

118TH CONGRESS
2D SESSION

S. 4002

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 SENATE OF THE UNITED STATES

MARCH 20, 2024

Mr. CASEY (for himself, Mr. BLUMENTHAL, Mr. FETTERMAN, Mr. REED, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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 of 2024”.

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 subparagraph (C), by redesignating
 2 clauses (i) and (ii) as subclauses (I) and (II), respec-
 3 tively, and indenting appropriately;

4 (2) by redesignating subparagraphs (A) through
 5 (F) as clauses (i) through (vi), respectively, and in-
 6 denting appropriately;

7 (3) in the matter preceding clause (i) (as so re-
 8 designated), by striking “No institution shall be eli-
 9 gible to participate in the program unless it satisfies
 10 the following criteria:” and inserting the following:

11 “(A) IN GENERAL.—No institution shall be
 12 eligible to participate in the program unless the
 13 institution—”;

14 (4) in subparagraph (A) (as so designated)—

15 (A) in clause (iii)(II) (as so redesignated),
 16 by striking “the organization shall employ” and
 17 inserting “employs”;

18 (B) in clause (iv) (as so redesignated), by
 19 striking “the organization” before “does not
 20 base”;

21 (C) in clause (v) (as so redesignated), by
 22 striking “the organization” before “has in ef-
 23 fect”; and

1 (D) in clause (vi) (as so redesignated), by
 2 striking “the institution” before “is bonded”;
 3 and
 4 (5) by adding at the end the following:

5 “(B) ANNUAL ELIGIBILITY FOR PRIVATE
 6 ORGANIZATIONS PROVIDING NONRESIDENTIAL
 7 CHILD CARE OR DAY CARE OUTSIDE SCHOOL
 8 HOURS.—The eligibility of an institution de-
 9 scribed in paragraph (2)(B) shall be determined
 10 on an annual basis.”.

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

12 Section 17(d)(5) of the Richard B. Russell National
 13 School Lunch Act (42 U.S.C. 1766(d)(5)) is amended—

14 (1) in subparagraph (B)—

15 (A) by redesignating clauses (i) and (ii) as
 16 subclauses (I) and (II), respectively, and in-
 17 denting appropriately;

18 (B) in the matter preceding subclause (I)
 19 (as so redesignated), by striking “Procedures
 20 established pursuant to” and inserting the fol-
 21 lowing:

22 “(i) IN GENERAL.—Procedures estab-
 23 lished under”; and

24 (i) by adding at the end the following:

1 “(ii) STATE-SPECIFIC REQUIREMENTS
 2 NOT CONSIDERED.—Under procedures es-
 3 tablished under subparagraph (A), the Sec-
 4 retary may not consider State-specific re-
 5 quirements in determining noncompliance
 6 or serious deficiency with respect to an in-
 7 stitution under this section.”;

8 (2) in subparagraph (C), in the matter pre-
 9 ceding clause (i), by striking “pursuant to” and in-
 10 serting “under”; and

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

12 “(F) SERIOUS DEFICIENCY PROCESS.—

13 “(i) IN GENERAL.—Not later than 1
 14 year after the date of enactment of this
 15 subparagraph, the Secretary shall—

16 “(I) review the serious deficiency
 17 process for the program under this
 18 section; and

19 “(II) issue guidance and, as ap-
 20 propriate, regulations based on that
 21 review.

22 “(ii) REVIEW.—Under clause (i)(I),
 23 the Secretary shall review, at a min-
 24 imum—

1 “(I) the processes relating to de-
2 termining a serious deficiency with re-
3 spect to an institution or a family or
4 group day care home, including—

5 “(aa) which measures auto-
6 matically result in a finding of
7 serious deficiency; and

8 “(bb) how to differentiate
9 between—

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

14 “(BB) State-specific re-
15 quirements and Federal reg-
16 ulations;

17 “(II) the processes relating to ap-
18 pealing and mediating a finding of se-
19 rious deficiency with respect to an in-
20 stitution or a family or group day care
21 home, including—

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

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

4 “(III) the processes relating to
5 determining the circumstances under
6 which a corrective action plan is ac-
7 ceptable;

8 “(IV) the processes relating to
9 termination, suspension, and disquali-
10 fication under the program, including
11 maintenance of the list under sub-
12 paragraph (E); and

13 “(V) opportunities for strength-
14 ening the processes intended to reduce
15 additional State agency requirements
16 on institutions or family or group day
17 care homes that are in addition to
18 those required under Federal law, in-
19 cluding—

20 “(aa) State evaluation of
21 practices used at the time of re-
22 view;

23 “(bb) regional approval of
24 those additional State agency re-
25 quirements; and

1 “(cc) oversight through the
2 management evaluation process.

3 “(iii) GUIDANCE AND REGULA-
4 TIONS.—

5 “(I) IN GENERAL.—Guidance
6 and regulations, as applicable, issued
7 under clause (i)(II) shall—

8 “(aa) streamline and mod-
9 ernize the program under this
10 section;

11 “(bb) reduce the paperwork
12 burden on parents; and

13 “(cc) assist sponsoring orga-
14 nizations, State agencies, and the
15 Food and Nutrition Service in
16 ensuring a fair, uniform, and ef-
17 fective administration of the seri-
18 ous deficiency process while re-
19 taining program integrity.

20 “(II) SCOPE.—Guidance and reg-
21 ulations, as applicable, issued under
22 clause (i)(II) shall include—

23 “(aa) clarity on the meas-
24 ures required to determine non-
25 compliance, including—

1 “(AA) an allowance for
2 a reasonable margin of
3 human error; and

4 “(BB) a distinction be-
5 tween a reasonable margin
6 of human error and system-
7 atic or intentional non-
8 compliance;

9 “(bb) a formal appeals and
10 mediation process that—

11 “(AA) is conducted by
12 a trained official who is
13 independent from and not
14 affiliated with any person or
15 agency involved in the deter-
16 mination being appealed or
17 mediated;

18 “(BB) provides an op-
19 portunity for a fair hearing
20 for any institution or family
21 or group day care home de-
22 termined to have a serious
23 deficiency finding or inad-
24 equate corrective action
25 plan; and

1 “(CC) provides for the
 2 evaluation and resolution of
 3 disputes over State agency
 4 requirements for institutions
 5 or family or group day care
 6 homes that are in addition
 7 to requirements under Fed-
 8 eral law;

9 “(cc) timeframes for accept-
 10 able corrective action plans for
 11 group or family day care homes
 12 that are consistent with correc-
 13 tive action timeframes for child
 14 care centers; and

15 “(dd) a process to dismiss a
 16 serious deficiency upon correction
 17 of that serious deficiency.”.

18 **SEC. 4. AUTHORIZATION OF REIMBURSEMENTS FOR ADDI-**
 19 **TIONAL MEAL OR SNACK.**

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

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

24 “(2) DISBURSEMENTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B)”; and

3 (2) by striking subparagraph (B) and inserting
4 the following:

5 “(B) LIMITATION.—No reimbursement
6 may be made to any institution under this para-
7 graph, or to family or group day care home
8 sponsoring organizations under paragraph (3),
9 for more than—

10 “(i) 2 meals and 1 supplement or 1
11 meal and 2 supplements per day per child;
12 or

13 “(ii) 3 meals and 1 supplement or 2
14 meals and 2 supplements per day per
15 child, in the case of child care during
16 which there are 8 or more hours between
17 the beginning of the first meal service pe-
18 riod and the beginning of the fourth meal
19 service period.

20 “(C) STUDY ON THIRD MEAL.—The Sec-
21 retary shall—

22 “(i) not later than 2 years after the
23 date of enactment of this subparagraph,
24 conduct a study on—

1 “(I) the prevalence of third meal
2 reimbursement by program operators;

3 “(II) the role of the third meal in
4 effectively supporting working fami-
5 lies;

6 “(III) the contribution of the
7 third meal to the local economy; and

8 “(IV) the contribution of the
9 third meal to the economic viability of
10 child care and afterschool programs,
11 including in rural areas;

12 “(ii) submit a report to the Com-
13 mittee on Agriculture, Nutrition, and For-
14 estry of the Senate and the Committee on
15 Education and the Workforce of the House
16 of Representatives on the findings of the
17 study under clause (i); and

18 “(iii) based on those findings, provide
19 guidance to program operators—

20 “(I) to improve implementation
21 of the program under this section;

22 “(II) to maximize the utility of
23 the third meal in supporting working
24 families; and

1 “(III) to limit unnecessary costs
 2 to program operators and parents of
 3 participating children.”.

4 **SEC. 5. ADJUSTMENTS.**

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

10 **SEC. 6. ADVISORY COMMITTEE ON PAPERWORK REDUC-**
 11 **TION.**

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

15 “(v) ADVISORY COMMITTEE ON PAPERWORK REDUC-
 16 TION.—

17 “(1) ESTABLISHMENT.—Not later than 180
 18 days after the date of enactment of this subsection,
 19 the Secretary shall establish an advisory committee
 20 (referred to in this subsection as the ‘Advisory Com-
 21 mittee’)—

22 “(A) to examine the feasibility of reducing
 23 unnecessary or duplicative paperwork resulting
 24 from regulations and recordkeeping require-
 25 ments, including paperwork resulting from ad-

ditional State requirements, for persons participating or seeking to participate in the program under this section, including State agencies, family child care homes, child care centers, and sponsoring organizations; and

“(B) to provide recommendations to the Secretary to reduce paperwork for participants in the program under this section while ensuring that proper accountability and program integrity are maintained.

“(2) MEMBERSHIP.—The Advisory Committee shall be composed of not fewer than 14 members, of whom—

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

“(B) 1 shall be a representative of a private nonprofit center;

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

“(D) 1 shall be a representative of a Head Start center;

“(E) 1 shall be a representative of a for-profit center;

“(F) 1 shall be a representative of an emergency shelter;

1 “(G) 1 shall be a representative of an
2 adult day care center;

3 “(H) 1 shall be a representative of a State
4 agency;

5 “(I) 1 shall be a representative of a spon-
6 soring organization for any of the entities de-
7 scribed in subparagraphs (A), (B), (D), (E),
8 (F), and (G);

9 “(J) 1 shall be a representative of a spon-
10 soring organization of family or group day care
11 homes;

12 “(K) 1 shall be a representative of an
13 antihunger advocacy organization;

14 “(L) 1 shall be a representative of an at-
15 risk after school program;

16 “(M) 1 shall be a representative of a child
17 care advocacy organization; and

18 “(N) 1 shall be a representative of an ad-
19 vocacy organization representing parents with
20 young children.

21 “(3) CONSIDERATIONS.—In developing rec-
22 ommendations pursuant to paragraph (1)(B), the
23 Advisory Committee shall consider—

24 “(A) information, recommendations, and
25 reports from the Paperwork Reduction Work

1 Group established by the Food and Nutrition
2 Service pursuant to section 119(i) of the Child
3 Nutrition and WIC Reauthorization Act of
4 2004 (42 U.S.C. 1766 note; Public Law 108–
5 265);

6 “(B) the use of electronic systems and rec-
7 ordkeeping technologies to reduce paperwork
8 for program participants and program opera-
9 tors; and

10 “(C) duplicative requirements across mul-
11 tiple Federal programs.

12 “(4) GUIDANCE AND REGULATIONS.—Not later
13 than 2 years after the date of enactment of this sub-
14 section, the Secretary shall issue guidance and, as
15 appropriate, regulations, based on the recommenda-
16 tions provided to the Secretary under paragraph
17 (1)(B)—

18 “(A) to streamline and modernize applica-
19 tions for the program under this section; and

20 “(B) to streamline and modernize the
21 monitoring and auditing of programmatic docu-
22 mentation and recordkeeping for the program
23 under this section, including by—

1 “(i) eliminating the use of the enroll-
2 ment form for the purpose of claiming
3 meals;

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

6 “(iii) requiring States to accept as
7 documentation digital forms, digitized and
8 electronic signatures, and electronic
9 records;

10 “(iv) allowing the use of electronic
11 data collection systems containing all re-
12 quired Federal standards for the program
13 under this section;

14 “(v) addressing nonmandatory State-
15 specific requirements; and

16 “(vi) requiring the adoption of gen-
17 erally accepted technologies for client-fac-
18 ing technology, virtual visits, and tech-
19 nology used for administrative functions to
20 reduce the burden on participants and pro-
21 gram operators and administrators.

22 “(5) REPORT.—Not later than 180 days after
23 carrying out paragraph (4), the Secretary shall sub-
24 mit a report to the Committee on Agriculture, Nu-
25 trition, and Forestry of the Senate and the Com-

1 mittee on Education and the Workforce of the
2 House of Representatives containing—

3 “(A) with respect to any recommendation
4 of the Advisory Committee provided to the Sec-
5 retary under paragraph (1)(B) that the Sec-
6 retary did not implement, an explanation for
7 nonimplementation; and

8 “(B) recommendations for legislative ac-
9 tion that may further—

10 “(i) strengthen and streamline pro-
11 gram application and monitoring processes;
12 and

13 “(ii) reduce administrative burdens on
14 grantees, program participants, local and
15 State Governments, and the Federal Gov-
16 ernment.”.

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