

# BACKGROUND

No. 3399 | MARCH 22, 2019

## Returning to the Intent of Government School Meals: Helping Students in Need

*Jonathan Butcher and Vijay Menon*

### Abstract

*The National School Lunch Program's (NSLP) original goal was to help students in need, but policy changes in the past decade have made students from middle-income and upper-income families eligible for federally funded school meals. The Community Eligibility Provision (CEP), an expansion of the NSLP enacted in 2010, effectively created a federal entitlement to school meals for all children, regardless of income, in certain areas. With more and more students eligible for and participating in the NSLP, more and more resources meant for students in need will be lost. If Washington wants to help students from low-income families, federal officials should repeal the CEP, and continue to use student-enrollment mechanisms, such as direct certification, to reduce errors in one of the nation's most error-prone federal systems.*

The National School Lunch Program (NSLP), operated by the Food and Nutrition Service of the U.S. Department of Agriculture (USDA), serves meals to 30 million public and private K–12 students every year.<sup>1</sup> Started in 1946, the NSLP has grown from a grant program to help feed students from low-income families and children with special needs to a federal entitlement for millions of students—in some areas, regardless of income.<sup>2</sup>

Over the past century, Washington has expanded its school meal service from lunch to include breakfast (through the School Breakfast Program) and dinner (through the Child and Adult Care Food Program). And, in 2010, federal lawmakers abandoned any pretense of limiting services to students in need with the Community Eligibility Provision (CEP).<sup>3</sup> Through the CEP, all children in a school, group of schools, or school district can receive free meals at taxpayer

### KEY POINTS

- Today, 30 million students are in the National School Lunch Program (NSLP)—nearly 60 percent of all children enrolled in public and private schools.
- The NSLP was intended to help students in need, and the Community Eligibility Provision (CEP) is a departure from that goal.
- Washington pays for billions of school meals every year. These increases in school meal participation have occurred as poverty rates have stabilized—even decreased—around the country.
- The CEP expands eligibility so that no government agency—local, state, or federal—has to be responsible for high error rates—because providing federally subsidized meals to students in middle-income and upper-income families is no longer an error under the CEP.
- Congress should eliminate the CEP and focus taxpayer resources on helping children from low-income families.

This paper, in its entirety, can be found at <http://report.heritage.org/bg3399>

**The Heritage Foundation**  
214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400 | [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

expense if 40 percent of students are from families participating in other means-tested assistance programs, such as the Supplemental Nutrition Assistance Program (SNAP, or food stamps).<sup>4</sup>

Progressives advocate for this expanded reach. For example, in March 2018, the Center for American Progress stated that federal lawmakers should “offer free breakfast and lunch for all students, regardless of income.”<sup>5</sup> The Center for Budget and Policy Priorities (CBPP) says that the CEP has “many benefits,” is a “powerful tool,”<sup>6</sup> and has a “sound design.”<sup>7</sup>

This report provides evidence that the CEP actually converts a federal assistance program meant to help families in need into an entitlement that departs from the NSLP’s original purpose. Furthermore, the CEP makes more children eligible for a waste-prone program. Federal lawmakers should repeal the CEP and focus taxpayer resources on helping children from low-income families.

At the same time, schools and school districts should continue to use and improve upon “direct certification,” a method of confirming eligible students that has lower error rates than other NSLP practices, along with traditional applications to identify stu-

dents eligible for federal meals.<sup>8</sup> Policymakers should take advantage of the efficiencies provided by direct certification, but stop short of using it as a means to extend eligibility for free meals to an entire school or school district (the current CEP policy). Instead, state and local officials should limit the use of direct certification to the function it served before the introduction of the CEP: identifying individual students in need automatically (by “linking” school enrollment information with participation in government assistance programs, such as food stamps, instead of requiring families to complete an application<sup>9</sup>).

Finally, the U.S. Department of Education has documented the problems with using eligibility for free and reduced-price lunches (FRL) as a proxy for poverty, which affects not just research results but taxpayer burdens, too. The CEP has changed the meaning of FRL, and the indicator is no longer a reliable measure of the level of need in a school community. Federal agencies should find a better indicator—such as household income or qualification for a means-tested program that requires proof of income—to use for determining student and school assistance levels.

1. U.S. Department of Agriculture, “Child Nutrition Tables: National School Lunch Program: Participation and Lunches Served,” data as of February 8, 2019, <https://fns-prod.azureedge.net/sites/default/files/pd/slsummar.pdf> (accessed February 22, 2019), and National Center for Education Statistics, *2017 Digest of Education Statistics*, Table 203.75, Enrollment and Percentage Distribution of Enrollment in Public Schools, by Family Poverty Rate of 5- to 17-year-olds Living in the School District, Student Race/Ethnicity, Region, and School Locale: 2013-14, [https://nces.ed.gov/programs/digest/d17/tables/dt17\\_203.75.asp](https://nces.ed.gov/programs/digest/d17/tables/dt17_203.75.asp) (accessed February 22, 2019).
2. Gordon W. Gunderson, “The National School Lunch Program: Background and Development,” U.S. Department of Agriculture, 1971, <https://fns-prod.azureedge.net/sites/default/files/NSLP-Program%20History.pdf> (accessed February 22, 2019).
3. As explained below, the CEP is part of the Healthy, Hunger-Free Kids Act of 2010. Public Law 111-296. 124 Stat. 3183, December 13, 2010, [https://fns-prod.azureedge.net/sites/default/files/PL\\_111-296.pdf](https://fns-prod.azureedge.net/sites/default/files/PL_111-296.pdf) (accessed February 25, 2019).
4. U.S. Department of Agriculture, “The Community Eligibility Provision: What Does It Mean for Your School or Local Educational Agency?” April 2015, <https://fns-prod.azureedge.net/sites/default/files/cn/CEPfactsheet.pdf> (accessed February 25, 2019).
5. Lisette Partelow, Catherine Brown, Sarah Shapiro, and Stephenie Johnson, “7 Great Education Policy Ideas for Progressives in 2018,” Center for American Progress, March 28, 2018, <https://www.americanprogress.org/issues/education-k-12/reports/2018/03/28/448156/7-great-education-policy-ideas-progressives-2018/> (accessed February 25, 2019).
6. Becca Segal et al., “Community Eligibility Adoption Rises for the 2015-2016 School Year, Increasing Access to School Meals,” Center for Budget and Policy Priorities, May 13, 2016, <https://www.cbpp.org/research/food-assistance/community-eligibility-adoption-rises-for-the-2015-2016-school-year> (accessed February 25, 2019).
7. Ibid.
8. April Yanyuan Wu and Quinn Moore, “The Second Access, Participation, Eligibility, and Certification Study (APEC II): Estimating and Validating Statistical Models for Updating Estimates of Improper Payments in the NSLP and SBP,” Mathematica Policy Research, November 2016, <https://fns-prod.azureedge.net/sites/default/files/ops/APEC-II-NationalModelingReport.pdf> (accessed February 25, 2019).
9. Erica Greenberg, “New Measures of Student Poverty,” The Urban Institute, November 2018, [https://www.urban.org/sites/default/files/publication/99325/new\\_measures\\_of\\_student\\_poverty\\_1.pdf](https://www.urban.org/sites/default/files/publication/99325/new_measures_of_student_poverty_1.pdf) (accessed March 5, 2019). See also U.S. Department of Agriculture, “Direct Certification in the National School Lunch Program: State Implementation Progress, School Year 2014-2015,” Special Nutrition Programs Report No. CN-15-DC, December 2016, <https://fns-prod.azureedge.net/sites/default/files/ops/NSLPDirectCertification2015.pdf> (accessed March 5, 2019).

## Historical Development of School Meals

School meals did not start as a federal program. Private charities and state-based food assistance programs for K–12 students in the U.S. date back to the mid-19th century. Gordon W. Gunderson, former director of the federal office administering meal programs in Wisconsin and NSLP historian, says school meals began with “sporadic food services undertaken by private societies [such as the Children’s Aid Society of New York] and associations interested in child welfare and education.”<sup>10</sup>

These charities focused on serving children from low-income families, children with special needs, and students in rural schools. By the turn of the 20th century, state and local governments also began providing assistance to students in need, while private organizations remained active.<sup>11</sup> In New York City, “volunteer social organizations” provided meals for elementary school students until 1920.<sup>12</sup> Between 1900 and 1920, the boards of education in large cities, such as Los Angeles and St. Louis, began budgeting for school meals, and state lawmakers increased the funding for and provision of meals during the Great Depression and in the years that followed.

The introduction of meals in public and private schools, then, had two important features: (1) Private charities and local governments provided resources and food, and (2) the meals were primarily for students in need.

During the Depression, state policymakers turned to Washington for additional funding. By the mid-1930s, the USDA was providing aid to schools in cer-

tain geographic areas in response to requests from local officials. State and local policymakers continued to request federal aid into the 1940s, and the first significant congressional action authorizing money for school meals came in 1943. That year, Washington approved \$60 million for food service contractors that supplied school meals.<sup>13</sup>

Just three years later, lawmakers made Washington’s school lunch program official with the enactment of the National School Lunch Act. The legislation, which created the NSLP, was meant to provide school meals to students from low-income families.<sup>14</sup> The law said: “Such meals shall be served without cost or at a reduced cost to children who are determined by local school authorities to be unable to pay the full cost of the lunch.”<sup>15</sup> Gunderson says that the act’s passage marked the creation of a “permanent” federal presence in school meals.<sup>16</sup>

Over the years, NSLP participation increased along with K–12 student enrollment in the nation’s public and private schools. In 1946, federal taxpayer resources provided nearly 7 million K–12 students with meals, approximately one-fourth of students ages five to 17 enrolled in public and private schools.<sup>17</sup> Today, the 30 million students in the NSLP are equivalent to nearly 60 percent of all children enrolled in public and private schools.<sup>18</sup>

What started as charitable and local government efforts to help students in need has become a set of 15 USDA programs, with lunches and breakfasts alone funded at \$18 billion per year, for all students in some schools and school districts, regardless of income.<sup>19</sup>

10. Gunderson, “The National School Lunch Program: Background and Development,” p. 7.

11. Ibid.

12. Ibid., p. 10.

13. Ibid., p. 17.

14. Public Law 396, 79th Congress, June 4, 1946, 60 Stat. 231, <http://legisworks.org/congress/79/publaw-396.pdf> (accessed March 5, 2019).

15. Public Law 396, 79th Congress, June 4, 1946, 60 Stat. 231, p. 233.

16. Gunderson, “The National School Lunch Program: Background and Development.” See also House Committee on Agriculture Report Public Law 396, 79th Congress, June 4, 1946.

17. Gunderson, “The National School Lunch Program: Background and Development,” p. 18, and Thomas D. Snyder, ed., *120 Years of American Education: A Statistical Portrait* (Washington, DC: U.S. Department of Education, 1993), p. 15, <https://nces.ed.gov/pubs93/93442.pdf> (accessed February 25, 2019).

18. Diane Whitmore Schanzenbach, “Do School Lunches Contribute to Childhood Obesity?” *Journal of Human Resources*, Vol. 44, No. 3 (2009), <http://www.sesp.northwestern.edu/docs/publications/982412224551ec93458609.pdf> (accessed February 25, 2019), and U.S. Department of Agriculture, “Child Nutrition Tables: National School Lunch–Participation and Meals Served; National Center for Education Statistics,” *2017 Digest of Education Statistics*, Table 203.75.

19. News release, “Ag Secretary Perdue Moves to Make School Meals Great Again,” U.S. Department of Agriculture, May 1, 2017, <https://www.usda.gov/media/press-releases/2017/05/01/ag-secretary-perdue-moves-make-school-meals-great-again> (accessed February 25, 2019).

Washington pays for billions of school meals every year (nearly 5 billion lunches and 2.4 billion breakfasts in 2016).<sup>20</sup> These increases in school meal participation have occurred as poverty rates have stabilized—even decreased—around the country.<sup>21</sup> In 2005, the Brookings Institution’s Ron Haskins wrote in *Education Next*, “Behind the overcooked vegetables and steam-table pizza that some 29 million American children confront each school day is an industry that rivals defense contractors and media giants in its ability to bring home the federal bacon.”<sup>22</sup>

### The Community Eligibility Provision

The CEP is a recent, significant expansion of the NSLP. Federal lawmakers included the provision in the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), which updated the policies and funding for USDA food services, including the NSLP and the School Breakfast Program (SBP).<sup>23</sup> From 2010 to 2014, the CEP was applied to schools and districts in select areas—Illinois, Kentucky, and Michigan in the 2011–2012 school year; the District of Columbia, New York, Ohio, and West Virginia in the 2012–2013 school year; and Florida, Georgia, Maryland, and Massachusetts in the 2013–2014 school year.<sup>24</sup> The CEP became available to school and school districts in every state in the 2014–2015 school year.<sup>25</sup>

School-wide and district-wide CEP adoption is not required, so schools and districts opt into CEP provi-

sions.<sup>26</sup> In the 2015–2016 school year, 18,000 schools—half of all CEP-eligible schools—participated.<sup>27</sup>

Schools or school districts, called local education agencies (LEAs) are eligible for the CEP if at least 40 percent of their enrolled students are directly certified (the identified student percentage (ISP)). Students are directly certified as “identified students” if they live in households participating in certain federal assistance programs, such as SNAP, Temporary Assistance to Needy Families (TANF), Food Distribution Program on Indian Reservations (FDPIR), or Medicaid (in certain areas), or meet certain designations, such as being homeless, a migrant, in foster care, or in Head Start. Groups of schools can participate in the CEP even if the district office does not elect all schools in the district to take part.<sup>28</sup>

According to federal regulation—not statute—districts can take schools with ISPs lower than 40 percent and greater than 40 percent and combine the schools into groups with combined ISPs of 40 percent or greater.<sup>29</sup> The Food Research & Action Center even provides guidance on how districts can group schools with higher ISPs together with schools that have lower ISPs in order to give all of the schools, collectively, ISPs that qualify for the CEP.<sup>30</sup>

As prior research by Heritage Foundation analysts has shown, NSLP and SBP participation has grown, though the research is mixed on how much of this is

20. U.S. Department of Agriculture, “Child Nutrition Tables: National School Lunch–Participation and Meals Served,” data as of February 8, 2019; U.S. Department of Agriculture, “National School Lunch Program”; and U.S. Department of Agriculture, “School Breakfast Program.”
21. See, for example, Matthew M. Chingos, “No More Free Lunch for Federal Education Policymakers and Researchers,” The Brookings Institution, June 30, 2016, <https://www.brookings.edu/research/no-more-free-lunch-for-education-policymakers-and-researchers/> (accessed February 25, 2019).
22. Ron Haskins, “The School Lunch Lobby,” *Education Next*, Vol. 5, No. 3 (Summer 2005), <https://www.educationnext.org/the-school-lunch-lobby/> (accessed February 25, 2019).
23. Healthy, Hunger-Free Kids Act of 2010, Public Law 111–296. 124 Stat. 3183, December 13, 2010. The School Breakfast Program was originally added to federal law in 1966 through the Child Nutrition Act. See Lee Hoffman, “Free and Reduced-Price Lunch Eligibility Data in ED Facts: A White Paper on Current Status and Potential Changes,” U.S. Department of Education, September 2012, p. 2, <https://files.eric.ed.gov/fulltext/ED556048.pdf> (accessed February 25, 2019).
24. Segal et al., “Community Eligibility Adoption Rises for the 2015–2016 School Year, Increasing Access to School Meals.”
25. Ibid.
26. Hoffman, “Free and Reduced-Priced Lunch Eligibility Data in ED Facts,” p. v.
27. Segal et al., “Community Eligibility Adoption Rises for the 2015–2016 School Year, Increasing Access to School Meals.”
28. U.S. Department of Agriculture, “Community Eligibility Provision: Guidance and Updated Q&As,” September 9, 2016, p. 3, <https://fns-prod.azureedge.net/sites/default/files/cn/SP54-2016os.pdf> (accessed February 25, 2019).
29. U.S. Department of Agriculture, “The Community Eligibility Provision (CEP): What Does It Mean for Your School or Local Education Agency?” <https://www.fns.usda.gov/sites/default/files/cn/CEPfactsheet.pdf> (accessed February 25, 2019).
30. Food Action & Research Center, “Community Eligibility: Making It Work with Lower ISPs,” November 2018, p. 3, <http://frac.org/wp-content/uploads/making-cep-work-with-lower-isps.pdf> (accessed February 25, 2019).

due to the CEP.<sup>31</sup> The number of schools participating in the CEP in 2014 was double the Congressional Budget Office's estimate from 2010.<sup>32</sup> However a CBPP analysis of high-poverty schools participating in the CEP found that 14 states saw either a decrease, the number remained the same, or no data were available on the number of participating schools from the 2014–2015 and 2015–2016 school years.<sup>33</sup> Missouri only saw the addition of two schools, while North Dakota added one.

In a 2014 evaluation, the USDA found that student participation in the NSLP increased in CEP school districts by an average of just 5 percent, while the average increase in the school breakfast program across CEP districts was 9 percent.<sup>34</sup> This finding should come as no surprise given that the CEP makes more students eligible for free school meals. However, the agency did not report the newly participating students' family income. Indeed, the USDA has not reported evidence that more low-income students were choosing free meals because of the CEP.<sup>35</sup> To date, there is no data from the USDA to indicate how many middle-income and upper-income students are participating in the NSLP because of the provision.

### The CEP Departs from the NSLP's Intent

Through the CEP, more students from *all* income levels are now eligible for free meals. This means that Washington's focus has strayed from the original purpose of school meal programs: providing meals to students in need.

Implicit in arguments in favor of the CEP is that the provision would extend free meals to students whose families are not low-income. For example, the CBPP states that “[t]ypically, at least 65 percent of the students at schools eligible for community eligibility qualify for free or reduced-price meals.”<sup>36</sup> This figure suggests that up to 35 percent of students in a CEP-

eligible school would automatically have access to free federal meals despite being ineligible for them pre-CEP. This can only mean that students from middle-income and upper-income families are now included.

As noted, school districts participating in the CEP can group schools that do not meet the 40 percent ISP threshold with schools that do, allowing the former to also offer free meals to all students. According to the CBPP:

Any school district with at least one school with an Identified Student Percentage of 40 percent or more can participate in community eligibility beginning with the 2014–2015 school year. School districts choose whether qualifying schools will participate in community eligibility individually, as part of a group, or district-wide. If schools are grouped, the Identified Student Percentage and free claiming percentage are calculated across the entire group. *Schools may be grouped any way a district chooses, including combining schools with Identified Student Percentages that are lower and higher than 40 percent, so long as the group as a whole has an Identified Student Percentage of 40 percent or more.*<sup>37</sup> (Emphasis added.)

Consider a school district with four schools of 1,000 students each. Schools A and B have 800 identified students each, while Schools C and D have no identified students. Schools A and B (80 percent ISP) would individually qualify for the CEP, but Schools C and D (0 percent ISP) would not. If the school district combines the schools, it is able to meet a group ISP of 40 percent (1,600/4,000)—meaning that all students in Schools C and D would now become eligible for free meals despite having *zero* identified students. This hypothetical example demonstrates the perverse

31. Daren Bakst and Rachel Sheffield, “Getting the Facts Straight on School Meals and Child Nutrition Reauthorization,” Heritage Foundation *Issue Brief* No. 4622, November 3, 2016, <http://thf-reports.s3.amazonaws.com/2016/IB4622.pdf>, and U.S. Department of Agriculture, “Community Eligibility Provision Evaluation (Summary),” February 2014, [https://fns-prod.azureedge.net/sites/default/files/CEPEvaluation\\_Summary.pdf](https://fns-prod.azureedge.net/sites/default/files/CEPEvaluation_Summary.pdf) (accessed February 25, 2019).

32. Jake Grovum, “Thousands More Students to Get Free Lunch Next Fall,” *USA Today*, June 23, 2014, <https://www.usatoday.com/story/news/nation/2014/06/23/stateline-school-lunch-program/11260497/> (accessed February 25, 2019).

33. Segal et al., “Community Eligibility Adoption Rises for the 2015–2016 School Year, Increasing Access to School Meals.”

34. U.S. Department of Agriculture, “Community Eligibility Provision Evaluation (Summary).”

35. Bakst and Sheffield, “Getting the Facts Straight on School Meals and Child Nutrition Reauthorization.”

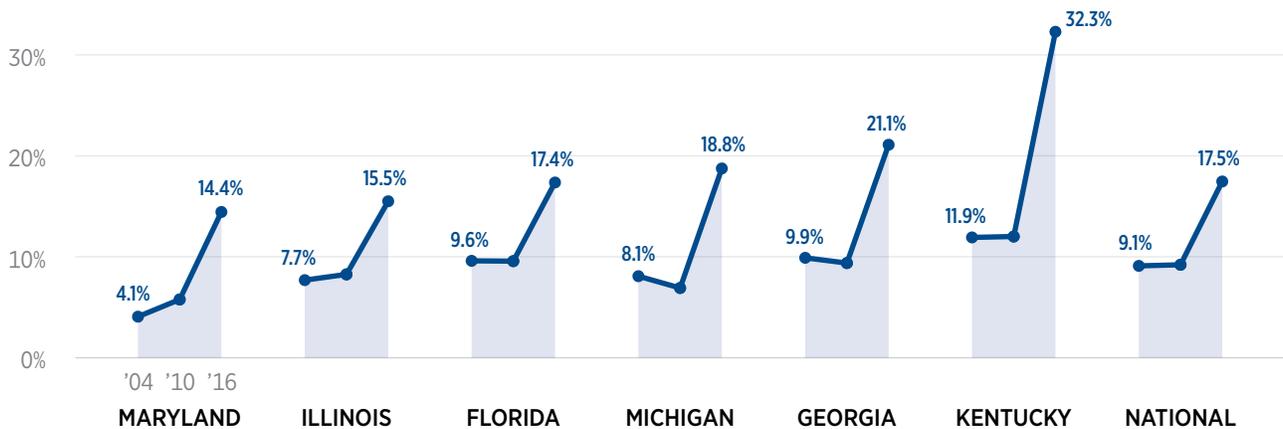
36. Madeleine Levin and Zoë Neuberger, “Community Eligibility: Making High-Poverty Schools Hunger Free,” Center on Budget and Policy Priorities, October 1, 2013, p. 8, <https://www.cbpp.org/sites/default/files/atoms/files/10-1-13fa.pdf> (accessed October 22, 2018).

37. *Ibid.*, pp. 9 and 10.

CHART 1

## Middle- and Upper-Income Students Increasingly Using Lunch Program Designed for Poor Kids

FREE- AND REDUCED-PRICE LUNCH PARTICIPATION RATE AMONG HOUSEHOLDS WITH CHILDREN AGES 5-18 AND INCOMES GREATER THAN 185 PERCENT OF THE POVERTY LINE



**NOTE:** Chart years are based on income data.

**SOURCE:** Heritage Foundation calculations using weighted household-level data from the Consumer Population Survey's Annual Social and Economic Supplement, <https://cps.ipums.org/cps/> (accessed February 21, 2019).

BG3399 heritage.org

incentive school districts may face to expand eligibility for free meals through the CEP, even in schools where few students, if any, have a demonstrated need.

Given the expansive nature of the CEP, it should come as no surprise that nationally representative survey data indicate that many additional middle-income and upper-income families have been receiving free school lunches.

The Annual Social and Economic Supplement of the U.S. Census Bureau's Current Population Survey (CPS) includes data on households with school-age children who receive free or reduced-price lunches. Chart 1 shows the percentage of households with school-age children and with incomes greater than 185 percent of the relevant poverty threshold (the threshold to be eligible for reduced-price lunches) who report receiving free or reduced-price lunches. Nationally, this reported rate of FRL participation nearly doubled from 2004 to 2016 among these households; many individual states experienced even larger increases in participation.

These findings must be taken with caution. The reported FRL participation rate was almost 10 percent nationally among households who exceed the eligibility for reduced-price lunches even before the CEP was implemented. This suggests several possibilities, including that students received free or reduced-price lunches for which they were not eligible, and that respondents incorrectly reported FRL receipt pre-CEP. But, regardless of these issues, the results from the CPS provide at least suggestive evidence and indicate a trend of many additional students who otherwise would have been ineligible for FRL now receiving it.

A nontrivial part of the CEP that also results in taxpayers paying for more free meals is the federal reimbursement rate. School or district officials multiply a school's (or LEA's) ISP by 1.6 to determine how many free meals federal taxpayers will cover.<sup>38</sup> Federal officials chose 1.6 because, according to the USDA, "the 1.6 multiplier provides an estimate of the total number of students eligible for free and reduced price meals in at (sic) CEP schools."<sup>39</sup> For

38. U.S. Department of Agriculture, "Community Eligibility Provision: Guidance and Updated Q&As," p. 16.

39. *Ibid.*

example, if a school has an ISP of 40 percent, then Washington reimburses 64 percent of the schools' meals at the free rate (between \$3.31 and \$3.54 per meal).<sup>40</sup> If a school's ISP is 65 percent, then Washington reimburses the school at the free rate for all of the meals served.<sup>41</sup>

Furthermore, the USDA uses the multiplier figure for "area eligibility purposes."<sup>42</sup> If the product of a district's ISP and 1.6 is greater than 50 percent, the school can participate in other federal meal services, including the Summer Food Service Program and "afterschool snacks provided through the NSLP."<sup>43</sup> The multiplier automatically qualifies a school for more federal meal services, even if the ISP is just half of enrolled students.

### Examining the Claims of CEP Benefits

CEP advocates have marshaled two major defenses of the provision. First, advocates argue that by eliminating the need for traditional applications in eligible schools, the CEP benefits schools because it "[reduced] paperwork and administrative costs" and benefits parents because it removes a barrier to entry into the NSLP that pen-and-paper applications may cause.<sup>44</sup> Yet, as Heritage analysts have previously written, "[r]educing burden does not justify providing free meals

to students regardless of income. The application process is necessary to ensure that benefits are going to those who are truly eligible."<sup>45</sup>

And the application process is already lenient and has been criticized by federal research. A 2015 audit by the USDA Office of Inspector General (OIG) notes that the USDA "does not require households to submit income documentation with the applications" and thus the USDA "does not have reasonable assurance that students who receive free or reduced-price meals are actually eligible for them."<sup>46</sup> Families that self-reported their income were not required to provide proof, such as a W-2 form, tax filings, or a copy of a paycheck.<sup>47</sup> According to research, "few, if any, applicants have been held accountable for cheating" and "it isn't even clear which level of government—federal, state, or local—would be responsible for prosecuting fraud."<sup>48</sup> This helps to explain why "verification summaries obtained from 10 of the nation's largest school districts show a high proportion of those asked to provide proof of income could not or would not comply."<sup>49</sup>

The CEP does not improve application and verification processes. Rather, it ignores the problems. Instead of trying to improve the accuracy of how federal agencies identify eligible students, the CEP expands eligibility so that no government agency—

40. Rachel Sheffield and Daren Bakst, "Child Nutrition Reauthorization: Time for Serious Reform, Not Tinkering," *Heritage Foundation Issue Brief* No. 4570, May 26, 2016, p. 3, <https://www.heritage.org/welfare/report/child-nutrition-reauthorization-time-serious-reform-not-tinkering>, and Food and Nutrition Service, "National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates," *Federal Register*, Vol. 83, No. 139 (July 19, 2018), p. 34105, <https://www.federalregister.gov/documents/2018/07/19/2018-15465/national-school-lunch-special-milk-and-school-breakfast-programs-national-average-paymentsmaximum> (accessed February 25, 2019).

41. U.S. Department of Education, "Guidance: The Community Eligibility Provision and Selected Requirements Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended," March 2015, <https://fns-prod.azureedge.net/sites/default/files/cn/SP35-2015av2.pdf> (accessed February 25, 2019), and Food Research and Action Center, "Community Eligibility: Making It Work with Lower ISPs," November 2018, p. 2.

42. U.S. Department of Agriculture, "Community Eligibility Provision: Guidance and Updated Q&As," pp. 16 and 17.

43. *Ibid.*, p. 17.

44. U.S. Department of Agriculture, "The Community Eligibility Provision: What Does It Mean for Your School or Local Education Agency?" April 2015, <https://fns-prod.azureedge.net/sites/default/files/cn/CEPfactsheet.pdf> (accessed February 25, 2019). Not all agencies are in agreement that the CEP will result in financial savings, though. The U.S. Department of Education, for example, states that CEP participation "presumably make financial sense only if an LEA's savings in administrative costs outweighed the loss of revenue from paid lunches." See Hoffman, "Free and Reduced-Price Lunch Eligibility Data in EDFacts," p. v.

45. Bakst and Sheffield, "Getting the Facts Straight on School Meals and Child Nutrition Reauthorization," p. 2.

46. U.S. Department of Agriculture, Office of Inspector General, "FNS—National School Lunch and School Breakfast Programs," Audit Report 27601-0001-41, April 2015, <https://www.usda.gov/oig/webdocs/27601-0001-41.pdf> (accessed October 23, 2018).

47. David N. Bass, "Fraud in the Lunchroom?" *Education Next*, Vol. 10, No. 1 (Winter 2010), <https://www.educationnext.org/fraud-in-the-lunchroom/> (accessed February 25, 2019).

48. *Ibid.*

49. *Ibid.*

local, state, or federal—has to be responsible for high error rates, because providing federally subsidized meals to students in middle-income and upper-income families is no longer an error under CEP.

Second, CEP advocates and USDA reports say that one of the CEP’s features is that the provision ends the “lunch shaming” of students who have unpaid school meal debts.<sup>50</sup> Federal taxpayers already pay for meals for low-income students participating in the FRL program, but students whose parents have not applied for FRL, and middle-income and upper-income students who pay cash for lunches, can accumulate substantial unpaid meal tickets.

Critics of public school efforts to collect school meal debt by not serving a hot meal to a child with unpaid meals have dubbed this activity lunch shaming (typically, sandwiches are still offered free). News headlines have drawn attention to dramatic attempts to control costs, such as when school personnel throw away a student’s lunch tray at the register because the child’s family has accumulated debts.<sup>51</sup>

In fact, school lunch debt is a problem for districts around the country. Under the HHFKA, federal lawmakers required the USDA to review school district policies for collecting payment on student lunch debt.<sup>52</sup> A USDA report found that 58 percent of school districts reported unpaid meal debt during the

2011–2012 school year—demonstrating the ongoing problem that unpaid lunches pose to school food budgets—and 65 percent of state departments of education had not adopted policies to resolve such debts.<sup>53</sup> Other reports cite the figure of districts with unpaid meal debts as significantly higher: In a 2016 publication, the School Nutrition Association (an organization of school food service professionals) stated that 76 percent of its members reported unpaid student meal debt in their districts at the end of the 2014–2015 school year.<sup>54</sup>

In Denver, the district eliminated debt collection after raising private funds to cover \$13,000 in existing meal debt.<sup>55</sup> One year later, the district faced \$350,000 in unpaid meal debt and had local media asking if the district should reconsider collecting on unpaid meals.<sup>56</sup> An Indiana superintendent defended his district’s decision to offer sandwiches (instead of a hot entree) to students who had more than \$25 in unpaid meals by citing the district’s \$50,000 in total lunch debts.<sup>57</sup>

While the federal CEP ignores the problem of unpaid lunch debt by expanding student eligibility for free meals, state and local officials are aware of the effects of unpaid meals on school budgets. Hawaii and Texas have created grace periods for students who have meal debt. Texas’s legislation says school dis-

---

50. See, for example, Kara Clifford Billings and Randy Alison Aussenberg, “School Meals Programs and Other USDA Child Nutrition Programs: A Primer,” Congressional Research Service, February 11, 2019, pp. 34 and 35, <https://fas.org/sgp/crs/misc/R43783.pdf> (accessed February 25, 2019), and Victoria Palacio, “Community Eligibility: A Remedy for Lunch Shaming in Some School Districts,” CLASP, May 24, 2017, <https://www.clasp.org/blog/community-eligibility-remedy-lunch-shaming-some-school-districts> (accessed February 25, 2019).

51. Bettina Elias Siegel, “Shaming Children So Parents Will Pay the School Lunch Bill,” *The New York Times*, April 30, 2017, <https://www.nytimes.com/2017/04/30/well/family/lunch-shaming-children-parents-school-bills.html> (accessed March 4, 2019).

52. Billings and Aussenberg, “School Meals Programs and Other USDA Child Nutrition Programs: A Primer,” pp. 34 and 35.

53. U.S. Department of Agriculture, “Report to Congress: Review of Local Policies on Meal Charges and Provision of Alternate Meals, June 2016,” p. 2, <https://fns-prod.azureedge.net/sites/default/files/cn/unpaidmealcharges-report.pdf> (accessed February 25, 2019).

54. School Nutrition Association, “The State of School Nutrition 2016,” p. vi, [https://schoolnutrition.org/uploadedfiles/resources\\_and\\_research/research/2016operationsreportexecutivesummary.pdf](https://schoolnutrition.org/uploadedfiles/resources_and_research/research/2016operationsreportexecutivesummary.pdf) (accessed March 18, 2019).

55. News release, “DPS Committed to Feeding Every Kid, Every Day,” Denver Public Schools, August 3, 2017, <https://www.dpsk12.org/dps-committed-to-feeding-every-kid-every-day/> (accessed February 25, 2019).

56. Theresa Marchetta, “Denver School District’s Lunch Debt Explodes: Should We Bring Back ‘Lunch-Shaming?’” ABC Channel 7 Denver, <https://www.thedenverchannel.com/news/360/denver-school-district-s-lunch-debt-explodes-should-we-bring-back-lunch-shaming-> (accessed February 25, 2019).

57. Melissa Walker, “High School Calls Out Kids with Lunch Debt, Serves Them Cheese Sandwiches,” Yahoo! News, January 7, 2016, <https://www.yahoo.com/news/high-school-calls-out-kids-with-lunch-balances-203559666.html> (accessed February 25, 2019); and Melinda D. Anderson, “What Do Unpaid Lunch Tabs Mean for Schools?” *The Atlantic*, February 9, 2016, <https://www.theatlantic.com/education/archive/2016/02/unpaid-school-lunch-bills/460509/> (accessed February 25, 2019).

tricts can “set a schedule for repayment” after notifying families of unpaid balances.<sup>58</sup> Other states, such as Illinois, have enacted rules that prohibit school officials from throwing a student’s food away if the child cannot pay or has an unpaid balance, and sets guidelines for contacting families in order to clear school lunch debt.<sup>59</sup>

State and district policymakers should continue to resolve the issue apart from Washington. School personnel should stop trying to handle debt collection in the cafeteria and resolve the problem outside school, directly with the families. Federal policymakers should no longer be allowed to claim that giving free meals to every student regardless of need is necessary in order to do away with school policies that may result in student embarrassment.

### Other Problems with the CEP and School Meal Programs

To make matters worse, the CEP adds students to a program already fraught with waste and inefficiency.

**Waste and Improper Payments.** The NSLP has been riddled with waste for decades, especially in terms of uneaten food. A common finding in the research over the years is that “plate waste is a major concern for the NSLP and indicates that children may not fully benefit from having nutritious food in school meals.”<sup>60</sup> In 2002, an analysis of “plate waste”

(uneaten food) in the NSLP found that 12 percent of food served to students went uneaten.<sup>61</sup> This analysis used data from the 1991–1992 school year, and more current studies demonstrate that the level of waste has not improved, and has even increased. In 2017, one estimate put the total amount of waste nationwide in the NSLP between \$5 million and \$16 million per day.<sup>62</sup> In a 180-day school year, this means that 22 percent of the \$13.6 billion NSLP budget is wasted.<sup>63</sup>

A study of Boston schools conducted between 2007 and 2009 found that more than 26 percent of the total food budget was thrown away, a figure not far off from the estimate above of 22 percent.<sup>64</sup> Another study conducted by Harvard researchers using data gathered before and after the implementation of the 2010 HHFKA found that students threw away 75 percent of the NSLP vegetables prior to the changes required by the HHFKA, and 60 percent of the vegetables after the law was implemented.<sup>65</sup> The 2010 law did not improve the consumption of fruit, as students threw away 40 percent of fruit before and after implementation. Even with the improvement in vegetable consumption, researchers say “food waste levels were substantial both pre- and post-implementation.”<sup>66</sup>

Likewise, a 2013 study found that the HHFKA’s requirements that vegetables and fruits be on every NSLP student’s tray resulted in a statistically significant increase in the number of servings that students

- 
58. Deborah Temkin and Alexandra Cox, “State Policies to Address School Lunch Shaming,” *ChildTrends*, February 14, 2018, <https://www.childtrends.org/state-policies-address-school-lunch-shaming> (accessed February 25, 2019); 85th Texas Legislative Session, S.B. 1566, <https://capitol.texas.gov/billlookup/Text.aspx?LegSess=85R&Bill=SB1566#> (accessed February 25, 2019); and New Mexico Legislature, 2017 Regular Session, S.B. 374, <https://www.nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=374&year=17> (accessed February 25, 2019).
  59. 100th Illinois General Assembly, S.B. 2428, <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=2428&GAID=14&DocTypeID=SB&SessionID=91&GA=100> (accessed February 25, 2019).
  60. Shahrbanou F. Niaki et al., “Younger Elementary School Students Waste More School Lunch Foods than Older Elementary School Students,” *Journal of the Academy of Nutrition and Dietetics*, Vol. 117, No. 1 (January 2017), pp. 95–101, [https://jandonline.org/article/S2212-2672\(16\)30951-0/fulltext](https://jandonline.org/article/S2212-2672(16)30951-0/fulltext) (accessed February 25, 2019).
  61. Jean C. Buzby and Joanne F. Guthrie, “Plate Waste in School Nutrition Programs: Final Report to Congress,” Economic Research Service, March 2002, [https://www.ers.usda.gov/webdocs/publications/43131/31216\\_efan02009.pdf?v=41423](https://www.ers.usda.gov/webdocs/publications/43131/31216_efan02009.pdf?v=41423) (accessed February 25, 2019).
  62. Sara Williamson, “Why Reducing Food Waste in School Meal Programs Matters,” eXtension, August 10, 2017, [https://articles.extension.org/pages/73963/why-reducing-food-waste-in-school-meal-programs-matters#\\_ftn1](https://articles.extension.org/pages/73963/why-reducing-food-waste-in-school-meal-programs-matters#_ftn1) (accessed February 25, 2019).
  63. U.S. Department of Agriculture, “National School Lunch Program,” and author calculations.
  64. Eighty-eight percent of students in the study were eligible for FRL. Juliana F. W. Cohen et al., “School Lunch Waste Among Middle School Students: Implications for Nutrients Consumed and Food Waste Costs,” *American Journal of Preventative Medicine*, Vol. 44, No. 2 (February 2013), pp. 114–121, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3788640/> (accessed February 25, 2019).
  65. Juliana F. W. Cohen et al., “Impact of the New U.S. Department of Agriculture School Meal Standards on Food Selection, Consumption, and Waste,” *American Journal of Preventative Medicine*, Vol. 46, No. 4 (2014), pp. 388–394, <https://www.ncbi.nlm.nih.gov/pubmed/24650841> (accessed February 25, 2019).
  66. *Ibid.*
-

threw away.<sup>67</sup> In a study of elementary school students in Houston, Texas, researchers found that even after the standards changed in 2010, “no grade level group consumed the amounts of fruit, vegetables, total or whole grains, protein foods, or milk corresponding to the NSLP menu pattern.”<sup>68</sup>

Major media noticed such trends. In 2015, *The New York Times* reported, “Food and nutrition directors at school districts nationwide say that their trash cans are overflowing while their cash register receipts are diminishing as children either toss out the healthier meals or opt to brown-bag it.”<sup>69</sup> A Minneapolis public school official told the *Times*, “Other than mandating more fruits and vegetables, the new regulations haven’t really changed anything except force manufacturers to re-engineer products.” The school official went on to say that the food may “meet [federal] guidelines but not children’s taste expectations.” In sum, food waste is an ongoing problem in the NSLP. Researchers have continued to report waste even after federal lawmakers enacted HHFKA in 2010.

To make matters worse, the Office of Management and Budget (OMB) calls the NSLP a “high-error” federal program “due to its large estimated improper payments—approximately \$1.7 billion in fiscal year 2014” and \$1.9 billion in 2017.<sup>70</sup> In her remarks to Congress about federal school meals, Jessica Lucas-Judy of the federal Forensic Audits and Investigative Service says the improper payments include “any payment that should not have been made; that was made in an incorrect amount (including overpayments

and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; or for which insufficient or no documentation was found.”<sup>71</sup> In the case of the NSLP, these improper payments are often the result of ineligible students receiving meals.

**FRL Participation Is No Longer a Reliable Poverty Indicator.** Federal officials and academic researchers have long used a student’s eligibility for FRL as an indicator of poverty. In a report for the U.S. Census Bureau, researchers from the University of North Carolina and the University of California write, “As free and reduced-price lunch participation are often the sole available indicators of student socioeconomic status available in K–12 school administrative data, the program also plays a central role in research on the relationship between poverty and academic outcomes, and in the allocation of school finances.”<sup>72</sup>

Social scientists regularly measure student test scores among FRL-eligible students and compare these results with students not eligible for FRL. One report found that one out of every five studies of student academic achievement included student participation in federal school lunch programs as a variable in their analysis.<sup>73</sup> In the “Nation’s Report Card,” or National Assessment of Educational Progress (NAEP), FRL student scores are reported as a separate category. Traditionally, the nation’s “achievement gap” has been measured as the difference in test scores between FRL students and their peers. Yet Chuck Cowan, former chief statistician for the National Cen-

67. David Just and Joseph Price, “Default Options, Incentives and Food Choices: Evidence from Elementary-School Children,” *Public Health Nutrition*, Vol. 16, No. 12 (December 2013), pp. 2281–2288, <https://www.cambridge.org/core/journals/public-health-nutrition/article/default-options-incentives-and-food-choices-evidence-from-elementary-school-children/4C8C6D319EBE3E289D19582AAA525AF7> (accessed February 25, 2019).

68. Niaki et al., “Younger Elementary Students Waste More School Lunch Foods than Older Elementary Students,” pp. 95–101.

69. Kate Murphy, “Why Students Hate School Lunches,” *The New York Times*, September 26, 2015, <https://www.nytimes.com/2015/09/27/sunday-review/why-students-hate-school-lunches.html> (accessed February 25, 2019).

70. U.S. Government Accountability Office, “School Meals: USDA Could Improve Verification Process for Program Access,” testimony before the Subcommittee on Early Childhood, Elementary, and Secondary Education, Committee on Education and the Workforce, U.S. House of Representatives, May 19, 2015, p. 2, <https://www.gao.gov/assets/680/670272.pdf> (accessed February 25, 2019), and [PaymentAccuracy.gov](https://paymentaccuracy.gov/wp-content/uploads/2019/02/National-School-Lunch-Getting-Payments-Right-Score-Card-FY-2019-Q1.pdf), “National School Lunch Program,” figures current as of June 30, 2017, <https://paymentaccuracy.gov/wp-content/uploads/2019/02/National-School-Lunch-Getting-Payments-Right-Score-Card-FY-2019-Q1.pdf> (accessed March 4, 2019). Research conducted by Mathematica Policy Research has found similar results. See Wu and Moore, “The Second Access, Participation, Eligibility, and Certification Study (APEC II).”

71. U.S. Government Accountability Office, “School Meals: USDA Could Improve Verification Process for Program Access,” p. 2.

72. Thurston Domina et al., “Capturing More Than Poverty: School Free and Reduced-Price Lunch Data and Household Income,” *CARRA Working Paper* No. 2017-09, December 2017, <https://www.census.gov/content/dam/Census/library/working-papers/2017/adrm/carra-wp-2017-09.pdf> (accessed February 25, 2019).

73. Ben Wieder, “More Free Lunches Could Spoil Data for Researchers,” *FiveThirtyEight*, November 17, 2014, <https://fivethirtyeight.com/features/more-free-lunches-could-spoil-data-for-researchers/> (accessed February 25, 2019).

ter for Education Statistics, said, “I think the national school lunch program was a good proxy back in the day.... Now what it measures is something different.”<sup>74</sup>

If an entire school, or even an entire district, is made eligible for free school meals, then students in low-income families will not be separated from students in middle-income and upper-income families.<sup>75</sup> Public officials often make policy decisions that attempt to reduce the achievement gap between students in low-income families and their peers, but the CEP changes the very definition of an FRL student.<sup>76</sup> Now, the definition of FRL students goes beyond students in low-income families to include students who merely attend a school, or a school in a district, where most students receive free meals through the CEP. As a result, FRL now includes students living above relevant poverty thresholds.

The National Center for Education Statistics (NCES), the research arm of the U.S. Department of Education, recognizes the problem: “One of the important limitations of the free/reduced lunch count is that the change in the eligibility requirements under the Community Eligibility option has meant that more children are qualifying for free/reduced price lunches.”<sup>77</sup> The NCES also writes:

Under the Community Eligibility option, some non-poor children may be included in the program if their district decides that it would be more efficient from an administrative or service delivery perspective to provide the free lunches to all children in the school. Thus, the percentage of students receiving free or reduced price lunch includes all students at or below 185 percent of the poverty threshold, plus some additional non-poor children who meet other eligibility criteria,

plus other students in schools and districts that have exercised the Community Eligibility option, which results in a percentage that is more than double the official poverty rate.<sup>78</sup>

## Changes and Attempted Changes to the CEP and NSLP Since 2010

Some federal lawmakers have tried to redirect the CEP to more effectively identify students from low-income families, though the law has not been changed since 2010. In 2016, Congress considered H.R. 5003, which would have changed the school and district eligibility for the CEP from schools and districts with at least 40 percent of eligible students to schools and districts with 60 percent of such students.<sup>79</sup> The bill also contained provisions to promote stronger verification processes, including expanding the number of household applications subject to standard verification, and encouraging the implementation of innovative strategies, such as using outside data sources to confirm eligibility.<sup>80</sup> The bill stalled in committee.

Special interest groups said that such proposals would “decrease access to crucial school meal programs for low-income communities,”<sup>81</sup> yet students from low-income families would still be eligible for the NSLP and SBP. FRL-eligible students can still receive federally funded meals even if a school does not offer such meals to all students in a school or district.

In 2017, new Agriculture Secretary Sonny Perdue changed federal requirements regarding the kinds of foods that schools must serve under the NSLP.<sup>82</sup> The new rules gave schools and LEAs more flexibility in choosing the types of whole grain, low-sodium, and dairy products they serve. To date, though, federal lawmakers and officials in President Donald Trump’s Administration have not attempted to change the CEP.

74. Ibid.

75. Chingos, “No More Free Lunch for Federal Education Policymakers and Researchers.”

76. See, for example, National Center for Education Statistics, “Achievement Gaps,” <https://nces.ed.gov/nationsreportcard/studies/gaps/> (accessed February 25, 2019).

77. Tom Snyder and Lauren Musu-Gillette, “Free or Reduced-Price Lunch: A Proxy for Poverty?” National Center for Education Statistics blog, April 16, 2015, <https://nces.ed.gov/blogs/nces/post/free-or-reduced-price-lunch-a-proxy-for-poverty> (accessed February 25, 2019).

78. Ibid.

79. Improving Child Nutrition and Education Act of 2016, H. R.5003, 114th Congress (2015–2016), <https://www.congress.gov/bill/114th-congress/house-bill/5003/actions> (accessed February 25, 2019).

80. Ibid.

81. Food Research & Action Center, “Facts: Implications of House Budget on Community Eligibility,” 2017, <http://www.frac.org/wp-content/uploads/frac-facts-implications-house-budget-cep.pdf> (accessed February 25, 2019).

82. News release, “Ag Secretary Perdue Moves to Make School Meals Great Again.”

## Policy Recommendations

In order to restore federal meal programs to their original purpose of helping students in need, Congress should:

- **Eliminate the CEP and provide meals to students in need without creating a new entitlement.** The NSLP was intended to help students in need, and the CEP is a departure from that goal. Efforts to increase the school and district percentage required to be eligible for the CEP from 40 percent to 60 percent are a good step. But the goal should be to eliminate the CEP and focus taxpayer resources on helping children from low-income families.

Washington's ongoing waste and poor implementation of federal meals programs—as evidenced by improper payments, error-prone applications, and inability to prevent wasted food—demonstrate that the federal lunch and breakfast programs have already become too large and unwieldy for federal officials to manage.

Even before the inception of the federal school meal bureaucracy, Washington provided funding to private food service providers that supplied schools with meals. Washington's steadily increasing role in school meals has resulted in wasted funds and increasing costs to taxpayers, as demonstrated by OMB reports and news stories exposing fraud in school meal programs.

Washington should drastically reduce not only the size of the National School Lunch Program but change the delivery of federal meal services, reverting back to grants to private food service contractors instead of paying school districts for the meals that districts serve.

- **Improve existing processes to identify eligible students and avoid making an entire school or district eligible.** The CEP relies on a process known as “direct certification” to determine, without need for traditional applications, which schools, groups of schools, or school districts are eligible for the CEP based on their ISPs. Yet this process is not unique to CEP. Under direct certification, state or local agencies administering certain federal means-tested programs provide to school districts a list of students whose household receives benefits from those programs, or who meet an approved designation, such as being homeless or a foster child; school districts automatically enroll these students for free meals.<sup>83</sup> Since the 2008–2009 school year, school districts have been required to directly certify students in SNAP households. In the 2014–2015 school year, 91 percent of school-age SNAP participants were directly certified for free meals.<sup>84</sup> States may also, but are not required to, directly certify students from TANF or FDPIR households, or students who otherwise qualify as identified students.<sup>85</sup>

In recent years, USDA officials and their state and local partners have explored ways to improve and expand direct certification. For example, the USDA has increased the use of direct certification through SNAP, with accountability for states that do not meet established direct certification rate benchmarks.<sup>86</sup> The agency has also conducted a demonstration project for direct certification using household income information from Medicaid data. These actions constitute a step in the right direction, as expanded direct certification can help to reduce certification errors (and the resulting improper payments) without compromising access to FRL for eligible students. The advantages of direct certification have nothing to do with the CEP insofar as the process exists, and is used independently of the CEP.

83. U.S. Government Accountability Office, “USDA Has Enhanced Controls, But Additional Verification Could Help Ensure Legitimate Program Access,” Report No. GAO-14-262, May 15, 2014, pp. 11 and 12, <https://www.gao.gov/products/GAO-14-262> (accessed October 18, 2018).

84. U.S. Department of Agriculture, “Direct Certification in the National School Lunch Program: State Implementation Progress, School Year 2014–2015,” *Special Nutrition Programs Report* No. CN-15-DC, December 2016, <https://fns-prod.azureedge.net/sites/default/files/ops/NSLPDirectCertification2015.pdf> (accessed February 25, 2019).

85. *Ibid.*, p. 2.

86. U.S. Department of Agriculture, Office of Inspector General, “FNS—National School Lunch and School Breakfast Programs,” Audit Report 27601-0001-41, April 2015, <https://www.usda.gov/oig/webdocs/27601-0001-41.pdf> (accessed October 23, 2018).

A 2014 report by the U.S. Government Accountability Office (GAO) also recommended that the USDA explore the feasibility of electronically matching household application information with external data sources, such as state income databases or public-assistance databases.<sup>87</sup> As the GAO argued in its 2014 report:

While challenges may exist in verifying beneficiary income through computer matching, 9 years have passed since USDA conducted a pilot to determine the feasibility of electronic verification. The cost of the school-meals programs, continued high improper payments, and advances in technology support the need to revisit the feasibility of conducting computer matching in the school-meals programs to enhance current verification efforts.<sup>88</sup>

Despite the findings and recommendations of the GAO and OIG reports, the USDA has taken little substantive action to address the persistent certification and verification issues in the household application process. In fact, the CEP allows public officials to ignore these problems in CEP-eligible schools because all students are made eligible for free meals without and regardless of household application information.

- **Specify that schools with low and high ISPs may not be grouped together to make students CEP-eligible.** The HHFKA says that school districts can extend CEP eligibility “for all schools in the district or on behalf of certain schools in the district.”<sup>89</sup> It further says that school districts can receive CEP payments if “the local education agency or school had a percentage of enrolled students who were identified students that meets or exceeds the [40 percent] threshold.”<sup>90</sup> However, the regulations that have been written for implementing the CEP state that districts can group

schools together that have ISPs lower than 40 percent and higher than 40 percent in order to make the CEP available to groups of schools. This has become yet another way that through the CEP middle-income and upper-income students would be eligible for free federal meals that should be reserved for children from low-income families.

If a legislative repeal of the CEP is not a viable option, lawmakers should adjust the regulations to specify that schools cannot be grouped together in this way. The regulations should accurately reflect existing statute—that districts with ISPs of 40 percent or more can choose to participate in the CEP, or that individual schools with such ISPs can participate—and not expand eligibility beyond the law.

- **Disallow the use of FRL data as a proxy for poverty.** One result of the CEP is that FRL is no longer an accurate proxy for poverty. This has implications for research results and taxpayer spending. Federal agencies should find a better indicator for determining student and school assistance levels.

## Conclusion

As if more evidence were needed to demonstrate that the NSLP no longer prioritizes students in low-income families, data show that more students are participating in the FRL even as poverty rates are declining around the country. Researchers report that the number of children from families at 200 percent of the federal poverty level is approximately the same today as it was in the early 1990s, while FRL figures have increased.<sup>91</sup> Writing for the Brookings Institution, Matthew Chingos says:

Actual poverty measures fall and rise with the state of the economy, but FRL participation has increased almost every year for more than 30 years. This is particularly noticeable in recent years, when the poverty-based measure fell but

87. U.S. Government Accountability Office, “USDA Has Enhanced Controls, But Additional Verification Could Help Ensure Legitimate Program Access.”

88. *Ibid.*, p. 37.

89. Healthy, Hunger-Free Kids Act of 2010.

90. *Ibid.*

91. Chingos, “No More Free Lunch for Federal Education Policymakers and Researchers.”

FRL participation continued to rise as the 2010 changes were implemented.<sup>92</sup>

Families of school-age children and lawmakers should be concerned about whether federal meal programs are achieving their stated goal of serving students from low-income families.

Again, the CEP has separated the NSLP from its original purpose. Although no federal data track FRL participation by household income, nationally representative survey data suggest that many additional students who were previously ineligible have been receiving FRL in recent years. This renders FRL participation data unreliable as a proxy poverty measure for policymakers and researchers. Furthermore, the HHFKA did not address the enormous amounts of waste due to unused food.

Comments from CEP advocates reveal a disregard for the burden imposed on taxpayers by expanding federal meal services. A report from the Food Research & Action Center quotes a district official as saying, “You are a rock star when you implement CEP. The principals are ecstatic for not having to worry about collecting unpaid meal charges. The parents are ecstatic because they don’t have to pay for meals, so it is really a win win.”<sup>93</sup>

Of course officials are pleased when they do not have the responsibility of holding others accountable for not paying for services they have received. And anyone is happy to get something for “free.” Except that, of course, the food is not free. Federal taxpayers are left paying the bill.

Washington should focus taxpayer resources on helping needy students, not create a new federal meal entitlement. Direct certification is more efficient—and effective—than traditional applications, and the process already requires or allows coordination with certain federal programs, such as SNAP. Federal officials do not have to make all students eligible for CEP in order to take advantage of the efficiencies from direct certification. Policymakers should improve processes for certifying and verifying eligible students without making every student in certain schools and school districts eligible for “free” meals. The CEP should be eliminated to restore the original intent of school meal programs—helping students in need.

—*Jonathan Butcher is Senior Policy Analyst in the Center for Education Policy, and Vijay Menon is a Research Assistant in Domestic Policy Studies, of the Institute for Family, Community, and Opportunity, at The Heritage Foundation.*

---

92. Ibid.

93. Food Research & Action Center, “Community Eligibility: Making It Work with Lower ISPs,” p. 7.