

Model Legislation
(Modeled after California's SB 19)

Introduced by (legislator's name)

Date

An act to add Article 2.5 (commencing with Section 49430) to Chapter 9 of Part 27 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

Pupil health.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils.

This bill would require every school to publicize a summary of nutrition and physical activity laws, regulations, and school district policies and would require the State Department of Education and school districts to develop the summary.

(2) Existing law provides little guidance regarding the nutritional quality of foods sold outside of the U.S. Department of Agriculture meal programs.

The bill would require the sale of all foods on school grounds to be approved by the school food service program. The bill would prohibit foods that are not approved by the school food service program from being sold during the school day at elementary schools and require items that are sold at secondary schools to meet nutrition standards. The bill would require all foods sold or served on the school site of an elementary or secondary school outside of the federal school meal program to meet specified requirements relating to the fat and sugar content of foods and portion sizes of foods. The bill would require fruits and vegetables to be offered for sale at any location on the school site where competitive foods are sold.

The bill would require drinking water and cups to be offered with meals for pupil consumption at no charge to pupils.

(3) Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced-price meals.

This bill would require that reimbursement to be increased to 26¢ per meal.

(4) Existing law provides for various advisory committees to be formed at the school district level.

This bill would authorize a school district to convene a Child Nutrition and Physical Activity Advisory Committee that would develop and recommend to the governing board of the school district for its adoption a school district policy on nutrition and physical activity. The committee would include food service directors and staff, parents, pupils, dietitians, doctors, nurses, and interested community organizations. It would exclude food marketers and other parties with conflicts of interest. In developing the policy, the

committee would be required to hold at least one public hearing. The bill would require the State Department of Education to provide a \$10,000 grant to a school district that develops and adopts a policy by (date -- within about a year of the bill's enactment).

(5) By imposing new requirements on school districts, the bill would impose state-mandated local programs.

(6) This bill would require the Superintendent of Public Instruction to supervise the implementation of certain provisions enacted by the bill by monitoring schools every 2 years and to investigate acts of alleged noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools fails to comply with those provisions, the superintendent would be required to certify the noncompliance to the Attorney General who would be required to investigate, if necessary, to document the noncompliance and seek injunctive relief to secure compliance when requested by the superintendent.

(7) This bill would require the State Department of Education, with advice from the Child Nutrition Advisory Council, to design and implement a financial incentive grant program to help and encourage schools to implement their policies and meet specified goals.

The people of the State of (state) do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) Childhood obesity has reached epidemic levels in (state) and throughout the nation. Recent studies have shown that approximately 15 percent of American children are obese and the rate has doubled over the past two decades.

(b) Overweight and obese children are at higher risk for long-term health problems, including cardiovascular disease, stroke, hypertension, high blood pressure, gallbladder disease, type 2 diabetes, and certain cancers. The lives of overweight youth are often also affected by discrimination, psychological stress, poor body image, and low self-esteem. Seventy-seven percent of obese children remain obese as adults.

(c) Two-thirds of all deaths in (state) result from four chronic diseases: heart disease, cancer, stroke, and diabetes. Health experts agree that one of the most effective ways to prevent these chronic diseases is to establish policies and programs that encourage children and adolescents to develop healthy eating and physical activity habits they can maintain throughout their lives.

(d) A child who is physically healthy is more likely to be academically motivated, alert, and successful. Healthy eating also plays an important role in learning and cognitive development. Poor diet has been found to adversely influence the ability to learn and to decrease motivation and attentiveness.

(e) The school environment plays an influential role in the foods children eat nearly every day. While the United States Department of Agriculture (USDA) regulates the nutrient content of meals sold under its reimbursable meal program, similar standards do not exist for “competitive foods” that are sold outside the USDA meal programs. Competitive foods are often high in added sugar, sodium, or fat.

(f) The state’s support of school food services is inadequate. The State Department of Education monitors schools only once every (x) years and lacks the resources to provide any technical assistance. The last time the state increased the state meal subsidy, beyond a cost-of-living adjustment, was in (year), leaving (state) ranked (x) in the nation in school meal reimbursement rates. In order to generate revenue, many schools sell or allow vendors to sell competitive foods on campus.

(g) Only 2% of children (2 to 19 years) meet the five main recommendations for a healthy diet from the Food Guide Pyramid. Soft drink consumption has doubled over the last 30 years. Children's calorie intake has increased since 1989 by an average of 100 to 180 extra calories per day (depending on age). According to the USDA, the increases are largely driven by increased intakes of foods and beverages high in added sugars (especially sodas, fruit drinks, cookies and other sweet baked goods). Only 30% of children consume the recommended number of servings of milk each day and only 14% eat the recommended amount of fruit.

SEC. 2. Article 2.5 (commencing with Section 49430) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 2.5. The Student Nutrition, Health, and Achievement Act of 2002

49430. (a) The reimbursement a school receives for free and reduced-price meals shall be increased to twenty-six cents (\$0.26).

(b) A school shall receive a reimbursement of thirteen cents (\$0.13) for meals sold at full price.

(c) To qualify for the increased reimbursement for free and reduced-price meals and for the reimbursement for meals sold at full price, a school shall follow the USDA’s Enhanced Food Based Meal Pattern, or the USDA’s Nutrient Standard Meal Planning, and shall comply with Section 49431.

49431. (a) The sale of all foods on school grounds shall be approved by the school food service program.

(b) Foods that are not approved by the school food service program shall not be sold during the school day at elementary schools. Individual items sold outside of the USDA school meal programs at elementary and secondary schools shall meet the standards as set forth in subdivision (c).

- (c) (1) The following beverages shall not be provided or sold at schools:
 - (A) Soft drinks, sports drinks, punches, and iced teas.
 - (B) Fruit-based drinks that contain less than 50 percent real fruit juice or that contain additional sweeteners.
 - (C) Drinks containing caffeine, excluding low-fat or fat-free chocolate milk.
- (2) The following beverages may be sold at schools:
 - (A) Fruit-based drinks that contain at least 50 percent fruit juice and that do not contain additional sweeteners.
 - (B) Water.
 - (C) Low-fat or fat-free milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy calcium-fortified milks.
- (3) All snacks, sweets, or side dishes sold or served on the school site outside of the federal school meal program shall meet all of the following standards:
 - (A) Have 30 percent or less of its total calories from fat.
 - (B) Have 10 percent or less of its total calories from saturated plus trans fat.
 - (C) Have 35 percent or less of its total calories from sugars, excluding sugars occurring naturally in fruits, vegetables, and dairy ingredients.
 - (D) Be limited to the following maximum portion sizes:
 - (i) One and one-quarter ounces for chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, or jerky.
 - (ii) Two ounces for cookies or cereal bars.
 - (iii) Three ounces for bakery items, including, but not limited to, pastries, muffins, and donuts.
 - (iv) Three fluid ounces for frozen desserts, including, but not limited to, ice cream.
 - (v) Eight ounces for nonfrozen yogurt.
 - (vi) Twelve ounces for beverages, excluding water.
 - (vii) Entree items and side dishes, including, but not limited to, French fries and onion rings, shall be no larger than the portions of those foods served as part of the federal school meal program.
- (4) Fruits and vegetables shall be offered for sale at any location on the school site where foods are sold.

49432. Every school shall publicize a summary of nutrition and physical activity laws, regulations, and school district policies by posting the summary in public view within all school cafeterias and distributing it to parents annually. The State Department of Education and school districts shall develop the summary. The department shall develop the portion on state law and regulations. Each school district shall develop the part of the summary on local policies.

49433. (a) A school district may convene a Child Nutrition and Physical Activity Advisory Committee that shall develop and recommend to the governing board of the school for its adoption a school district policy on nutrition and physical activity. The committee shall include food service directors and staff, parents, pupils, dietitians, health care professionals, and interested community organizations. It would exclude food

marketers and other parties with conflicts of interest. In developing the policy, the committee shall hold at least one public hearing.

(b) The policy shall address the following issues and goals:

- (1) Ensuring that no pupil is hungry and that a healthy and nutritious breakfast, lunch, and after-school snack is available to every pupil at every school so that pupils are prepared to learn to their fullest potential.
- (2) Improving nutrition standards, food quality, and choices.
- (3) Increasing availability of fruits and vegetables and other foods high in micronutrients and fiber, and low in sodium, added sugars, cholesterol, and saturated and trans fat in all school related food sites.
- (4) Ensuring that the food served shall be fresh, to the maximum extent possible, via partnerships with farms, school gardens, and local farmers markets.
- (5) Encouraging eligible pupils to participate in the school lunch program by removing barriers to the program.
- (6) Integrating nutrition and physical activity into the overall curriculum.
- (7) Ensuring regular professional development for food services staff.
- (8) Ensuring pupils a minimum of 30 minutes to eat lunch and 20 minutes to eat breakfast.
- (9) Ensuring that pupils engage in healthful levels of vigorous physical activity.
- (10) Ensuring that pupils receive meaningful, effective nutrition education.
- (11) Improving the quality of physical education curricula and increasing training of physical education teachers.
- (12) Enforcing existing physical-education requirements.
- (13) Altering the economic structures in place to encourage healthy eating by pupils (such as reducing the price of healthy foods, increasing the price of low-nutrition foods, etc.) and reduce dependency on generating profits for the school from the sale of unhealthy foods.
- (14) Reducing or eliminating marketing and advertising of commercial brand food products on school campuses.
- (15) Developing a financing plan to implement the policy relying on state and federal funds, private sector partnerships, and other resources.

(c) A school district that develops and adopts a policy by within 18 months of passage of this law shall receive a \$10,000 grant from the State Department of Education, subject to an appropriation being made for that purpose.

49434. The Superintendent of Public Instruction shall supervise the implementation of this article and shall investigate acts of alleged noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools has failed to comply with the provisions of this article, the Superintendent of Public Instruction shall certify this noncompliance to the Attorney General. The Attorney General shall investigate, if necessary, to document the noncompliance. The Attorney General shall seek injunctive relief to secure compliance with this article when requested by the Superintendent of Public Instruction. The Superintendent of Public

Instruction shall ensure the implementation and enforcement of all of the provisions in this article by monitoring schools every two years.

49435. The State Department of Education, with advice from the Child Nutrition Advisory Council, shall design and implement a financial incentive grant program to help and encourage schools to implement their policies and meet the goals described in subdivision (b) of Section 49433.