



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

## **State Issues in Child Nutrition: Direct Certification and Local Wellness Policies**

### **Summary**

The Child Nutrition and WIC Reauthorization Act of 2004 reauthorized all child nutrition programs for five years, expanded program eligibility and made a number of changes intended to improve program access and streamline program administration. These changes include: excluding the military housing allowance when calculating household income for children from military families; making runaway, homeless and migrant youth categorically eligible for free breakfasts and lunches; expanding the Simplified Summer Food Service Pilot Program to six additional states; extending eligibility for the Child and Adult Care Food Program to age 18 for children in emergency shelters; and allowing breastfeeding women to participate in the WIC program for one year or until they stop breastfeeding. The legislation also added regulations related to improving school nutrition.

Specific provisions of interest to states include a direct certification (the process of automatically certifying categorically eligible children for free meals) requirement in the school meals programs, the requirement for school districts to establish a Local Wellness Policy, and expanded categorical eligibility for homeless, runaway and migrant youth. Many states had acted to implement direct certification and local nutrition policies prior to the passage of the federal legislation, and the expanded categorical eligibility in the school meals programs provides states with an opportunity to easily enroll a greater number of students and maximize federal reimbursement dollars. In addition to providing an overview of changes contained in the Child Nutrition and WIC Reauthorization Act of 2004, this issue brief highlights state activity on direct certification and local wellness issues and discusses what states can do to maximize the expanded categorical eligibility for homeless, runaway, and migrant youth.

### **Background**

The National School Lunch Program, started in 1946, subsidizes school lunch programs by providing cash grants and commodity donations to public and private non-profit schools. The Child Nutrition Act of 1966 strengthened and expanded these efforts by emphasizing the relationship between food and good nutrition, providing funding for equipment and state administration, incorporating the Special Milk Program, and launching the School Breakfast Program. In later years, amendments to the Child Nutrition Act added new programs including: the Summer Food Service Program (SFSP), the Child and Adult Care Food Program (CACFP), the Special Supplemental Feeding Program for Women, Infants and Children (WIC), and a variety of nutrition education initiatives.

The child nutrition programs help all children in the United States to receive nutritious meals throughout the day and enables children from families with incomes below 185 percent of poverty to receive meals on a free or reduced-cost basis. Good nutrition is fundamental to the physical and

mental development of children. Recent research on early childhood brain development shows that adequate nutrition is essential for cognitive development.<sup>1</sup> Proper nutrition is also associated with academic achievement and a child's behavior.<sup>2</sup> By making reduced-price and free meals available, these programs are especially important to low-income families that might not otherwise be able to provide nutritious meals for their children.

### **Child Nutrition and WIC Reauthorization Act of 2004**

The Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) was signed into law by President Bush on June 30, 2004. In addition to reauthorizing the programs for five years, through 2009, this bipartisan legislation expands eligibility and makes a number of reforms intended to improve access to and management of the federal child nutrition programs. Of particular interest to state governments, the law requires school districts to implement direct certification between school meals programs and the Food Stamp Program and requires education agencies to establish Local Wellness Policies. In addition, the law expands categorical eligibility to homeless, runaway and migrant youth, providing states with an opportunity to increase federal reimbursement dollars. More information about these provisions and models for state implementation can be found later in this document (beginning on page 4). Key provisions of the legislation are outlined below. For overview information on each of the nutrition programs, please see: <http://www.ncsl.org/statefed/humserv/HandNChart.htm>.

#### **Key Provisions**

##### Changes in Eligibility

- The military housing allowance is excluded when calculating household income to determine eligibility for **all child nutrition programs**.
- Runaway, homeless, and migrant youth are categorically eligible to receive free meals through the **School Lunch and Breakfast programs**.
- Through the **Child and Adult Care Food Program**, emergency shelters can be reimbursed for serving meals to children up to age 18.
- For-profit child care centers serving 25 percent or more low-income children are eligible to participate in the **Child and Adult Care Food Program**.
- Breastfeeding women are eligible to participate in the **WIC** program for one year or until they stop breastfeeding, whichever is earlier.

##### Streamlined Administration

- In the **School Lunch and Breakfast Programs** the application process is simplified so that a family must only submit one application for all children in the school district and certification is extended for a period of one year. Previously, families were required to report changes in circumstances over the course of a year, such as an increase in income, decrease in household size, or discontinued eligibility for TANF or Food Stamps. In addition, state education agencies and state food stamp agencies are required to establish the process of **direct certification**, so that children from eligible categories are automatically

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<sup>1</sup> Center on Hunger and Poverty, "Statement on the Link Between Nutrition and Cognitive Development in Children," 1998.

<sup>2</sup> Katherine Alaimo, Christine M. Olson, and Edward A. Frongillo Jr., "Food Insufficiency and American School-Aged Children's Cognitive, Academic, and Psychosocial Development," *Pediatrics*, 180 No. 1, July 2001, 44-53. Available at: <http://pediatrics.aappublications.org/cgi/content/abstract/108/1/44>.

certified to receive free lunches and breakfasts. More information on the requirements for direct certification can be found below (beginning on page 4).

- In the **Summer Food Service Program**, the Simplified Summer Food Service Program (“Lugar Pilot Program”), currently operating in Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, North Dakota, Oklahoma, Texas, Wyoming and Puerto Rico, is made permanent and expanded to six additional states (Colorado, Louisiana, Michigan, Mississippi, Ohio, and Oregon). The pilot program simplifies administration and reimbursement.
- Changes in **Child and Adult Care Food Program** administration include:
  - the length of time that a home day care can be classified as Tier One is extended from three to five years.
  - the audit disregard is raised from \$100 to \$600, an amount consistent with the audit disregard in other child nutrition programs. Audit disregard refers to the amount of bookkeeping error that can be disregarded during a fiscal audit.
  - state administering agencies and family home daycare sponsoring organizations can establish permanent agreements with CACFP providers.
- In the **WIC** program, state agencies are directed to establish vendor peer groups and competitive price criteria and allowable reimbursement levels for vendors within each of these groups. In addition, state agencies are required to maintain a list of licensed infant formula wholesalers, distributors, retailers, and manufacturers, and vendors are limited to purchasing formula from sources on this list. Finally, infant formula purchasing alliances are limited to states with a total participation less than 100,000. Exceptions will be made to include states with a small number of WIC participants and Indian or Tribal organizations.
- Federal funds (\$3 million for FY05) are authorized and appropriated for the USDA to provide training and technical assistance material to improve program integrity and administrative accuracy in all child nutrition programs.

#### Pilot Programs

- In the **Summer Food Service Program**, a two-year rural pilot program creating area eligibility is established in the State of Pennsylvania. The pilot program reduces the area eligibility threshold from 50 percent of children in households below 185 percent of the federal poverty level to 40 percent in rural areas.
- In the **Child and Adult Care Food Program**, a two-year rural pilot program creating area eligibility is established in the State of Nebraska. The pilot program reduces the area eligibility threshold from 50 percent of children in households below 185 percent of the federal poverty level to 40 percent in rural areas.
- In the **Summer Food Service Program**, the USDA will provide grants to five state agencies and 60 service institutions for the purpose of providing transportation to and from summer food service sites in rural areas.

- A two-year pilot program is established to operate the **Summer Food Service Program** in a residential camp in New York and in Missouri.
- In the State of California, a **Year Round Child Nutrition Program** is established to allow service institutions or private nonprofit organizations to be reimbursed for up to two meals per day served during the summer months and for one snack per day served during the regular school calendar.

The legislation authorized two additional pilot programs that are dependent upon Congressional appropriations. One pilot program would operate in five states and allow children from households with incomes up to 185% of poverty to receive free meals through the **National School Lunch Program** and the **School Breakfast Program**, essentially eliminating the reduced-price category in the school meals programs. This would simplify program administration and program access. Through a second pilot program, the USDA would provide grants to four states to develop health and nutrition education programs for limited-English proficient individuals through the **Child and Adult Care Food Program**. The grants are to be awarded in states that have experienced a growth in the limited-English proficient population of at least 100 percent between the years 1990 and 2000.

### Nutrition

- All school districts are directed to establish a **local wellness policy**. This policy must (1) include goals for nutrition education, physical activity, and other school-based activities; (2) include nutrition guidelines for all foods available on each school campus during the school day with the objectives of promoting student health and reducing childhood obesity; (3) provide an assurance that guidelines for reimbursable meals will at least reflect the minimum standards established by the USDA; (4) establish a plan for measuring implementation of the local wellness policy; and (5) be developed through consultation with a variety of community members.
- The Farmers' Market Nutrition Program within **WIC** is reauthorized for five years through 2009.
- The Fresh Fruit and Vegetable Program, currently operating in Indiana, Iowa, Michigan, New Mexico, and Ohio is expanded to four additional states (Mississippi, North Carolina, Pennsylvania, and Washington) and Indian Reservations in Arizona and South Dakota.

### State Actions

Prior to enactment of the Child Nutrition and WIC Reauthorization Act of 2004, many states and communities had acted to improve administration of the Child Nutrition programs and promote nutrition and healthy eating in schools. The challenges faced and lessons learned in these states and communities can provide useful models as states work to implement the direct certification requirements in the School Lunch Program and School Breakfast Program and as communities work to develop Local Wellness Policies.

### **Direct Certification**

Direct certification is a process by which categorically eligible children are certified to receive free or reduced-price meals in the school meals programs. Categorical eligibility refers to an individual's eligibility for one program based upon his or her eligibility and participation in another program.

The Child Nutrition and WIC Reauthorization Act of 2004 expanded categorical eligibility for free school lunches and breakfasts to homeless, runaway, and migrant youth.

Categorically-eligible groups, those eligible for direct certification, now include:

- children from households participating in the Food Stamp program;
- children from families participating in Temporary Assistance for Needy Families Program;
- homeless children or youth (as defined by the McKinney-Vento Homeless Assistance Act);
- homeless or runaway children served by the Runaway and Homeless Youth Act; or,
- migrant children (as defined by the Elementary and Secondary Education Act of 1965).

Under the process of direct certification, categorically eligible children are certified to receive free meals based on information provided by another program or agency. Children that are directly certified do not have to submit an application to the school meals programs, thus easing the enrollment process for low-income families. The process also streamlines administration for the state agency, as the number of applications a state agency must verify is based on a percentage of the total number of applications submitted.<sup>3</sup>

The Child Nutrition and WIC Reauthorization Act of 2004 requires all school districts to directly certify children from food stamp households by 2008. Direct certification of other categorically eligible groups remains an option for school districts. The requirements for direct certification of children from food stamp households are phased in over time, based on the following sizes of the school district:

- |                                |              |
|--------------------------------|--------------|
| ▪ Serving over 25,000 children | July 1, 2006 |
| ▪ Serving over 10,000 children | July 1, 2007 |
| ▪ All districts                | July 1, 2008 |

#### Enrolling Homeless, Runaway and Migrant Youth

By working to certify the newly categorically eligible groups, states can increase federal benefit dollars coming into the state. Documentation that a student is classified as homeless or runaway can be provided by local educational agency liaisons for homeless children and youth, homeless or domestic violence shelter directors, and Runaway and Homeless Youth Act service providers. District or state Migrant Education Program coordinators can provide documentation that children are from migrant families. Documentation of a child as homeless, runaway, or migrant must include the child's name, effective date, and signature of the appropriate person. Documentation from the appropriate liaison is sufficient for a child to be certified to receive free meals. If this documentation is provided, the child's parent or guardian does not need to submit a school meal application.

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<sup>3</sup> United States Department of Agriculture – Food and Nutrition Service, Office of Analysis, Research, and Evaluation, “National School Lunch Program Application/Verification Pilot Project: Report on First Year Experience,” Report No. CN-02-AV, August 2002, <http://www.fns.usda.gov/oane/MENU/Published/CNP/FILES/NSLPAppYear1.pdf>.

### State Experiences With Direct Certification

Based on a study conducted during the 2001- 2002 school year, 61% of public school districts nationwide participate in direct certification.<sup>4</sup> The experiences of these districts have brought to the forefront helpful models for implementing a direct certification process.

Interviews with federal food stamp administrators and food stamp and child nutrition administrators from a handful of states<sup>5</sup>, in addition to a review of federal regulations and implementation memoranda, has shown two common practices for implementing a direct certification process. Small states tend to use a **letter method**, whereby in the summer prior to the start of the school year, the state food stamp agency notifies food stamp households with school-age children that their children are eligible for free school meals. This letter is then shown to the school and the children are certified to receive free meals.

A second, more common method used in larger settings is a **matching method**. This process can occur at either the state or county food stamp administration level. Under this method, the food stamp agency communicates directly with the school district about school-age children in food stamp households that reside in a given district. There are several matching processes states use to provide the necessary information to the school district. Under one process, the district submits the names of all enrolled children to the food stamp agency, which then checks this list against their database of food stamp recipients. Under an alternate process, the food stamp agency searches their database for all school-age food stamp recipients residing a given district, and provides this information to the specific school district. The exact process used varies from state to state, and some states utilize both.

The type of information used to make a match also varies from state to state, but includes a combination of the following: first name, last name, address, date of birth, or Social Security Number. Social Security Numbers are infrequently used to ensure a match because some state education agencies do not have a Social Security Number on file, and some states have specific rules preventing the food stamp agency from releasing the Social Security Number of recipients.

One challenge food stamp agencies have identified in operating a direct certification system is providing school districts with a complete list of eligible children in that district. This requires that, at the time of enrollment in the food stamp program, the eligibility worker include the correct school district or town code on the recipient's file. Failure to do so can result in children being left off the list of food stamp recipients that is sent to the district. Food stamp administrators highlighted this as an issue they consistently address with local offices.

Most states that currently have a direct certification process in place will need to review their process to ensure that it meets the standards established by the reauthorization legislation. One issue that will prove challenging for states is how to provide direct certification for students whose families enroll in the Food Stamp program mid-year. Currently, most states exchange information once a year, at the beginning of the school year. In order to ensure certification for children from families

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<sup>4</sup> United States Department of Agriculture – Economic Research Service, “Direct Certification in the National School Lunch Program – Impacts on Program Access and Integrity,” E-FAN No. (03-009), October 2003, <http://www.ers.usda.gov/publications/efan03009/>.

<sup>5</sup> NCSL staff spoke with food stamp and child nutrition administrators from Texas and Wisconsin and food stamp administrators from Vermont.

enrolling after the start of the school year, agencies will need to establish a process for exchanging updated information. Methods under consideration by food stamp and child nutrition administrators include establishing a process for the local or county food stamp agency to share information with the school district or encouraging school districts to request information from the state agency more frequently than once a year.

The USDA has provided several resources for food stamp and child nutrition agencies to develop a direct certification process. The USDA has an informal working group to share administrative practices, highlight solutions and pitfalls, and offer opinions on ways to implement direct certification. In addition, the USDA has issued the following memorandum: “USDA Food and Nutrition Service Reauthorization Memo: Direct Certification and Direct Verification of Children in Food Stamp Households,” accessible at:

[http://www.fns.usda.gov/cnd/Governance/policy/Reauthorization\\_04/2004-11-15.pdf](http://www.fns.usda.gov/cnd/Governance/policy/Reauthorization_04/2004-11-15.pdf)

### **Local Wellness Policies**

In response to growing public concern over rising childhood obesity rates and public criticism of the nutritional quality of foods available in schools, the Child Nutrition and WIC Reauthorization Act of 2004 directs all school districts to establish a Local Wellness Policy. According to Members of Congress and staff that worked on this legislation, Local Wellness Policies are an effort to address school nutrition concerns while preserving flexibility and allowing districts to address specific local needs. The legislation establishes five minimum requirements that the policy must meet by the start of the 2006 – 2007 school year. The Local Wellness Policy must<sup>6</sup>:

- 1) Include goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the local educational agency determines appropriate;
- 2) Include nutrition guidelines selected by the local educational agency for all foods available on each school campus under the local educational agency during the school day with the objectives of promoting student health and reducing childhood obesity;
- 3) Provide an assurance that guidelines for reimbursable school meals shall not be less restrictive than federal standards;
- 4) Establish a plan for measuring implementation of the local wellness policy, and designate one or more persons within the local educational agency or at each school, charged with operational responsibility for ensuring that the school meets the local wellness policy; and
- 5) Involve parents, students, representatives of the school food authority, the school board, school administrators, and the public in the development of the school wellness policy.

The USDA, in partnership with the Centers for Disease Control, is gathering best practices, model programs, and technical assistance. This information can be accessed via the Team Nutrition website at: <http://www.fns.usda.gov/tn/Healthy/wellnesspolicy.html>.

### State Experiences With Local Wellness Policies

Several states and local school districts have acted in advance of the federal legislation, and have existing nutrition policies or have developed recommendations and standards for school districts to utilize when crafting policies. These include: Arizona, North Carolina, Texas, Michigan, Virginia, South Carolina, Colorado, Rhode Island, Arkansas, Los Angeles Unified School District, New York

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<sup>6</sup> Sec. 204 (42 USC 1751)

Public Schools and the School District of Philadelphia. NCSL reviewed existing state policies for common approaches and issues addressed. States and school districts with existing initiatives in place must review their policies to ensure that they meet the requirements for Local Wellness Policies. These existing initiatives can also serve as useful models for other states and communities as they work to develop their Local Wellness Policy.

In the existing policies and standards, states and school districts have recognized the need to address the range of issues that contribute to obesity. All of the policies surveyed by NCSL contained recommendations on the types and quantity of food available during the school day. Many policies also contained recommendations on providing physical education and opportunities for physical activity. Districts are required to address both nutrition and physical activity in the Local Wellness Policies. The policies also addressed issues related to the overall school nutrition environment, such as the length of the lunch break and ideas for helping teachers and school administrators serve as healthy role models.

States and communities have also approached the development of their school nutrition and wellness policies, standards, and recommendations in a manner similar to what is required for the Local Wellness Policy; that is, through collaboration between education and health officials, experts in the fields of nutrition and public health, and other community members. The involvement of other community members has included parents, students, researchers, and business and industry partners. Administrators from North Carolina emphasized that their partnerships with business and industry representatives will be essential for implementation of their *Recommended Standards for All Foods in Schools*, as they are currently working with these partners to adapt vending and food product offerings to comply with the adopted standards.

One area of variation between the policies, recommendations, and standards that exist at the state and local level is the current status of implementation. Most states developed their nutrition policies as a model or tool to help individual schools and districts improve the school nutrition environment. In states such as Michigan, Virginia, and Colorado, the education or health agency utilizes the standards or model policy as a way to promote a goal that schools and districts can work towards. In Virginia, for example, the *Healthy Virginians School Scorecard* helps schools score themselves on a variety of physical activity and nutrition objectives. School authorities log onto a secure website and indicate which objectives are fulfilled. Point values are assigned to each objective, and schools fulfilling enough of the objectives will be awarded a Bronze, Silver, or Gold ranking. The goal of this type of competition between schools is to encourage individual schools to implement a number of the objectives, and achieve a healthy school environment.

In other states surveyed, typically those that have been working on the issue of nutrition standards for a longer period of time, the state education and health agencies are in the process of fully implementing the policy in a limited number of pilot schools or districts. Arizona and North Carolina, for example, are in the process of implementing their respective nutrition policies in designated pilot districts or schools. The State School Board of Arizona was originally presented with the nutrition policy in August 2003. North Carolina's *Recommended Standards for All Foods in Schools* was published in May 2004 and stemmed from the North Carolina Healthy Weight Initiative which was established in October 2000.

In the North Carolina and Arizona pilot programs, the state agency is evaluating and monitoring the implementation process, gathering information that they hope will ease state-wide implementation at

a later date. In both of these states, some funding has been made available to pilot districts and schools to assist with implementation. In Arizona, this funding is used to promote the policy through outreach to schools. In North Carolina, the funding is made available to alleviate the financial risk of implementing more rigorous nutrition standards. For example, North Carolina's funding covers the increased costs of providing fresh fruits and vegetables and whole grains. In both of these states, schools and districts outside the pilot projects have also been encouraged to adopt policies and practices in line with the nutrition policy. Administrators from both of these states report that the pilot program has been a learning experience, and that implementation of the policy had not had the anticipated negative financial impact. In fact, an administrator from the Department of Education in Arizona reported that pilot schools had seen an increase in food revenue.

Additional information and details regarding the nutrition policies surveyed can be found by directly consulting the policies. Links to various states' policies are listed below under Additional Resources.

### **Conclusion**

The activities of states in the areas of direct certification and local nutrition policies provide useful models for the implementation of provisions contained within the Child Nutrition and WIC Reauthorization Act of 2004. Full implementation of the direct certification and Local Wellness Policy requirements will build upon states' efforts to streamline program administration and improve the nutrition of students. In addition, state action to certify the newly categorically eligible groups of homeless, runaway, and migrant youth will help to increase federal reimbursement dollars coming into the state.

### **Additional Resources**

NCSL Bill Summary, P.L. 108-265, "Child Nutrition and WIC Reauthorization Act of 2004"  
<http://www.ncsl.org/statefed/humserv/SummaryS2507.htm>

Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265), Start and End Dates Table  
Prepared by: The Food Research and Action Center  
[http://frac.org/pdf/CNR2004\\_dates.pdf](http://frac.org/pdf/CNR2004_dates.pdf)

### **Links to State Wellness Policies**

#### Arizona

Department of Education, Health and Nutrition Services, Team Nutrition Grant Pilot Study  
<http://www.ade.az.gov/health-safety/cnp/teamnutrition/>

#### Colorado

Colorado Physical Activity and Nutrition Program, School Site Task Force:

<http://www.cdphe.state.co.us/pp/COPAN/SchoolSite.html>

Strategies and Action Steps Document: <http://www.cdphe.state.co.us/pp/COPAN/SchoolSites.pdf>

#### Michigan

Michigan Department of Education, "The Role of Michigan Schools in Promoting Healthy Weight"

[http://www.michigan.gov/documents/healthyweight\\_13649\\_7.pdf](http://www.michigan.gov/documents/healthyweight_13649_7.pdf)

North Carolina

Eat Smart, Move More... North Carolina Initiative: <http://www.eatsmartmovemorenc.com/>  
School Foods Standards: <http://www.eatsmartmovemorenc.com/tools.htm>

Rhode Island

Rhode Island Healthy Schools Coalition  
School District Nutrition and Physical Activity Model Policy  
[http://www.fns.usda.gov/tn/Healthy/ri\\_model.pdf](http://www.fns.usda.gov/tn/Healthy/ri_model.pdf)

Texas

Texas Public School Nutrition Policy: <http://www.squaremeals.org/go>

Virginia

Healthy Virginians Initiative <http://www.healthyvirginians.virginia.gov/>  
Scorecard for the Governor's Nutrition and Physical Activity Award  
<http://www.vipnet.org/doe/login.html>

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