

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Healthy Schools Act of 2010 to add an annual subsidy for schools implementing breakfast in the classroom, to repeal the reimbursement for meeting the school lunch nutrition guidelines, to encourage schools to procure food in a manner consistent with the Good Food Purchasing Program, to require that certain schools permit breakfast after classes begin for the day, to authorize the Office of the State Superintendent of Education to grant temporary waivers to schools that want to use alternative serving models to increase breakfast participation, to require the Office of Planning to develop recommendations for the Mayor on best practices for building and managing a central kitchen, to require schools to post menu, nutrition, and sourcing information for school meals on their websites, to require District of Columbia Public Schools to conduct a baseline assessment for the Good Food Purchasing Program, increase purchasing of food that meets Good Food Purchasing Program standards, and complete a follow-up assessment, to establish certain physical education and physical activity goals for different age groups, to authorize the Office of the State Superintendent of Education to review local wellness policies and deem schools ineligible for Healthy Schools Fund grants when not in compliance with federal or local requirements, to make participating in the selection process for grants provided under the Healthy Schools Fund a function of the Healthy Youth and Schools Commission, and to combine all Office of the State Superintendent of Education reports related to compliance with the Healthy Schools Act of 2010 into one annual comprehensive report.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Healthy Students Amendment Act of 2018”.

Sec. 2. The Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-821.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 38-821.01) is amended as follows:

(1) The first paragraph (1), defining the term “drinking water source”, is redesignated as paragraph (1C).

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(2) The second paragraph (1), defining the term “formula grants process”, is redesignated as paragraph (1D).

(3) Paragraph (1A), defining the term “Healthy Schools Fund”, is redesignated as paragraph (1G).

(4) New paragraphs (1), (1A), and (1B) are added to read as follows:

“(1) “Alternative breakfast serving model” means a model of serving breakfast:

“(A) Such as breakfast in the classroom or breakfast on grab-and-go carts, in which breakfast is:

“(i) Offered in one or more locations with high student traffic other than the cafeteria; and

“(ii) Available after the start of the school day or both before and after the start of the school day; and

“(B) That has been proven to increase student participation in breakfast relative to the traditional serving model, in which breakfast is served in the cafeteria before the start of the school day.

“(1A) “Animal product” means meat, poultry, seafood, dairy, eggs, honey, and any derivative thereof.

“(1B) “Breakfast in the classroom” means an alternative breakfast serving model where students eat breakfast in the classroom after the start of the school day.”.

(5) New paragraphs (1E) and (1F) are added to read as follows:

“(1E) “Good Food Purchasing Program’s core values” means the following 5 core values established by the Center for Good Food Purchasing for its Good Food Purchasing Program:

“(A) Local economics;

“(B) Nutrition;

“(C) Valued workforce;

“(D) Environmental sustainability; and

“(E) Animal welfare.

“(1F) “Health education” means instruction of the District of Columbia Health Education Standards.”.

(6) Paragraph (2) is amended by striking the phrase “Schools and Youth” and inserting the phrase “Youth and Schools” in its place.

(7) New paragraphs (6B), (6C), and (6D) are added to read as follows:

“(6B) “Physical activity” means bodily movement, including walking, dancing, or gardening.

“(6C) “Physical education” means instruction based on the District of Columbia Physical Education Standards, of which at least 50% of the time is spent in moderate to vigorous physical activity.

“(6D) “Plant-based food option” means food or beverages that:

“(A) Are free of animal products; and

“(B) With respect to the meat or meat alternate component of a meal, provide a source recognized by the United States Department of Agriculture as a meat alternate free of animal products for the purposes of the National School Lunch Program.”.

(8) A new paragraph (11) is added to read as follows:

“(11) "Vegetarian food option" means food or beverages that:

“(A) Are free of meat, poultry, and seafood; and

“(B) With respect to the meat or meat alternate component of a meal, provide a source recognized by the United States Department of Agriculture as a meat alternate free of meat, poultry, and seafood for the purposes of the National School Lunch Program.”.

(b) Section 102 (D.C. Official Code § 38-821.02) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (1)(A) is amended by striking the word “Ten” and inserting the word “Twenty” in its place.

(B) Paragraph (3) is amended by striking the phrase “schools 40 cents for each lunch meal that meets the requirements of sections 202 and 203 and is served to students who qualify for reduced-price meals.” and inserting the phrase “schools, for each lunch meal that meets the requirements of sections 202 and 203 and is served to a student who qualifies for reduced-price meals, the greater of:

“(A) Forty cents; or

“(B) The difference between the U.S. Department of Agriculture reimbursement rate for a free lunch and a reduced-price lunch.” in its place.

(C) Paragraph (4) is repealed.

(D) A new paragraph (4A) is added to read as follows:

“(4A)(A) To provide resources to implement alternative breakfast serving models, the Office of the State Superintendent of Education shall provide an annual subsidy of \$2 per student to public schools, public charter schools, and participating private schools that implement an approved alternative breakfast serving model.

“(B) Schools shall use funds received pursuant to this paragraph to purchase equipment and supplies needed to operate the alternative breakfast serving model.”.

(E) Paragraph (7) is amended by striking the phrase “school gardens” and inserting the phrase “school gardens or promote health education” in its place.

(2) Subsection (g) is amended by striking the phrase “at the end of a fiscal year” and inserting the phrase “on May 31 each year” in its place.

(c) Section 201 (D.C. Official Code § 38-822.01) is amended to read as follows:

“Sec. 201. General goals and standards.

“(a)(1) Public schools, public charter schools, and participating private schools shall:

“(A) Serve nutritious and well-balanced meals to students.

“(B)(i) Provide meals with a vegetarian food option as the main course for breakfast and lunch every day at all grade levels;

“(ii) Rotate main course vegetarian food options daily to avoid repetition; and

“(iii) Clearly label or identify meals that contain only vegetarian food options as vegetarian; and

“(C) Reasonably accommodate religious and non-medical dietary restrictions.

“(2) A “school food authority”, as defined in 7 C.F.R. § 210.2, shall not require a student requesting a plant-based food option, or other non-medical dietary accommodation, to obtain a note from a doctor.

“(b) Public schools, public charter schools, and participating private schools are encouraged to serve plant-based food option as the main course at breakfast and lunch each day to each student.

“(c) Public schools, public charter schools, and participating private schools are strongly encouraged to procure food in a manner consistent with the Good Food Purchasing Program’s core values.”.

(d) Section 202(b) (D.C. Official Code § 38-822.02(b)) is amended to read as follows:

“(b) In addition to the requirements of subsection (a) of this section, breakfast, lunch, after-school snacks and suppers, and summer meals served to students in public schools, public charter schools, and participating private schools or by organizations participating in the Afterschool Meal Program or the Summer Food Service Program shall meet or exceed the following nutritional requirements:

“(1) All milk shall be unflavored; and

“(2)(A) All grain products shall be whole grain-rich.

“(B) For the purposes of this paragraph, the term “whole grain-rich” means that the product contains at least 50% whole grains and the remaining grains in the product must be enriched.”.

(e) Section 203 (D.C. Official Code § 38-822.03) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Subparagraph (A) is amended by striking the semicolon and inserting the phrase “, except as provided in paragraph (3)(A) of this subsection;” in its place.

(ii) Subparagraph (B) is amended to read as follows:

“(B) A public middle and high school, public charter middle and high school, and participating private middle and high school shall offer alternative breakfast serving models each day; and”.

(B) A new paragraph (3) is added to read as follows:

“(3)(A) The Office of the State Superintendent of Education may grant a waiver to an elementary school required to serve breakfast in the classroom under paragraph (2)(A) of this subsection for one school year if the school food authority, as defined in 7 C.F.R. § 210.2, submits a written action plan to the Office of the State Superintendent of Education showing a strategy to utilize an alternative breakfast serving model that will enable the school to reach the breakfast participation rate in paragraph (2)(C) of this subsection.

“(B) Elementary schools that do not demonstrate incremental progress toward meeting the participation rate in paragraph (2)(C) of this subsection upon completion of the one school year waiver period shall implement breakfast in the classroom at the start of the following school year.”.

(2) Subsection (b)(6) is amended by striking the phrase “and commodity foods programs” and inserting the phrase “programs and Child Nutrition U.S. Department of Agriculture foods program in its place.

(f) Section 204 (D.C. Official Code § 38-822.04) is repealed.

(g) A new section 204a is added to read as follows:

“Sec. 204a. Central kitchen report.

“(a) Within 90 days of the applicability date of the Health Students Amendment Act of 2018, passed on 1st reading on November 13, 2018 (Engrossed version of Bill 22-313), the Office of Planning shall submit a report to the Mayor and the Council describing best practices for developing a central kitchen in the District to:

“(1) Prepare, process, grow, and store healthy and nutritious foods for schools and nonprofit organizations;

“(2) Support nutrition education programs; and

“(3) Provide job-training programs for students and District residents.

“(b) The report required by subsection (a) of this section shall:

“(1) Include research and case studies on central kitchen facilities in other jurisdictions;

“(2) Identify any agencies that should design, build, or manage a central kitchen facility; and

“(3) Consider how a central kitchen facility could assist other facilities serving meals, such as child development centers, senior centers, recreation centers, and corrections facilities.”.

(h) Section 205 (D.C. Official Code § 38-822.05) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the phrase “and participating private schools:” and inserting the phrase “participating private schools, and the Office of the State Superintendent of Education:” in its place.

(B) Paragraph (4) is amended by striking the phrase “and whether growers are engaged in sustainable agricultural practices”.

(2) Subsection (b)(1)(B) is amended by striking the phrase “Online, if the school has a website” and inserting the phrase “On the school’s website” in its place.

(i) Section 206(a) (D.C. Official Code § 38-822.06(a)) is amended by striking the phrase “shall meet the requirements of the United States Department of Agriculture’s HealthierUS School Challenge program at the Gold Award Level for competitive foods, as may be revised from time to time and notwithstanding any termination of the HealthierUS School Challenge program.” and inserting the phrase “shall meet or exceed the standards described in 7 C.F.R. § 210.11(c)-(m).” in its place.

(j) Section 207 (D.C. Official Code § 38-822.07) is amended by striking the phrase “Schools and Youth” and inserting the phrase “Youth and Schools” in its place.

(k) A new section 208 is added to read as follows:

“Sec. 208. DC Free Summer Meals Program report.

“The Office of the State Superintendent of Education and the Department of Parks and Recreation shall submit a joint report to the Mayor and the Council on strategies to increase participation in the DC Free Summer Meals Program by January 1, 2020.”

(l) Section 301a(a) (D.C. Official Code § 38-823.01a(a)) is amended by striking the phrase “Schools and Youth” and inserting the phrase “Youth and Schools” in its place.

(m) A new section 301b is added to read as follows:

“Sec. 301b. Good Food Purchasing Program.

“(a) Before December 31, 2019, the District of Columbia Public Schools (“DCPS”) shall conduct a Good Food Purchasing Program (“GFPP”) baseline assessment to determine how DCPS can better meet the GFPP core values.

“(b) DCPS shall use findings from the assessment required under subsection (a) of this section to increase food procurement consistent with the GFPP’s core values.

“(c) Before December 31, 2020, and annually thereafter, DCPS shall complete a follow-up assessment to demonstrate progress toward the GFPP core values.”

(n) Section 303 (D.C. Official Code § 38-823.03) is amended to read as follows:

“Sec. 303. Mandatory reporting.

“Beginning September 30, 2020, and biennially thereafter, the Office of the State Superintendent of Education shall submit to the Mayor, the Council, and the Healthy Youth and Schools Commission a comprehensive report on the District’s compliance with this act, which shall include:

“(1) An update on farm-to-school initiatives and recommendations for improving these initiatives; and

“(2) The information required in sections 405 and 502(c).”

(o) Section 401 (D.C. Official Code § 38-824.01) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “60 minutes each day” and inserting the phrase “at least 60 minutes each day or for the time period recommended for specific age groups in section 402” in its place.

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(2) Subsection (c) is amended as follows:

(A) Paragraph (4) is amended by striking the phrase “after-school activities” and inserting the phrase “before-school and after-school activities” in its place.

(B) Paragraph (5) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(C) Paragraph (6) is amended by striking the phrase “classroom instruction.” and inserting the phrase “classroom instruction and classroom instructional breaks;” in its place.

(D) New paragraphs (7) and (8) are added to read as follows:

“(7) Entering into shared-use agreements with organizations that provide physical activity programming for children outside of the normal school day; and

“(8) Using physical activity as a reward for student achievement and good behavior.”.

(p) Section 402 (D.C. Official Code § 38-824.02) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) Public schools and public charter schools shall schedule physical education classes for all students on a weekly basis, and recess for all students on a daily basis, throughout the school year as follows:

“(1)(A) For students in grades kindergarten through 5, it shall be the goal of all schools to provide an average of 150 minutes of physical education per week, and at least one recess of at least 20 minutes per day.

“(B) A school that provides less than an average of 90 minutes per week of physical education in a school year for students in grades kindergarten through 5 shall submit an action plan to the Office of the State Superintendent of Education detailing efforts it will take to increase physical education before the beginning of the next school year and shall work with the Office of the State Superintendent of Education to increase the amount of time provided for physical education each week.

“(2)(A) For students in grades 6 through 8, it shall be the goal of all schools to provide an average of 225 minutes of physical education per week, and at least one recess of at least 20 minutes per day.

“(B) A school that provides less than an average of 135 minutes per week of physical education in a school year for students in grades 6 through 8 shall submit an action plan to the Office of the State Superintendent of Education detailing efforts it will take to increase physical education before the beginning of the next school year and shall work with the Office of the State Superintendent of Education to increase the amount of time provided for physical education each week.”.

(2) A new subsection (a-1) is added to read as follows:

“(a-1)(1) For students in Pre-K 3 and Pre-K 4, public schools and public charter schools shall:

activity per day; “(A) Provide an average of 60 minutes of moderate-to-vigorous physical

per day; and “(B) Set a goal of providing an average of 90 minutes of physical activity

per day, weather and space permitting, which may count toward the 60 minutes of physical activity per day requirement.

“(2) A school that provides less than an average of 60 minutes per day of physical activity in a school year shall submit an action plan to the Office of the State Superintendent of Education detailing efforts it will take to increase physical activity before the beginning of the next school year and shall work with the Office of the State Superintendent of Education to increase the amount of time provided for physical activity each week.”.

(3) Subsection (c) is amended by striking the phrase “The State Board of Education” and inserting the phrase “The Healthy Youth and Schools Commission” in its place.

(q) Section 402a (D.C. Official Code § 38-824.02a) is repealed.

(r) Section 403 (D.C. Official Code § 38-824.03) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) A student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student. Public schools and public charter schools shall provide suitably adapted physical education or supplementary aids for any other student with special needs that preclude the student from participating in regular physical education instruction, as required by section 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794).”.

(2) A new subsection (c) is added to read as follows:

“(c) The Office of the State Superintendent of Education shall provide and coordinate annual professional-development sessions for school personnel, provided by a certified instructor and based on nationally recognized standards, related to incorporating physical activity into classroom instruction, classroom instruction breaks, and active recess.”.

(s) Section 405 (D.C. Official Code § 38-824.05) is amended as follows:

(1) The lead-in language is amended to read as follows:

“Beginning in 2020, and biennially thereafter, the Office of the State Superintendent shall include information regarding the following in the report required pursuant to section 303:”.

(2) Paragraph (1) is amended by striking the phrase “physical and health education” and inserting the phrase “health education and physical education and activity” in its place.

(3) Paragraph (2) is amended by striking the phrase “physical education standards” and inserting the phrase “physical education and activity standards” in its place.

(t) Section 501(b)(2) (D.C. Official Code § 38-825.01(b)(2)) is amended by striking the phrase “Schools and Youth” and inserting the phrase “Youth and Schools” in its place.

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(u) Section 502 (D.C. Official Code § 38-825.02) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (4) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(B) Paragraph (5) is amended by striking the period and inserting the phrase “; and” in its place.

(C) A new paragraph (6) is added to read as follows:

“(6) Assist public schools and public charter schools in receiving certification as U.S. Department of Education Green Ribbon Schools.”.

(2) Subsection (c) is amended as follows:

(A) Strike the phrase “One year after December 17, 2014” and insert the phrase “Beginning in 2020” in its place.

(B) Strike the phrase “shall issue a report” and insert the phrase “shall include in the comprehensive report required by section 303, an update” in its place.

(v) Section 503 (D.C. Official Code § 38-825.03) is amended as follows:

(1) Subsection (a)(5) is amended by striking the phrase “horticultural guidance and”.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “On or before June 30, 2012” and insert the phrase “On or before September 30, 2020, and biennially thereafter” in its place.

(B) Strike the phrase “Schools and Youth” and insert the phrase “Youth and Schools” in its place.

(3) Subsection (d) is amended by striking the phrase “the public school where the produce was grown” and inserting the phrase “the school garden program at the school where the produce is grown” in its place.

(w) Section 601(d) (D.C. Official Code § 38-826.01(d)) is amended as follows:

(1) Designate the existing text as paragraph (1).

(2) A new paragraph (2) is added to read as follows:

“(2) The Office of the State Superintendent of Education may deem a school ineligible for grants from the Healthy Schools Fund if the Office of the State Superintendent of Education finds that the school’s local wellness policy does not conform with the federal requirements or that the school has not complied with its local wellness policy.”.

(x) Section 602 (D.C. Official Code § 38-826.02) is amended by adding a new subsection (e) to read as follows:

“(e)(1) The Office of the State Superintendent of Education shall ensure each public school and public charter school complies with subsections (a) and (c) of this section.

“(2) The Office of the State Superintendent of Education may deem a school ineligible for grants from the Healthy Schools Fund if the Office of the State Superintendent of Education finds that the school has not complied with subsections (a) and (c) of this section.”.

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(y) Section 603(c) (D.C. Official Code § 38-826.03(c)) is amended by striking the phrase “Schools and Youth” and inserting the phrase “Youth and Schools” in its place.

(z) Section 701(b) (D.C. Official Code § 38-827.01(b)) is amended as follows:

(1) Paragraph (6) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Paragraph (7) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (8) is added to read as follows:

“(8) Participating in the selection process for any grants provided under the Healthy Schools Fund established pursuant to section 102.”.

Sec. 3. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia