula, providing additional State support for students with educational needs resulting from educationally or economically disadvantaged environments, has used the number of students eligible for FRPM. Children from families (1) with incomes at or below 130% of the federal poverty level are eligible for free meals and (2) with incomes no greater than 185% of the federal poverty level are eligible for reduced-price meals. The State compensatory aid formula applies a per pupil cost to the FRPM student count. The compensatory enrollment count for LEAs that participate, in whole or in part, in CEP is the greater of:

(1) the sum of:

- the number of students in CEP participating schools identified by direct certification for the prior fiscal year;
- the number of students identified by the income information provided by the family to the school system on an alternative form developed by MSDE for the prior fiscal year; and
- the number of students eligible for FRPM from any schools not participating in CEP for the prior fiscal year; *or*

(2) the sum of:

- the number of students eligible for FRPM from any schools not participating in CEP for the prior fiscal year; and
- for schools participating in CEP, the result of multiplying the prior fiscal year total enrollment by the percentage of FRPM-eligible students as compared to total enrollment in the year prior to participating in CEP. However, for the purpose of this calculation, schools participating in CEP in the pilot year may use the percentage of FRPM-eligible students during the pilot year; *or*

(3) the sum of:

- the number of students directly certified and who are enrolled in a public school in the county in the prior fiscal year.

Under Chapter 55 of 2021, this provision of the State law is in effect through fiscal 2026. For fiscal year 2027 and each fiscal year thereafter, the greater of (1) the number of FRPM eligible students using the USDA count, or the alternative State form for the prior fiscal year or (2) the number of direct certification students who are enrolled in a public school in the county in the prior fiscal year.

State Expenditures: MSDE estimates that annual general fund expenditures will increase in excess of \$90 million. This estimate is based on annualization, over a 10-month school year, of data on the number of non-FRPM (or “paid eligible”) school meals purchased in recent months (which are less indicative of conditions during the peak of the COVID-19 Pandemic). The estimate is further based upon the net cost for paid meals, including the federal reimbursement rate for paid meals, being \$3.56 for lunch and \$2.17 for breakfast. MSDE does not find it reasonable to assume that all paid eligible students will opt for meals provided for free by their school under the bill. However, some increase in participation among paid eligible students is to be expected.

The Department of Legislative Services cannot offer a more precise estimate at this time, but preliminary analysis suggests that using per meal rates covered by the State as described above, *if* half of paid eligible students at schools not participating in CEP (or about 193,449 students) are provided free meals in a typical school day, and accounting for attendance rates, State expenditures increase by approximately \$184 million per year under the bill.

MSDE anticipates contractual costs amounting to approximately \$138,000 in fiscal 2024, and ongoing costs of \$15,000 in subsequent years to upgrade the Maryland Accounting and Reporting System. MSDE also anticipates the need to hire one full-time specialist to monitor the transition and provide technical assistance and training to the local school systems and participating nonpublic schools ensuring that federal requirements for school meal programs are maintained while implementing the State differential reimbursement. Salary and benefits for this position are estimated at \$111,400 for fiscal 2024, increasing to \$124,500 by fiscal 2028.

Local Fiscal Effect: Some local school systems participating in CEP currently cover a portion of the cost to provide free meals to all students. Beginning in fiscal 2025, State funding under the bill relieves local school systems from covering these costs for relevant CEP schools. Local school systems may realize some cost savings given that staff time will not be required in some schools for the purpose of collecting payment from non-FRPM students. Maximizing the use of all available federal funds in carrying out the requirements of the State free feeding program likely results in increased CEP participation for school systems that do not already participate districtwide, and thus increased federal funds.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 557 (Senators Guzzone and Zucker) - Budget and Taxation and Education, Energy, and the Environment.

Information Source(s): Baltimore City Public Schools; Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2023
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