



LAWS OF ALASKA

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Chapter No.

187

AN ACT

Establishing a food service and nutrition education program for children; and providing for state participation in similar federal programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14 is amended by adding a new chapter to read:

CHAPTER 52. FOOD SERVICE AND NUTRITION EDUCATION.

Sec. 14.52.010. FINDINGS. (a) The legislature finds and declares

(1) the proper nutrition of the state's children is a matter of highest priority;

(2) there is a demonstrated relationship between the intake of food and good nutrition and the capacity of children to develop and learn;

(3) the teaching of the principles of good nutrition in schools has been seriously inadequate, as evidenced by the existence of poor or less than adequate diets at all levels of family income;

(4) any procedure or "means test" to determine the eligibility of a child for a free or reduced price meal is often degrading and injurious both to the child and his parents; and

(5) the national school lunch and related child nutrition programs, while making significant contributions in the field of applied nutrition research, are not, as presently constituted, capable of achieving the goal of good nutrition for all children.

(b) The assurance of proper nutrition for our children

is a public concern. The legislature urges that, when possible, assistance be provided from all available state and local sources to children in nonprofit private schools and in nonpublic, nonprofit service institutions, as well as to children in the state's public schools, so that they may receive the full benefits of the programs authorized under this chapter. Nevertheless, in situations where this assistance is not forthcoming in adequate amounts the schools and institutions may require of parents a registration fee to help finance the operation of food service programs.

Sec. 14.52.020. POLICY; LEGISLATIVE INTENT. (a) It is the policy of the state to assure adequate nutrition offerings for the state's children, to encourage the teaching of the principles of good nutrition as an integral part of the total educational process, and to strengthen state and local administration of food service programs for children. It is also the policy of the state that food service programs conducted under this chapter be available to all children on the same basis without singling out or identifying certain children as different from their classmates.

(b) It is the intent of the legislature that insofar as the food service and nutrition education programs of city or borough school districts, or of the state-operated schools are affected by this chapter, the directives of this legislation are guidelines; the policies of this chapter are permissive and not mandatory.

(c) It is the intent of the legislature in enacting this chapter to implement the federal Child Nutrition Act of 1971 and authorize the state's participation in this program.

Sec. 14.52.030. FOOD SERVICE PROGRAM FOR CHILDREN ESTABLISHED. (a) The commissioner shall formulate and administer cooperatively with appropriate federal, state and local agencies a universal food service and nutrition education program for children in the schools of the state and in service institutions conducting programs for the benefit of all children. To the fullest extent practicable, the commissioner shall utilize the available services and expertise of other related federal, state and local departments and agencies, school districts and private organizations concerned with nutrition and nutrition education in the formulation of program requirements and regulations. The program shall be designed to provide each child an equal opportunity to participate on the same basis as all other children with no discrimination as to time or place of serving or types and amounts of foods offered.

(b) On recommendation of the advisory commission, the commissioner shall promulgate regulations to carry out the purposes of this chapter, and in so doing, shall comply with the Administrative Procedure Act (AS 44.62) and applicable federal statutes and regulations.

Sec. 14.52.040. FEDERAL AID; STATE MATCHING. (a) The legislature assents to federal aid under the Child Nutrition Act of 1971 on behalf of the state. The commissioner

shall cooperate with the federal government and do all things necessary to continue state eligibility under that Act or any Act amending or supplementing it, subject to prior concurrence of the governor.

(b) If the United States Congress enacts legislation making federal money available to the states for a universal food service and nutrition education program for children under the Child Nutrition Act of 1971 it is the desire of the legislature that the governor or the commissioner of education, as federal law may require, have sufficient flexibility in the use of money appropriated to the Department of Education to meet all reasonable federal requirements for obtaining the full amount of federal money which may be obtained by the state under this federal aid program. To the extent applicable, the provisions of AS 14.50 are incorporated by reference in this chapter.

(c) For the first and second fiscal years of operations under this chapter, expenditures from funds appropriated to the department under this chapter, other than for the purchase or acquisition of land or for the cost of construction or alteration of buildings, shall constitute at least 10 per cent of total operating costs of the program. For the third fiscal year, the state share shall be increased to 12 per cent of operating costs and shall be increased by two per cent every second year thereafter to reach a maximum of 20 per cent. For each fiscal year of operations under this chapter, it is desirable expenditures by schools, school districts and service institutions, other than for the purchase or acquisition of land or for the cost of construction or alteration of buildings, constitute at least five per cent of total operating costs of the program.

(d) The commissioner may make agreements with the appropriate federal departments or agencies to enable participation in the programs authorized by the Child Nutrition Act of 1971. The commissioner shall incorporate, in his agreements with the federal government, the express requirements under this chapter insofar as they may be applicable and those provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this chapter.

Sec. 14.52.050. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS. (a) It is desirable that meals and supplemental food services provided by schools and service institutions participating in programs under this chapter meet minimum nutritional requirements prescribed by the commissioner on the basis of tested nutritional research and on recommendation of the advisory commission.

(b) Food service programs operated under this chapter and applicable federal legislation should be operated on a nonprofit basis under the supervision of the governing bodies of participating schools or service institutions. Participating schools and service institutions should offer at least one meal a day without charge to all children in attendance. The meal should consist of a combination of foods meeting a minimum of one-third of the child's daily nutritional requirements. Additional meals or supplemental

food services before, during or after the school day may be offered to all children in attendance based on economic or nutritional needs.

(c) No affidavit nor certification is required of any parent or guardian in order that a child take part in the food service program operated by the school or service institution.

(d) The sale of extra food and beverage items offered on a regular basis during the regular school day should be restricted to those items recognized as making a contribution to, or permitted by the school to be served as a part of, a meal meeting the nutritional requirements prescribed by the commissioner, and income from the sale of these items shall be deposited to the account of the nonprofit food service program and the income shall be used only for program purposes.

(e) The department shall determine the eligibility of applicant schools and service institutions to participate in programs authorized under this chapter and applicable federal legislation, shall determine their need for assistance to carry out the purposes of this chapter and shall establish controls to insure effective use of funds.

Sec. 14.52.060. DIRECT FOOD ASSISTANCE. A school or service institution participating in programs authorized under this chapter should, insofar as practicable, utilize in its program foods donated by the United States Department of Agriculture under applicable federal law.

Sec. 14.52.070. APPORTIONMENTS AND PAYMENTS TO SCHOOLS, SERVICE INSTITUTIONS. (a) The apportionment to each participating school, school district and service institution shall be made on the basis of the factors established by federal law, as supplemented by regulations promulgated by the commissioner under sec. 30(b) of this chapter.

(b) The commissioner shall certify to the commissioner of administration from time to time the amounts to be paid to any school, school district or service institution under the provisions of this chapter and the time or times these amounts are to be paid and the commissioner of administration shall pay to the schools, school districts or service institutions at the time or times fixed by the commissioner the amounts certified.

Sec. 14.52.080. USE OF FUNDS. (a) Funds paid to the state by the federal government for any fiscal year shall be disbursed to schools, school districts and service institutions to assist them in financing the operating costs of their food service program including the costs of obtaining, preparing and serving food.

(b) These disbursements shall be made by the department at least monthly and may be made not earlier than 10 days before the beginning of each month of operations. Periodic adjustments in the amounts of funds disbursed shall be made to conform with the provisions of federal law.

Sec. 14.52.090. NONFOOD ASSISTANCE. (a) On recommendation of the advisory commission the commissioner shall formulate and carry out a program to supply schools, school districts and service institutions with equipment, other than land or buildings, for the storage, preparation and transportation, and serving of food to enable these schools to establish or expand food service programs for children.

(b) For the first five years of operation under this chapter the commissioner shall apportion 50 per cent of funds appropriated for the purposes of this section among the schools, school districts and service institutions without a food service.

Sec. 14.52.100. NUTRITION EDUCATION. (a) The commissioner, in cooperation with the Office of Education of the United States Department of Health, Education and Welfare, and on recommendation of the advisory commission, is authorized to formulate the basic elements of a nutrition education program for children to be extended on a voluntary basis through the department to schools, school districts and service institutions participating in programs authorized under this chapter. The program shall include, without limitation, the preparation of course outlines, based on the advice of experts in the field of child nutrition, classroom teaching aids, visual materials, the training of school food service personnel, and the training of teachers to conduct courses in child nutrition.

(b) For the first fiscal year of operations under this chapter, grants, other than grants made under sec. 70 of this chapter, for the conduct of nutrition education programs for children shall be based on a rate of 50 cents for each child enrolled in schools or service institutions within the state and, for each fiscal year thereafter, grants will be based on a rate of \$1 for each child so enrolled. Enrollment data used will be the latest available as certified by the department to the Office of Education of the United States Department of Health, Education and Welfare.

Sec. 14.52.110. STATE PLANS OF OPERATION. The commissioner shall submit to the secretary state plans of operation under the federal Child Nutrition Act of 1971 at least three months before the first fiscal year of operations under this chapter. These plans shall include, without limitation, the following:

- (1) proposed state and local funding;
- (2) plans to extend food service to all eligible schools;
- (3) plans for a nutrition education program to be conducted in schools and service institutions;
- (4) the types and kinds of food service to be offered to children attending participating schools and service institutions, and procedures and methods to be employed to assure high quality, nutritious and appetizing meals for participating children;

(5) plans for supervision and audit of program operations; the plans of operation must be approved by the commissioner before disbursement of funds to participating schools, school districts and service institutions;

(6) plans for conducting training programs for school food service personnel;

(7) plans for conducting experimental or demonstration projects.

Sec. 14.52.120. STATE, LOCAL ADMINISTRATIVE, SUPERVISION EXPENSES, COSTS. (a) The commissioner may utilize federal funds granted under the Child Nutrition Act of 1971 for use for its administrative expenses in supervising and giving technical assistance to the schools, school districts or service institutions in their conduct of programs under this chapter. These funds shall be utilized only in amounts and to the extent determined necessary by the commissioner to assist these schools, school districts or service institutions in the administration of additional activities undertaken by them under this chapter. Any employee paid in whole or in part with federal funds provided under the Child Nutrition Act of 1971 shall be included under either a merit, civil service, or tenure system covering employees of the department or school district.

(b) The commissioner may accept and disburse out of the federal grants for the purposes of this chapter funds to assist in the supervision of local program operations. The grant to each school, school district or service institution is to be determined on the basis of federal law and regulations promulgated under it.

Sec. 14.52.130. ASSISTANCE TO NONPROFIT PRIVATE SCHOOLS. (a) Federal assistance for food service to nonprofit private schools shall be provided by the department either in the form of direct payments or by payments made through the school district in which the nonprofit private school is geographically located.

(b) If the department is precluded by law from making direct or indirect payments to these schools, the commissioner shall withhold funds from the apportionments to the schools or districts for the purpose of making direct payments to these schools. Withholding of these funds shall be based on the rate of federal assistance per child per year for the schools or districts as determined by federal law or regulation and the number of children attending nonprofit private schools in the state.

Sec. 14.52.140. PILOT OPERATIONS. In cooperation with the United States Department of Agriculture during the first full fiscal year following the passage of the federal Child Nutrition Act of 1971 and this chapter, the commissioner shall begin pilot operations in schools, school districts or service institutions he selects on recommendation of the advisory commission, utilizing available federal, state and local funds to test and develop the most effective techniques and procedures for effectuating the provisions of this chapter and for the purpose of developing appropriate estimates of participation and costs.

Sec. 14.52.150. ACCOUNTS, RECORDS AND REPORTS. (a) The department, schools, school districts, and service institutions participating in programs under this chapter and the federal Child Nutrition Act of 1971 shall keep whatever accounts and records may be necessary to enable the secretary and the commissioner to determine whether there has been compliance under federal law, this chapter and the regulations promulgated under them. The accounts and records shall at all times be available for inspection and audit by representatives of the secretary and the department and shall be preserved for three years.

(b) The department shall provide periodic reports on expenditures of federal funds, program participation, program costs, and other required data on the form the secretary prescribes.

Sec. 14.52.160. EVALUATION. The commissioner and the advisory commission shall carefully and systematically evaluate the programs conducted under this chapter, directly or by contracting for independent evaluations, with a view to measuring specific benefits, as far as practicable, and providing information needed to assess the effectiveness of program procedures, policies and methods of operation.

Sec. 14.52.170. ADVISORY COMMISSION. (a) There is in the department an advisory commission to be known as the Advisory Commission on Child Nutrition which shall be composed of not less than 13 members appointed by the commissioner. Membership shall include a school administrator, a person engaged in child welfare, a person engaged in vocational education, a nutrition expert, school food service management experts (one each from a rural and urban school), a school governing board member, one representative each from the division of agriculture of the Department of Natural Resources and from the Department of Health and Social Services specially qualified to serve on the commission because of their education, training, experience and knowledge in matters relating to child nutrition, and active members of parent-teacher organizations or parents who have children attending schools or service institutions participating in programs under this chapter. Women and minority group representatives shall be included among the membership.

(b) Members appointed outside the Departments of Education, Natural Resources and Health and Social Services shall be appointed for staggered, four-year terms determined by lot. Members appointed from the Departments of Education, Natural Resources and Health and Social Services serve at the pleasure of the commissioners appointing them.

(c) The commissioner shall designate one of the members to serve as chairman, and one to serve as vice-chairman of the commission.

(d) The commission shall meet at the call of the chairman but shall meet at least twice a year.

(e) A majority of the members shall constitute a quorum and a vacancy on the commission shall not affect its powers.

(f) In addition to its other duties set out in this chapter, the commission shall make a continuing study of the operation of programs carried out under this chapter with a view to determining how the programs may be improved. Annually, the commission shall submit to the commissioner, the governor and the legislature a written report of the results of its study together with the recommendations for administrative and legislative changes it considers appropriate.

(g) The commissioner shall provide the commission with the technical and other assistance, including secretarial and clerical services that may be required to carry out its functions under this chapter.

(h) Members of the commission receive no salary but are entitled to the same travel and per diem provided for other boards and commissions.

Sec. 14.52.180. DEFINITIONS. In this chapter

(1) "advisory commission" means the Advisory Commission on Child Nutrition established by sec. 170 of this chapter;

(2) "commissioner" means the commissioner of education;

(3) "department" means the Department of Education;

(4) "nonprofit private school" means any private school exempt from income tax under sec. 501(e)(3) of the United States Internal Revenue Code of 1954, as amended;

(5) "operating costs" means the cost of food and nutrition services administration and supervision, labor, supplies, acquisition, storage, preparation and service of food used in the food service program, utilities, maintenance, repair, and replacement of equipment; this term does not include the cost or value of land or acquisition, construction, or alteration of buildings, nor does it include any part of the general administrative and maintenance expenses for the total school program;

(6) "secretary" means the Secretary of the United States Department of Agriculture;

(7) "service institution" means private, nonprofit institutions or public institutions which provide day care or other child care services for children or handicapped children;

(8) "school" or "school district" means the governing body which is responsible for the administration of one or more attendance units and which has the legal authority to operate a food service program; the term includes any public or nonprofit private primary, elementary or secondary school through grade 12, and kindergarten and preschool programs operated by these schools;

(9) "universal food service and nutrition

education program" means a program designed and operated to offer all children in group situations away from home at least one meal a day which meets at least one-third of the child's daily nutritional requirements; additional meals or supplemental food services may be offered to all children in attendance based on economic or nutritional needs; all food service programs conducted under this chapter should operate without charge to the child; the children to be covered under this chapter include those attending preschool, kindergarten, primary, elementary and secondary schools through grade 12 and children in service institutions as defined in this chapter; the term also includes a broad program of nutrition education to teach all children basic principles of good nutrition and the importance of good nutrition to health.

Sec. 14.52.190. SHORT TITLE. This chapter may be cited as the Alaska Child Nutrition Act.