

**BOARD OF SUPERVISORS RESPONSE TO  
GRAND JURY REPORT NO. 0802:  
DELINQUENT SCHOOL FOOD SAFETY INSPECTIONS PLACE STUDENT  
HEALTH AND PUBLIC SCHOOL LUNCH PROGRAM FUNDING AT RISK**

<b>FINDINGS</b>
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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 (NSL).

*Response: Agree.*

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.

*Response: Agree, with clarification. The federal law does not specify that local Environmental Health operations are required to perform the inspections or that they should proactively contact school districts. The law leaves up to the individual schools which government agency they choose to conduct the inspections.*

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.

*Response: Agree.*

4. The Contra Costa County Office of Education reports that 253 of the County's public schools participate in the National School Lunch Program.

*Response: Agree.*

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.

*Response: Agree with clarification. The inventory of school cafeterias that Environmental Health used to plan for inspections included 222 food facilities reported by school districts. After the receipt of the Grand Jury Report, the Contra Costa County Office of Education reported 253.*

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%) of school cafeterias were inspected twice; 156 (72%) were inspected once; and, 46 (21%) were not inspected.

***Response: Unable to respond. Environmental Health does not receive this information from the Contra Costa County school districts and therefore, does not know what information has been reported to the State of California. Environmental Health has different numbers of school cafeterias, sites with multiple inspections, and sites not inspected.***

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 of its operating expenses. It does not require or receive any county General Funds.

***Response: Partially disagree. The Environmental Health Division is not an “enterprise” division of the County Health Services Department since revenues and expenditures are not segregated into a separate fund with its own financial statements. However, the EHD is entirely funded by user fees without a County general fund allocation.***

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.

***Response: Disagree. As stated in the response to Finding #7 above, the Environmental Health Division is not an “enterprise division.” The Environmental Health Director reports to and meets regularly with the Director of Health Services Department and discusses critical issues on a regular basis. The Director of Health Services oversees the budget of the Environmental Health Division, approves the Division Strategic Plan, important staffing matters, all pay and benefit recommendations, and the fee schedules proposed to the Contra Costa County Board of Supervisors.***

9. The EHD is responsible for conducting food service safety inspections for restaurants, vehicle commissaries, community pools, spas, and school cafeterias.

***Response: Agree with clarification. Environmental Health has no responsibility for food service safety inspections for community pools and spas unless they also include food facilities that require permits.***

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.

***Response: Disagree. EHD was aware prior to the fall of 2007 that schools were required to have two inspections per year, however the regulations specify that the inspections can be performed either by the state or by a local government agency.***

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.

***Response: Agree.***

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.

***Response: Agree with clarification. Environmental Health was not aware that any schools were out of compliance with the National School Lunch Program requirements because schools have the option of using a state agency to meet those requirements.***

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.

***Response: Agree.***

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.

***Response: Partially agree. Environmental Health would like to inspect each school cafeteria in Contra Costa County twice each school year (if requested by the school) and is pursuing options for funding.***

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."

***Response: Agree.***

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."

***Response: Agree.***

17. The EHD reports that public schools receive food safety inspections at least once annually based on a pre-determined schedule.

***Response: Disagree. Although it has been the objective of Environmental Health to inspect each school cafeteria in the inventory of known food facilities once a year, some***

*cafeterias were not inspected every school year due to staff shortages. Inspections are unannounced, not scheduled.*

18. Public schools believe they are required to ask the EHD to conduct the required twice per school year food safety inspections.

*Response: Unable to respond. Although this may be true, Environmental Health has no knowledge of what “public schools believe.”*

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.

*Response: Unable to respond. Although this may be true, Environmental Health has no knowledge of how “public schools attribute their failure to comply ...”*

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.

*Response: Disagree. During the August 2007 interview, Environmental Health staff stated that the 23 inspector positions then budgeted were considered to be adequate to cover inspections at permitted food facilities on the inventor. Only 18 of the 23 budgeted positions were actually filled at that time. EHS has experienced staffing shortages because of the difficulty in recruiting inspectors in the local labor market. In fact, the number of food facilities on the Environmental Health inventory has now increased, the number of employed inspectors is now 21, and Environmental Health is actively recruiting to fill the vacancies. Environmental Health has also requested two more inspector positions to help cover the increase in the number of permitted food facilities. These are dynamic, not static parameters.*

21. During a December 2007 interview, the CHS reported that staff 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.

*Response: Agree.*

22. In 2007, the EHD conducted more than 8,600 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.

*Response: Partially agree. Environmental Health also exempts from fees a few other permit holders who claim exemptions allowed in state law and county ordinance codes*

*(i.e., veterans, those who are legally blind and non-profit organizations for temporary food events).*

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.

***Response: Partially disagree. Environmental Health is pursuing with County Counsel the option of charging fees.***

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.

***Response: Agree with clarification. The Board of Supervisors would need to approve an increase in revenue and expenditure authority and authorized positions in addition to any fee increases. Competition for Environmental Health Specialists among the Bay Area counties is very keen and it is difficult to find available candidates.***

25. The BOS approves the annual EHD budget, the inspection fee schedule, and associated policies for services provided by the division.

***Response: Agree.***

## RECOMMENDATIONS

The 2007-2008 Contra Costa County Grand Jury recommends:

1. That the County Health Services Department assume greater managerial oversight of its Environmental Health Division.

***Response: The recommendation will not be implemented because it is not warranted. Environmental Health is a Division of the Department of Health Services and sufficient oversight is already provided.***

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

***Response: The recommendation will be implemented before the end of calendar year 2008. Our goal is to help schools by conducting inspections two times per school year when requested to do so. We will explore funding options to cover the associated costs.***

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.

***Response: The recommendation has been implemented. One man-year (Full Time Equivalent) Environmental Health Specialist position, at an annual cost of \$130,000 - \$150,000 per year, will be required to complete twice per school year public school food safety inspections for 253 schools. County Health Services Department will explore funding options.***

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.

***Response: The recommendation will be implemented subject to identification of funding. We will continue to request positions as needed to cover workload requirements, subject to adequate funding.***

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 participate in the National School Lunch Program.

***Response: The recommendation will be implemented before the end of calendar year 2008. Environmental Health will complete the necessary inspections as soon as possible.***

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.

***Response: The recommendation does not apply to Environmental Health.***

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.

***Response: The recommendation has been implemented. Environmental Health is currently conferring with the County Office of Education to achieve better coordination and will continue to do so.***