

STATE OF NEW YORK

5151

2021-2022 Regular Sessions

IN SENATE

February 25, 2021

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to prohibiting schools or school districts from filing a lawsuit against a student's parent or guardian for unpaid meal fees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 908 of the education law, as added by section 1 of
2 part B of chapter 56 of the laws of 2018, is amended to read as follows:
3 § 908. Prohibition against meal shaming. All public school districts,
4 charter schools and non-public schools in the state that participate in
5 the national school lunch program or school breakfast program in which
6 there is a school at which all pupils are not eligible to be served
7 breakfast and lunch under the community eligibility provision or
8 provision two of the federal national school lunch act, 42 U.S.C. Sec.
9 1751 et seq., shall develop a plan to ensure that a pupil whose parent
10 or guardian has unpaid school meal fees is not shamed or treated differ-
11 ently than a pupil whose parent or guardian does not have unpaid school
12 meal fees. The plan shall be submitted to the commissioner by July
13 first, two thousand eighteen, or sixty days from the effective date of
14 this section after enactment in conformance with regulations of the
15 commissioner. Following such initial submission, such plan shall be
16 re-submitted within sixty days after the effective date of any subse-
17 quent amendment to this section. After submission of such plan, the
18 school or school district shall adopt and post the plan on its website.
19 The plan shall include, but not be limited to, the following elements:
20 a. A statement that the school or school district shall provide the
21 student with the student's meal of choice for that school day of the
22 available reimbursable meal choices for such school day, if the student
23 requests one, unless the student's parent or guardian has specifically
24 provided written permission to the school to withhold a meal, provided

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 that the school or school district shall only be required to provide
2 access to reimbursable meals, not a la carte items, adult meals, or
3 other similar items;

4 b. An explanation of how staff will be trained to ensure that the
5 school or school district's procedures are carried out correctly and how
6 the affected parents and guardians will be provided with assistance in
7 establishing eligibility for free or reduced-price meals for their chil-
8 dren;

9 c. Procedures requiring the school or school district to notify the
10 student's parent or guardian that the student's meal card or account
11 balance is exhausted and unpaid meal charges are due. The notification
12 procedures may include a repayment schedule, but the school or school
13 district may not charge any interest or fees in connection with any
14 meals charged;

15 d. A communication procedure designed to support eligible families
16 enrolling in the national free and reduced price meal program. Such
17 communication procedures shall also include a process for determining
18 eligibility when a student owes money for five or more meals, wherein
19 the school or school district shall:

20 i. make every attempt to determine if a student is directly certified
21 to be eligible for free meals;

22 ii. make at least two attempts, not including the application or
23 instructions included in a school enrollment packet, to reach the
24 student's parent or guardian and have the parent or guardian fill out a
25 meal application; and

26 iii. require a school or school district to contact the parent or
27 guardian to offer assistance with a meal application, determine if there
28 are other issues within the household that have caused the child to have
29 insufficient funds to purchase a school meal and offer any other assist-
30 ance that is appropriate;

31 e. A clear explanation of procedures designed to decrease student
32 distress or embarrassment, provided that, no school or school district
33 shall:

34 i. publicly identify or stigmatize a student who cannot pay for a meal
35 or who owes a meal debt by any means including, but not limited to,
36 requiring that a student wear a wristband or hand stamp;

37 ii. require a student who cannot pay for a meal or who owes a meal
38 debt to do chores or other work to pay for meals;

39 iii. require that a student throw away a meal after it has been served
40 because of the student's inability to pay for the meal or because money
41 is owed for earlier meals;

42 iv. take any action directed at a pupil to collect unpaid school meal
43 fees. A school or school district [~~may~~] shall not attempt to collect
44 unpaid school meal fees from a student's parent or guardian[~~, but shall~~
45 ~~not use a debt collector, as defined in section eight hundred three of~~
46 ~~the federal consumer credit protection act, 15 U.S.C. Sec. 1692a~~] by
47 filing a lawsuit against such student's parent or guardian; or

48 v. discuss any outstanding meal debt in the presence of other
49 students;

50 f. A clear explanation of the procedure to handle unpaid meal charges,
51 provided that nothing in this section is intended to allow for the
52 unlimited accrual of debt;

53 g. Procedures to enroll in the free and reduced price lunch program,
54 provided that such procedures shall include that, at the beginning of
55 each school year, a school or school district shall provide a free,
56 printed meal application in every school enrollment packet, or if the

1 school or school district chooses to use an electronic meal application,
2 provide in school enrollment packets an explanation of the electronic
3 meal application process and instructions for how parents or guardians
4 may request a paper application at no cost;

5 h. If a school or school district becomes aware that a student who has
6 not submitted a meal application is eligible for free or reduced-fee
7 meals, the school or school district shall complete and file an applica-
8 tion for the student pursuant to title seven, section 245.6(d) of the
9 code of federal regulations; and

10 i. School liaisons required for homeless, foster, and migrant students
11 shall coordinate with the nutrition department to make sure such
12 students receive free school meals, in accordance with federal law.

13 § 2. This act shall take effect immediately.