

# HOUSE . . . . . No. 3999

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## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court  
(2021-2022)

SENATE, September 20, 2021.

The committee on Senate Ways and Means to whom was referred the House Bill promoting student nutrition (House, No. 3999) (also based on Senate, No. 298); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2532.

For the committee,  
Michael J. Rodrigues

**HOUSE . . . . . No. 3999**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act promoting student nutrition.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to promote student nutrition, therefore it is hereby declared to be an emergency law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 71 of the General Laws is hereby amended by inserting after  
2 section 72 the following section:-

3           Section 72A. (a) As used in this section the following words shall, unless the context  
4 clearly requires otherwise, have the following meanings:

5           “Federal Community Eligibility Provision”, as described in 7 C.F.R. 245.9(f).

6           “Identified Student Percentage”, as defined in 7 C.F.R. 245.9(f)(1)(iii).

7           “Provision 2”, as described in 7 C.F.R. 245.9(b).

8           (b)(i) A school district or individual school with an Identified Student Percentage of 60  
9 per cent or higher shall elect and implement the federal Community Eligibility Provision or

10 Provision 2 to provide universal free school breakfast and lunch to all students. This subsection  
11 may be waived by the department if a school district or individual school is able to justify to the  
12 department that implementation will result in financial hardship to the school district or  
13 individual school.

14 (ii) An individual school with an Identified Student Percentage of 50 per cent or higher  
15 shall elect and implement the federal Community Eligibility Provision or Provision 2 to provide  
16 universal free school breakfast and lunch to all students unless the district school board votes, not  
17 later than June 1 of the first year of eligibility, to decline to participate in either the federal  
18 Community Eligibility Provision or Provision 2, or the department determines that the school  
19 district or individual school no longer has the qualifying identified student percentage. This  
20 subsection may be waived by the department if an individual school is able to justify to the  
21 department that implementation will result in financial hardship to the individual school.

22 (iii) A school nutrition director or designee shall attend at least 1 training by the  
23 department to learn about the federal Community Eligibility Provision and other federal options  
24 that may be available to a district before a vote by the school committee.

25 (c) A school district that participates in the national school lunch program shall take steps  
26 to maximize federal revenues and minimize debt on families under a protocol determined by the  
27 department that promotes the certification of students for free school meal status. The department  
28 shall assist school districts with improving the direct certification process and reducing  
29 administrative burdens on school districts. The department shall consult with representatives  
30 from the School Nutrition Association of Massachusetts, Inc. and relevant stakeholders to  
31 promote best practices to maximize federal revenues.

32 (d) Within 30 days of notifying a family about unpaid meal debt that remains unresolved,  
33 the school district shall determine if the student is categorically eligible for free or reduced-price  
34 meals. Within the 30 days, while the school district is making the determination if the student is  
35 eligible for free or reduced-price meals, the student shall not be denied access to a school meal  
36 until the district has made a determination that the family is neither free nor reduced-price meal  
37 eligible.

38 (e) No employee, agent or volunteer of a school or school district shall:

39 (i) take any action that would publicly identify a student when payment has not been  
40 received for a school meal or for meals previously served to the student;

41 (ii) serve a student with unpaid meal debt an alternative meal that is not also available to  
42 all students at the cafeteria; provided that said alternative meal shall comply with the pattern for  
43 a federally reimbursable meal;

44 (iii) deny a student a meal as a form of behavioral discipline or punishment;

45 (iv) dispose of an already served meal because of the student's lack of funds to pay for  
46 the meal or because of unresolved meal debt;

47 (v) prohibit a student or a sibling of a student from attending or participating in non-fee  
48 based extracurricular activities, field trips or school events solely because of the student's  
49 unresolved meal debt;

50 (vi) prohibit a student from receiving grades, official transcripts, report cards or from  
51 graduating or attending graduation events solely because of unresolved meal debt; or

52 (vii) require a parent or guardian to pay fees or costs in excess of the actual amounts  
53 owed for meals previously served to the student.

54 SECTION 2. Notwithstanding section 72A of chapter 71 of the General Laws or any  
55 other general or special law to the contrary, for calendar year 2021, a school or district may  
56 waive participation in either the federal Community Eligibility Provision or Provision 2, as those  
57 terms are defined in said section 72A of said chapter 71, if the school or district is able to justify  
58 to the department of elementary and secondary education that implementation will result in  
59 financial hardship through a process to be determined by the department.