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DELINQUENT SCHOOL FOOD SAFETY INSPECTIONS PLACE STUDENT HEALTH AND PUBLIC SCHOOL LUNCH PROGRAM FUNDING AT RISK

SUMMARY

By the fall of 2007, only 40 (16%) of the 253 Contra Costa County public schools that participate in the federal National School Lunch Program had met the twice per school year food safety inspection requirement that took effect in 2005.

The food safety inspection requirement was not met, despite the health risk to the county's 165,000 students and despite the possibility that schools that rely on the financial reimbursement available through the federal school lunch program might lose their eligibility to participate.

The Environmental Health Division of the County Health Services Department is responsible for conducting public school food safety inspections, as well as those for restaurants. County public schools report that repeated attempts to schedule the required inspections with the Environmental Health Division have been met with claims by the division that it has too few inspectors.

The County Health Services Department advises that its 23 budgeted inspectors should be enough to handle the required food safety inspections. However, the Health Services Department has elected to assign a higher priority to inspections of hospitals and restaurants, because it believes there is a greater risk of exposure to illness in those locations than through prepared food available to students on public school campuses.

The complete report is available through the Contra Costa County Grand Jury web site: www.cc-courts.org/grandjury.

CONTRA COSTA COUNTY GRAND JURY REPORT 0802

DELINQUENT SCHOOL FOOD SAFETY INSPECTIONS PLACE STUDENT HEALTH AND PUBLIC SCHOOL LUNCH PROGRAM FUNDING AT RISK

**TO: Contra Costa County Board of Supervisors
Contra Costa County Office of Education**

BACKGROUND

Federal law (the 1946 Richard B. Russell National School Lunch Act) requires the nation's public schools to provide free or reduced-priced meals to students in accordance with family size and income standards. The act also requires public schools to follow federal and state guidelines to qualify for federal reimbursement for costs associated with providing meals covered under the National School Lunch Program.

Federal law associated with the public school program was modified in 2004 to require at least twice per school year food safety inspections of school food service facilities by a qualified state or local government agency to identify and correct food safety problems in a timely and consistent manner. The new regulations took effect July 1, 2005.

The Environmental Health Division of Contra Costa County's Health Services Department is responsible for conducting food safety inspections for restaurants, vehicle commissaries, community pools, spas, and public school food service facilities.

As of the fall of 2007, only 40 (16%) of Contra Costa County's 253 public school food service facilities had met the twice per school year food safety inspection requirement that took effect in 2005. Public schools report they are unable to schedule required food safety inspections due to claims by the Environmental Health Division that it does not have enough inspectors.

Despite the potential risk to the health of the county's 165,000 school children, and despite the possible loss of National School Lunch Program funding by participating schools, the County Health Services Department has not assigned a high priority to public school food safety inspections. The department has elected to assign a higher priority to inspections of healthcare facilities and commercial food service locations (e.g., hospitals and restaurants) where it believes health problems are more likely to occur. The department advises that it has not identified school cafeterias as a significant problem area, based on the lack of reports of illness resulting from unsafe foods in public schools.

FINDINGS

1. Federal law (the 1946 Richard B. Russell National School Lunch Act) requires the nation's public schools to provide free or reduced-priced meals to students commensurate with family size and income standards. The act also requires public schools to follow associated federal and state guidelines to qualify for federal reimbursement for costs associated with providing meals covered under the National School Lunch Program (NSLP).
2. Federal law related to the NSLP was modified in 2004 to require at least twice per school year food safety inspections of school food service facilities by a qualified state or local government agency to identify and correct food safety problems in a timely and consistent manner. The new regulations took effect on July 1, 2005.
3. Public schools that fail to comply with the twice per school year food service facility safety inspection requirement risk the loss of funding available to them through the NSLP.
4. The Contra Costa County Office of Education reports that 253 of the County's public schools participate in the National School Lunch Program.
5. The County Health Services Department reports that as of October 2007, 40 (16%) of Contra Costa County's 253 public school food service facilities had met the twice per school year food safety inspection requirement that took effect in 2005.
6. Based on data provided by the school districts to the State of California, 217 Contra Costa County schools reported that during the 2006-2007 school year, 15 (7%) school cafeterias were inspected twice; 156 (72%) were inspected once; and, 46 (21%) were not inspected.

A. The Environmental Health Division of the County Health Services Department

7. The Environmental Health Division (EHD) is an enterprise division of the County Health Services Department (CHS). As such, it generates income from user fees sufficient to cover all its operating expenses. It does not require or receive any county General Funds.
8. As an enterprise division, the EHD functions in a semi-autonomous fashion. It does not receive the same level of managerial oversight as other CHS divisions.
9. The EHD is responsible for conducting food service safety inspections for restaurants, vehicle commissaries, community pools, spas, and school cafeterias.

10. The EHD and CHS report that they were not aware until the fall of 2007 of the federal requirement that public schools participating in the National School Lunch Program are required to have twice per school year safety inspections of their food service facilities.
11. The EHD and CHS report that they were not aware until the fall of 2007 that public schools that fail to comply with the federal inspection requirement risk losing their eligibility to participate in the National School Lunch Program.
12. The EHD and CHS report that they were not aware that a significant number of Contra Costa County public schools are not in compliance with the twice per school year safety inspection requirement.
13. The CHS has assigned a higher priority to the inspection of healthcare facilities and commercial food service locations (e.g., hospitals and restaurants) where it believes health problems are more likely to occur. CHS has not identified public school food service facilities as a significant problem area, based on the lack of reported cases of illness resulting from unsafe foods at public schools.
14. The EHD reports that its goal is to conduct twice per school year food safety inspections at all public school food service facilities in Contra Costa County.
15. In a letter to the Walnut Creek School District dated February 22, 2006, the Environmental Health Division stated, *“For the foreseeable future staffing shortages will prevent our agency from modifying our current goal of conducting at least one inspection.”*
16. In a letter to the Mt. Diablo Unified School District dated August 23, 2007, the EHD response to the request for two inspections stated, *“Staffing shortages have prevented Contra Costa Environmental Health from inspecting school kitchens more than once per year. At current staffing levels the goal of Environmental Health is to inspect every retail food facility, including school kitchens, at least once per year, even at the cost of significant overtime expenditures. We believe we will achieve this goal in 2007.”*
17. The EHD reports that public schools receive food safety inspections at least once annually based on a pre-determined schedule.
18. Public schools believe they are required to ask the EHD to conduct the required twice per school year food safety inspections.
19. Public schools attribute their failure to comply with the requirement to secure two food safety inspections per school year to reports by the EHD of a shortage of inspectors.

20. During an August 2007 interview, the EHD stated that the 23 inspectors currently budgeted are adequate to complete their mission; and, that the division had not requested approval from the Contra Costa County Board of Supervisors (BOS) for additional inspectors.
21. During a December 2007 interview, the CHS reported that staffing shortages were being addressed. It was also reported that the EHD was working to fill a single food inspector position vacancy. Once they are fully staffed (23 inspectors), EHD will evaluate whether it has an adequate number of inspectors to conduct twice per school year public school food safety inspections, in addition to all required commercial food inspections.
22. In 2007, the EHD conducted more than 8600 food safety inspections. With the exception of public schools, the EHD charges for inspections using a tiered fee schedule; i.e., based on the size of the facility, the service(s) provided, etc. Fees range from \$74 for a single commercial food cart to over \$900 for a large restaurant.
23. Section 6103 of the California Government Code prohibits the EHD from charging public schools fees for inspecting school food facilities. While the EHD does not charge fees for public school food safety inspections, it reports that it is not aware of the basis for not doing so.
24. The CHS advises that there are no funding restrictions that would prevent EHD from hiring more staff, provided the BOS approves fee increases sufficient to cover the cost of hiring additional inspectors.
25. The BOS approves the annual EHD budget, the inspection fee schedule, and associated policies for services provided by the division.

B. The Contra Costa County Office of Education

26. The elected Contra Costa County Superintendent of Schools (Superintendent) heads the Contra Costa County Office of Education (COE).
27. The Superintendent has oversight responsibilities for 18 county public school districts, 260 public schools, approximately 8500 teachers, and approximately 165,000 students.
28. The COE is primarily responsible for monitoring teacher credentialing, approval of annual budgets and budget projections, preparation of school funding allocations, and periodic monitoring of budgeted funds and associated activities.

29. The COE is aware of the federal requirement that public schools participating in the NSLP are required to have twice per school year safety inspections of their food service facilities.
30. The COE is aware that a significant percentage of Contra County public schools have not received twice per school year safety inspections since the federal requirement was implemented.
31. The COE is aware that the primary reason cited by the EHD for its inability to complete the required safety inspections is a shortage of inspectors.
32. The COE does not have the legal authority to coordinate and/or monitor school compliance with required twice per school year safety inspection requirements related to food service facilities.
33. The COE does have the authority to perform overall inspections of schools. If these inspections reveal sanitation problems anywhere on campus, the COE has the authority to alert the EHD to request further investigation.
34. In the fall of 2007, the COE alerted the EHD regarding the condition of one county public school. At its request, the EHD conducted a follow-up inspection that focused on the school's food service facility.

CONCLUSIONS

1. Most of the Contra Costa County public schools that participate in the National School Lunch Program are unable to comply with the federal requirement that they schedule twice per school year food safety inspections due to the reported shortage of county health inspectors. As a result, school children are faced with a risk of eating unsafe food in school cafeterias. Additionally, schools face the possible loss of eligibility to participate in the National School Lunch Program, and federal reimbursement for costs associated with providing school lunches.
2. The County Health Services Department's Environmental Health Division is responsible for completing food safety inspections. The EHD has reported that it has a goal of completing two school cafeteria health inspections per year. It also has reported that it has a goal of completing one inspection per year. The division has reported it does not have enough inspectors to complete two public school food safety inspections per year. It also has reported that it has enough inspectors.
3. The Environmental Health Division has reported that it was unaware of the federal requirement for twice per school year food safety inspections that took effect in 2005 until the fall of 2007. Correspondence from the EHD to public schools in response to their requests to schedule safety inspections indicates that

the EHD was aware of the inspection requirement. Public schools report that they are required to ask the EHD to conduct food safety inspections. The EHD reports that public schools are not required to request inspections but instead receive scheduled annual inspections.

4. Inconsistent and potentially confusing responses by the Environmental Health Division and the County Health Services Department concerning required public school food safety inspections point to the need for closer managerial oversight of this enterprise division by the Director of the County Health Services Department.
5. Despite the federal requirement to complete twice per school year public school food safety inspections, the County Health Services Department has assigned a higher priority to the inspection of healthcare facilities and commercial food service facilities, like hospitals and restaurants, than to public school food service facilities.
6. The Environmental Health Division determines the number of inspectors necessary to complete food safety inspections. If necessary, the County Health Services Department has the authority to request approval from the county Board of Supervisors for more inspectors. At the CHS' request, the Board of Supervisors also may authorize an increase to inspection fees, to the extent permitted by law, to cover the cost of inspectors.
7. While the Contra Costa Office of Education does not have the legal authority to conduct or coordinate twice per school year school food safety inspections, it may ask the Environmental Health Division to complete ad hoc health inspections of selected public schools, including food service facilities.

RECOMMENDATIONS

The 2007-2008 Contra Costa Grand Jury recommends:

1. That the County Health Services Department assume greater managerial oversight of its Environmental Health Division.
2. That the County Health Services Department and Environmental Health Division complete the twice per school year public school food safety inspections required by law.
3. That within three months of this report, the Environmental Health Division and County Health Services Department, complete an evaluation of the resources required to complete the twice per school year public school food safety inspections.

4. That within three months of this report, the Environmental Health Division and County Health Services Department seek approval from the Board of Supervisors for the number of additional inspectors that would be required to complete the public school food safety inspections.
5. That before the end of calendar year 2008, the Environmental Health Division of the County Health Services Department completes two food safety inspections at each of the public schools that participates in the National School Lunch Program.
6. That the County Office of Education take a more proactive role in monitoring school compliance with the requirement for twice per school year food safety inspections of public schools that participate in the National School Lunch Program.
7. That the County Office of Education and County Health Services Department coordinate their efforts to ensure compliance by all participating public schools with the twice per school year food safety inspection requirement.

REQUIRED RESPONSES

Findings:

Contra Costa County Board of Supervisors: 1-3, 5, 7-25, and 34.
Contra Costa County Office of Education: 1-4, 26-34.

REQUIRED RESPONSES

Recommendations:

Contra Costa County Board of Supervisors: 1-5, and 7.
Contra Costa County Office of Education: 6 and 7.