

111TH CONGRESS
2^D SESSION

H. R. 5431

To amend section 17 of the Richard B. Russell National School Lunch Act to promote health and wellness in child care, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2010

Mrs. MCCARTHY of New York (for herself and Mr. WU) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend section 17 of the Richard B. Russell National School Lunch Act to promote health and wellness in child care, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Start Healthy Habits
5 Early Act”.

6 **SEC. 2. CHILD AND ADULT CARE FOOD PROGRAM.**

7 Section 17 of the Richard B. Russell National School
8 Lunch Act (42 U.S.C. 1766) is amended—

1 (1) in subsection (a), by striking “(a) GRANT
2 AUTHORITY” and all that follows through the end of
3 paragraph (1) and inserting the following:

4 “(a) PROGRAM PURPOSE, GRANT AUTHORITY, AND
5 INSTITUTION ELIGIBILITY.—

6 “(1) IN GENERAL.—

7 “(A) PROGRAM PURPOSE.—The purpose of
8 the program authorized under this section is to
9 provide aid to child and adult care institutions
10 for the provision of nutritious foods that con-
11 tribute to the wellness, healthy growth, and de-
12 velopment of young children, and the health
13 and wellness of older adults and chronically im-
14 paired disabled persons.

15 “(B) GRANT AUTHORITY.—The Secretary
16 may carry out a program to assist States
17 through grants-in-aid and other means to ini-
18 tiate and maintain nonprofit food service pro-
19 grams for children in institutions providing
20 child care.”;

21 (2) by striking subsection (g) and inserting the
22 following:

23 “(g) NUTRITIONAL REQUIREMENTS FOR MEALS AND
24 SNACKS SERVED IN INSTITUTIONS AND FAMILY OR
25 GROUP DAY CARE HOMES.—

1 “(1) DEFINITION OF DIETARY GUIDELINES.—
2 In this subsection, the term ‘Dietary Guidelines’
3 means the Dietary Guidelines for Americans pub-
4 lished under section 301 of the National Nutrition
5 Monitoring and Related Research Act of 1990 (7
6 U.S.C. 5341).

7 “(2) NUTRITIONAL REQUIREMENTS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (C), reimbursable meals and
10 snacks served by institutions, family or group
11 day care homes, and sponsored centers partici-
12 pating in the program under this section shall
13 consist of a combination of foods that meet
14 minimum nutritional requirements prescribed
15 by the Secretary on the basis of tested nutri-
16 tional research.

17 “(B) CONFORMITY WITH THE DIETARY
18 GUIDELINES AND AUTHORITATIVE SCIENCE.—

19 “(i) IN GENERAL.—Not less fre-
20 quently than once every 10 years, the Sec-
21 retary shall review and, as appropriate, up-
22 date nutritional requirements for meals
23 and snacks served under the program
24 under this section to ensure that the meals
25 and snacks—

1 “(I) are consistent with the goals
2 of the most recent Dietary Guidelines;
3 and

4 “(II) promote the health of the
5 population served by the program au-
6 thorized under this section, as indi-
7 cated by the most recent relevant nu-
8 trition science and appropriate au-
9 thoritative scientific recommendations.

10 “(ii) COST REVIEW.—The review re-
11 quired under clause (i) shall include a re-
12 view of the cost to institutions, family or
13 group day care homes, and sponsored cen-
14 ters, resulting from the updated nutritional
15 requirements under this subparagraph for
16 meals and snacks served under the pro-
17 gram under this section.

18 “(iii) REGULATIONS.—

19 “(I) PROPOSED RULE.—Not later
20 than 18 months after the completion
21 of the review of the nutritional re-
22 quirements under clause (i), the Sec-
23 retary shall promulgate proposed reg-
24 ulations to update the nutritional re-
25 quirements for meals and snacks

1 served under the program under this
2 section.

3 “(II) CONSIDERATION.—In pro-
4 mulgating proposed regulations under
5 subclause (I), the Secretary shall dem-
6 onstrate consideration for the finan-
7 cial and administrative impact to in-
8 stitutions, family or group day care
9 homes, and sponsored centers result-
10 ing from any proposed changes to the
11 nutritional requirements for meals
12 and snacks in the regulations.

13 “(C) EXCEPTIONS.—

14 “(i) SPECIAL DIETARY NEEDS.—The
15 minimum nutritional requirements pre-
16 scribed under subparagraph (A) shall not
17 prohibit institutions, family or group day
18 care homes, and sponsored centers from
19 substituting foods to accommodate the
20 medical or other special dietary needs of
21 individual participants.

22 “(ii) EXEMPT INSTITUTIONS.—The
23 Secretary may elect to waive all or part of
24 the requirements of this subsection for

1 emergency shelters participating in the
2 program under this section.

3 “(3) MEAL SERVICE.—Institutions, family or
4 group day care homes, and sponsored centers shall
5 ensure that reimbursable meal service is not used as
6 a punishment or reward.

7 “(4) FLUID MILK.—

8 “(A) IN GENERAL.—If an institution, fam-
9 ily or group day care home, or sponsored center
10 provides fluid milk as part of a reimbursable
11 meal or supplement, the institution, family or
12 group day care home, or sponsored center shall
13 provide the milk in accordance with the most
14 recent version of the Dietary Guidelines and ap-
15 propriate authoritative scientific recommenda-
16 tions for young children.

17 “(B) MILK SUBSTITUTES.—In the case of
18 children who cannot consume fluid milk due to
19 medical or other special dietary needs other
20 than a disability, an institution, family or group
21 day care home, or sponsored center may sub-
22 stitute for the fluid milk served as part of a re-
23 imburseable meal or supplement, a nondairy bev-
24 erage that—

1 “(i) is nutritionally equivalent to fluid
2 milk; and

3 “(ii) meets nutritional standards es-
4 tablished by the Secretary, including,
5 among other requirements established by
6 the Secretary, fortification of calcium, pro-
7 tein, vitamin A, and vitamin D to levels
8 found in cow’s milk.

9 “(C) APPROVAL.—

10 “(i) IN GENERAL.—A substitution au-
11 thorized under subparagraph (B) may be
12 made—

13 “(I) at the discretion of, and on
14 approval by, the participating institu-
15 tion, family or group day care home,
16 or sponsored center; and

17 “(II) if the substitution is re-
18 quested—

19 “(aa) by a medical author-
20 ity; or

21 “(bb) by the parent or legal
22 guardian of a participating child.

23 “(ii) EXCEPTION.—An institution,
24 family or group day care home, or spon-
25 sored center that elects to make a substi-

1 tution authorized under this paragraph
2 shall not provide beverages other than bev-
3 erages the State has identified as accept-
4 able substitutes.

5 “(D) EXCESS EXPENSES BORNE BY INSTI-
6 TUTION.—A participating institution, family or
7 group day care home, or sponsored center shall
8 be responsible for any expenses that—

9 “(i) are incurred by the institution,
10 family or group day care home, or spon-
11 sored center to provide substitutions under
12 this paragraph; and

13 “(ii) are in excess of expenses covered
14 under reimbursements under this Act.

15 “(5) NONDISCRIMINATION POLICY.—No phys-
16 ical segregation or other discrimination against any
17 child shall be made because of the inability of the
18 child to pay, nor shall there be any overt identifica-
19 tion of any such child by special tokens or tickets,
20 different meals or meal service, announced or pub-
21 lished lists of names, or other means.

22 “(6) USE OF ABUNDANT AND DONATED
23 FOODS.—To the maximum extent practicable, each
24 institution shall use in its food service foods that
25 are—

1 “(A) designated from time to time by the
2 Secretary as being in abundance, either nation-
3 ally or in the food service area; or

4 “(B) donated by the Secretary;

5 “(7) WATER.—Participating institutions, family
6 or group day care homes, and sponsored centers
7 shall make available to children, as nutritionally ap-
8 propriate, potable water throughout the day, includ-
9 ing at meal times.”; and

10 (3) by adding at the end the following:

11 “(u) PROMOTING HEALTH AND WELLNESS IN CHILD
12 CARE.—

13 “(1) IN GENERAL.—The Secretary shall assist
14 participating institutions, family or group day care
15 homes, and sponsored centers through technical as-
16 sistance and guidance, and competitive grants for
17 the purpose of promoting the health and nutrition of
18 children in child care settings.

19 “(2) TECHNICAL ASSISTANCE AND GUID-
20 ANCE.—

21 “(A) NUTRITION.—From funds made
22 available under subparagraph (C), the Sec-
23 retary shall provide technical assistance and
24 guidance to institutions, family or group day
25 care homes, and sponsored centers, partici-

1 pating in the program under this section to
2 support compliance with the nutrition require-
3 ments described in subsection (g), which shall
4 include technical assistance and guidance with
5 respect to—

6 “(i) menu planning;

7 “(ii) interpretation of nutrition labels;

8 and

9 “(iii) food preparation and purchasing
10 guidance to produce meals and snacks
11 that—

12 “(I) are consistent with the goals
13 of the most recent Dietary Guidelines
14 for Americans published under section
15 301 of the National Nutrition Moni-
16 toring and Related Research Act of
17 1990 (7 U.S.C. 5341) (in this sub-
18 section referred to as the ‘Dietary
19 Guidelines’); and

20 “(II) promote the health of the
21 population served by the program
22 under this section, as recommended
23 by authoritative scientific recommen-
24 dations.

1 “(B) WELLNESS PROMOTION.—Not later
2 than January 1, 2012, in consultation with the
3 Secretary of Health and Human Services, the
4 Secretary shall provide technical assistance and
5 guidance, such as a handbook, to assist State
6 agencies and institutions, family and group day
7 care homes, and sponsored centers, partici-
8 pating in the program under this section to—

9 “(i) promote access to foods that are
10 recommended for consumption by the most
11 recent Dietary Guidelines;

12 “(ii) encourage opportunities for age-
13 appropriate physical activity in quantities
14 and at levels recommended by the most re-
15 cent Dietary Guidelines and the Secretary
16 of Health and Human Services and provide
17 information on—

18 “(I) the importance of regular
19 age-appropriate physical activity for
20 health and well-being based on au-
21 thoritative scientific recommendations;
22 and

23 “(II) best practices for physical
24 activity plans in child care settings;

1 “(iii) encourage age-appropriate elec-
2 tronic media use by children based on au-
3 thoritative scientific recommendations and
4 provide information on—

5 “(I) the importance of age-appro-
6 priate use, including limitations, of
7 electronic media; and

8 “(II) best practices for imple-
9 mentation of such recommendations in
10 child care settings; and

11 “(iv) encourage the involvement of
12 parents in nutrition and wellness initiatives
13 for children.

14 “(C) ADDITIONAL INFORMATION.—In con-
15 sultation with the Secretary of Health and
16 Human Services, the Secretary shall provide
17 educational materials (such as pamphlets, or
18 other printed materials) to State agencies and
19 institutions, family and group day care homes,
20 and sponsored centers participating in the pro-
21 gram under this section regarding common
22 food-related choking hazards and guidance on
23 avoiding food choking in young children.

24 “(D) FUNDING.—

1 “(i) IN GENERAL.—On October 1,
2 2010, out of any funds in the Treasury not
3 otherwise appropriated, the Secretary of
4 the Treasury shall transfer to the Sec-
5 retary to carry out this paragraph
6 \$10,000,000, to remain available until ex-
7 pended.

8 “(ii) RECEIPT AND ACCEPTANCE.—
9 The Secretary shall be entitled to receive,
10 shall accept, and shall use to carry out this
11 subsection the funds transferred under
12 clause (i), without further appropriation.

13 “(3) COMPETITIVE GRANTS.—

14 “(A) GRANTS TO STATE AGENCIES.—From
15 the funds made available under subparagraph
16 (G), the Secretary shall award grants, on a
17 competitive basis, to State agencies partici-
18 pating in the program under this section for the
19 purpose of promoting health and nutrition in
20 child care settings.

21 “(B) PRIORITY.—In awarding grants
22 under this paragraph, the Secretary shall give
23 priority to State agencies administering projects
24 under the program that carry out each of the

1 authorized uses of funds described in subpara-
2 graph (C)(ii).

3 “(C) USES OF FUNDS.—

4 “(i) REQUIRED USES.—A State agen-
5 cy receiving a grant under this paragraph
6 shall use not less than 50 percent of such
7 grant funds to award subgrants to institu-
8 tions, including sponsoring organizations,
9 for the purpose of carrying out the activi-
10 ties described in clause (ii).

11 “(ii) AUTHORIZED USES.—In addition
12 to such other activities as the Secretary de-
13 termines to be appropriate, State agencies
14 and institutions may use funds received
15 under this paragraph for activities that—

16 “(I) promote nutrition and phys-
17 ical activity in child care settings that
18 reflect—

19 “(aa) the recommendations
20 of the most recent version of the
21 Dietary Guidelines; and

22 “(bb) authoritative scientific
23 recommendations;

24 “(II) provide technical assistance
25 and training to sponsors and pro-

1 viders of child care centers and family
2 or group day care homes in imple-
3 menting State or local initiatives de-
4 signed to improve the health and nu-
5 trition of children in child care set-
6 tings;

7 “(III) perform outreach cam-
8 paigns on the State or local level that
9 are designed to increase access to the
10 program in underserved areas and
11 populations, including subsidized child
12 care providers; and

13 “(IV) make innovative use of
14 technology to provide training and
15 education to promote the nutrition,
16 physical activity, and health of chil-
17 dren.

18 “(D) APPLICATION.—To be eligible to re-
19 ceive a grant under this paragraph, a State
20 agency shall submit an application to the Sec-
21 retary at such time, in such manner, and con-
22 taining such information as the Secretary may
23 require, which shall include—

24 “(i) a plan to promote child care set-
25 tings that encourage healthful behaviors,

1 including improvements to the quality of
2 meals and snacks provided in institutions,
3 family or group day care homes, and spon-
4 sored centers; and

5 “(ii) a description of—

6 “(I) the procedures by which the
7 State agency will use the grant to
8 award subgrants to institutions; and

9 “(II) the criteria that the State
10 agency will use in awarding such sub-
11 grants.

12 “(E) REPORTING.—Any State agency re-
13 ceiving a grant under this paragraph shall sub-
14 mit a report to the Secretary at such time, in
15 such manner, and containing such information
16 as the Secretary may require that, at a min-
17 imum, shall include—

18 “(i) a description of the activities sup-
19 ported with funds under this paragraph;

20 “(ii) the progress of implementing the
21 activities; and

22 “(iii) the outcome of the activities.

23 “(F) BEST PRACTICES.—The Secretary
24 shall provide to State agencies and institutions
25 best practices for implementing effective nutri-

1 tion and wellness initiatives, including best
2 practices for implementing the activities sup-
3 ported with funds under this paragraph.

4 “(G) FUNDING.—

5 “(i) IN GENERAL.—On October 1,
6 2010, out of any funds in the Treasury not
7 otherwise appropriated, the Secretary of
8 the Treasury shall transfer to the Sec-
9 retary to carry out this paragraph
10 \$25,000,000 to remain available until ex-
11 pended to carry out this paragraph to re-
12 main available until expended.

13 “(ii) RECEIPT AND ACCEPTANCE.—

14 The Secretary shall be entitled to receive,
15 shall accept, and shall use to carry out this
16 paragraph the funds transferred under
17 clause (i) without further appropriation.”.

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