

117TH CONGRESS
1ST SESSION

H. R. 5919

To amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2021

Ms. BONAMICI (for herself and Ms. HERRERA BEUTLER) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program, 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 “Early Childhood Nutri-
5 tion Improvement Act”.

6 **SEC. 2. ELIGIBILITY CERTIFICATION CRITERIA FOR PRO-**
7 **PRIETARY CHILD CARE CENTERS.**

8 Section 17(a)(6) of the Richard B. Russell National
9 School Lunch Act (42 U.S.C. 1766(a)(6)) is amended—

1 (1) in the matter preceding subparagraph (A),
2 by striking “criteria:” and inserting “criteria—”;

3 (2) in subparagraph (E), by striking “and” at
4 the end;

5 (3) in subparagraph (F), by striking the period
6 at the end and inserting “; and”; and

7 (4) by adding at the end the following:

8 “(G) in the case of an institution described
9 in paragraph (2)(B), the eligibility of such in-
10 stitution shall be determined on an annual basis
11 in accordance with this section.”.

12 **SEC. 3. REVIEW OF SERIOUS DEFICIENCY PROCESS.**

13 Section 17(d)(5) of the Richard B. Russell National
14 School Lunch Act (42 U.S.C. 1766(d)(5)) is amended by
15 adding at the end the following:

16 “(F) SERIOUS DEFICIENCY PROCESS.—

17 “(i) IN GENERAL.—Not later than 1
18 year after the date of the enactment of this
19 subparagraph, the Secretary shall review
20 and issue guidance and, as appropriate,
21 regulations regarding the serious deficiency
22 process for the program under this section.

23 “(ii) REVIEW.—In carrying out clause
24 (i), the Secretary shall review, at a min-

1 imum, the processes for, and those in-
2 volved in—

3 “(I) determining when there is a
4 serious deficiency with respect to an
5 institution or a family or group day
6 care home, including—

7 “(aa) what measures auto-
8 matically result in a finding of
9 serious deficiency; and

10 “(bb) how to differentiate
11 between—

12 “(AA) a reasonable
13 margin of human error and
14 systematic or intentional
15 noncompliance; and

16 “(BB) State-specific re-
17 quirements and Federal reg-
18 ulations;

19 “(II) appealing and mediating a
20 finding of serious deficiency with re-
21 spect to an institution or a family or
22 group day care home, including—

23 “(aa) findings related to
24 State-specific requirements; and

1 “(bb) processes for ensuring
2 officials involved in appeals and
3 mediation are fair and impartial;

4 “(III) determining the cir-
5 cumstances under which a corrective
6 action plan is acceptable;

7 “(IV) termination and disquali-
8 fication, including maintenance of the
9 list under subparagraph (E); and

10 “(V) determining opportunities
11 for strengthening the processes in-
12 tended to reduce additional State
13 agency requirements on institutions or
14 family or group day care homes that
15 are in addition to those required
16 under Federal law, including—

17 “(aa) State evaluation of
18 practices used at the time of re-
19 view;

20 “(bb) regional approval of
21 such additional State agency re-
22 quirements; and

23 “(cc) oversight through the
24 management evaluation process.

1 “(iii) STATE-SPECIFIC REQUIRE-
2 MENTS.—The Secretary may not consider
3 State-specific requirements in determining
4 non-compliance or serious deficiency.

5 “(iv) GUIDANCE AND REGULA-
6 TIONS.—

7 “(I) IN GENERAL.—After con-
8 ducting the review under clause (ii),
9 the Secretary shall make findings
10 from the information collected and
11 issue guidance and, as appropriate,
12 regulations from such findings that
13 will—

14 “(aa) streamline and mod-
15 ernize the program;

16 “(bb) reduce the paperwork
17 burden on parents; and

18 “(cc) assist sponsoring orga-
19 nizations, State agencies, and the
20 Food and Nutrition Service in
21 ensuring a fair, uniform, and ef-
22 fective administration of the seri-
23 ous deficiency process, while re-
24 taining program integrity.

1 “(II) SCOPE.—The guidance or,
2 as appropriate, regulations made or
3 issued under subclause (I) shall in-
4 clude—

5 “(aa) clarity on the required
6 measures for noncompliance, in-
7 cluding—

8 “(AA) an allowance for
9 a reasonable margin of
10 human error; and

11 “(BB) a distinction be-
12 tween a reasonable margin
13 of human error and system-
14 atic or intentional non-
15 compliance;

16 “(bb) a formal appeals and
17 mediation process that—

18 “(AA) is conducted by
19 a trained official who is
20 independent from and not
21 affiliated with any person or
22 agency involved in the deter-
23 mination being appealed or
24 mediated;

1 “(BB) provides an op-
2 portunity for a fair hearing
3 for any institution or family
4 or group day care home de-
5 termined to have a serious
6 deficiency finding or inad-
7 equate corrective action
8 plan; and

9 “(CC) provides for the
10 evaluation and resolution of
11 disputes over State agency
12 requirements on institutions
13 or family or group day care
14 homes that are in addition
15 to those required under Fed-
16 eral law;

17 “(cc) timeframes for accept-
18 able corrective action plans for
19 group or family day care homes
20 that are consistent with correc-
21 tive action timeframes for child
22 care centers; and

23 “(dd) a process to dismiss a
24 serious deficiency upon correction
25 of such deficiency.”.

1 **SEC. 4. AUTHORIZATION OF REIMBURSEMENTS FOR ADDI-**
2 **TIONAL MEAL OR SNACK.**

3 Section 17(f)(2) of the Richard B. Russell National
4 School Lunch Act (42 U.S.C. 1766(f)(2)) is amended—

5 (1) by striking “(2)(A) Subject to subparagraph
6 (B) of this paragraph” and inserting the following:

7 “(2) DISBURSEMENTS.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B)”;

10 (2) by amending subparagraph (B) to read as
11 follows:

12 “(B) LIMITATION.—No reimbursement
13 may be made to any institution under this para-
14 graph, or to family or group day care home
15 sponsoring organizations under paragraph (3),
16 for more than—

17 “(i) 2 meals and 1 supplement or 1
18 meal and 2 supplements per day per child;
19 or

20 “(ii) 3 meals and 1 supplement or 2
21 meals and 2 supplements per day per
22 child, in the case of child care during
23 which there are 8 or more hours between
24 the beginning of the first meal service pe-
25 riod and the beginning of the fourth meal
26 service period.

1 “(C) STUDY ON THIRD MEAL.—The Sec-
2 retary shall—

3 “(i) conduct a study, not later than 2
4 years after the date of the enactment of
5 this subparagraph, on—

6 “(I) the prevalence of third meal
7 reimbursement by program operators;

8 “(II) the role of the additional
9 meal in effectively supporting working
10 families;

11 “(III) the contribution of the ad-
12 ditional meal to the local economy;
13 and

14 “(IV) the contribution of the ad-
15 ditional meal to the economic viability
16 of child care and afterschool pro-
17 grams, including in rural areas;

18 “(ii) submit a report to the Com-
19 mittee on Agriculture, Nutrition, and For-
20 estry of the Senate and the Committee on
21 Education and Labor of the House of Rep-
22 resentatives that includes the findings of
23 the study required under clause (i); and

1 “(iii) based on the findings of such re-
2 port, provide guidance to program opera-
3 tors to—

4 “(I) improve implementation of
5 the program under this section;

6 “(II) maximize the utility of the
7 additional meal in supporting working
8 families; and

9 “(III) limit unnecessary costs to
10 program operators and parents of
11 participating children.”.

12 **SEC. 5. ADJUSTMENTS.**

13 Section 17(f)(3)(A) of the Richard B. Russell Na-
14 tional School Lunch Act (42 U.S.C. 1766(f)(3)(A)) is
15 amended by striking “Consumer Price Index for food at
16 home” each place it appears and inserting “Consumer
17 Price Index for food away from home”.

18 **SEC. 6. ADVISORY COMMITTEE ON PAPERWORK REDUC-**
19 **TION.**

20 Section 17 of the Richard B. Russell National School
21 Lunch Act (42 U.S.C. 1766) is amended by adding at the
22 end the following:

23 “(v) ADVISORY COMMITTEE ON PAPERWORK REDUC-
24 TION.—

1 “(1) ESTABLISHMENT.—Not later than 180
2 days after the date of the enactment of this sub-
3 section, the Secretary shall establish an advisory
4 committee (referred to in this subsection as the ‘Ad-
5 visory Committee’) to carry out the duties described
6 in paragraph (2).

7 “(2) DUTIES.—The duties of the Advisory
8 Committee shall be to—

9 “(A) examine the feasibility of reducing
10 unnecessary or duplicative paperwork resulting
11 from regulations and recordkeeping require-
12 ments, including paperwork resulting from ad-
13 ditional State requirements, for those partici-
14 pating or seeking to participate in the program
15 under this section, including State agencies,
16 family child care homes, child care centers, and
17 sponsoring organizations; and

18 “(B) provide recommendations to the Sec-
19 retary to reduce such paperwork for partici-
20 pants in the program under this section while
21 ensuring that proper accountability and pro-
22 gram integrity are maintained.

23 “(3) MEMBERSHIP.—The Advisory Committee
24 shall be composed of not fewer than 14 members, of
25 whom:

1 “(A) 1 shall be a representative of a public
2 nonprofit center.

3 “(B) 1 shall be a representative of a pri-
4 vate nonprofit center.

5 “(C) 1 shall be a representative of a family
6 or group day care home.

7 “(D) 1 shall be a representative of a Head
8 Start center.

9 “(E) 1 shall be a representative of a for-
10 profit center.

11 “(F) 1 shall be a representative of an
12 emergency shelter.

13 “(G) 1 shall be a representative of an
14 adult day care center.

15 “(H) 1 shall be a representative of a State
16 agency.

17 “(I) 1 shall be a representative of a spon-
18 soring organization for the entities referred to
19 in subparagraphs (A), (B), (D), (E), (F), and
20 (G).

21 “(J) 1 shall be a representative of a spon-
22 soring organization of family or group day care
23 homes.

24 “(K) 1 shall be a representative of an anti-
25 hunger advocacy organization.

1 “(L) 1 shall be a representative of an at-
2 risk, after school program.

3 “(M) 1 shall be a representative of a child
4 care advocacy organization.

5 “(N) 1 shall be a representative of an ad-
6 vocacy organization representing parents with
7 young children.

8 “(4) CONSIDERATIONS.—In developing the rec-
9 ommendations described in paragraph (2)(B), the
10 Advisory Committee shall consider—

11 “(A) information, recommendations, and
12 reports from the Paperwork Reduction Work
13 Group established by the Food and Nutrition
14 Service pursuant to section 119(i) of the Child
15 Nutrition and WIC Reauthorization Act of
16 2004 (Public Law 108–265; 118 Stat. 755);

17 “(B) the use of electronic systems and rec-
18 ordkeeping technologies to reduce paperwork
19 for program participants and program opera-
20 tors; and

21 “(C) duplicative requirements across mul-
22 tiple Federal programs.

23 “(5) GUIDANCE AND REGULATIONS.—Not later
24 than 2 years after the date of the enactment of this
25 subsection, the Secretary shall issue guidance and,

1 as appropriate, regulations based on the rec-
2 ommendations described in paragraph (2)(B) for
3 streamlined and consolidated paperwork and record-
4 keeping requirements for the program, including rec-
5 ommendations and actions taken to reduce paper-
6 work for parents and program operators by—

7 “(A) streamlining and modernizing appli-
8 cations; and

9 “(B) streamlining and modernizing the
10 monitoring and auditing of programmatic docu-
11 mentation and recordkeeping, including—

12 “(i) eliminating the use of the enroll-
13 ment form for the purpose of claiming
14 meals;

15 “(ii) allowing the use of direct certifi-
16 cation in all States;

17 “(iii) requiring States to accept as
18 documentation digital forms, digitized and
19 electronic signatures, and electronic
20 records;

21 “(iv) allowing the use of electronic
22 data collection systems containing all re-
23 quired Federal child and adult care food
24 program standards;

1 “(v) addressing non-mandated State-
2 specific requirements; and

3 “(vi) requiring the adoption of gen-
4 erally accepted technologies for client-fac-
5 ing technology, virtual visits, and tech-
6 nology used for administrative functions by
7 the child and adult care food program to
8 reduce the burden on participants and pro-
9 gram operators and administrators.

10 “(6) REPORT.—

11 “(A) IN GENERAL.—Not later than 180
12 days after issuing the guidance and, as appro-
13 priate, regulations described in paragraph (5),
14 the Secretary shall submit a report to the Com-
15 mittee on Agriculture, Nutrition, and Forestry
16 of the Senate and the Committee on Education
17 and Labor of the House of Representatives con-
18 taining the information described in subpara-
19 graph (B).

20 “(B) CONTENTS.—The report under sub-
21 paragraph (A) shall contain the following:

22 “(i) With respect to each instance in
23 which the Secretary did not implement a
24 recommendation of the Advisory Com-
25 mittee, an explanation with respect to why

1 such recommendation was not imple-
2 mented.

3 “(ii) Additional recommendations with
4 respect to legislative action that may fur-
5 ther strengthen and streamline the pro-
6 gram application and monitoring process
7 and reduce administrative burdens on
8 grantees, program participants, and local,
9 State, and Federal governments.”.

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