

Appendix A:

Legislative and Regulatory Background on the Food Stamp/SNAP Student Restrictions

Food Stamp work requirements for college students date back to the 1960s and '70s when public perception fueled the belief that students from middle- and upper-income families, who should support them, were taking advantage of government.¹ This was coupled with a belief that students had made themselves “voluntarily idle” by removing themselves from the workforce. The initial rules restricting college student access to Food Stamps were included in the Amendments to the Food Stamp Act of 1964,² where Congress disqualified students claimed as tax dependents. This tax dependency disqualification was ultimately deemed unconstitutional,³ but Congress remained intent on restricting government food benefits for college students.

As the Food Stamp caseload skyrocketed during the mid-1970s due to high unemployment, Congress tasked the Governmental Accounting Office (GAO) to examine the factors contributing to the caseload spike, including whether college students were accessing the benefits.⁴ With the passage of The Food Stamp Act of 1977,⁵ Congress sought “to eliminate the non-needy from the program so that those who do not need stamps do not get them,” triggered by their view that the program was now “out of control.”⁶

The 1977 Act made a number of positive improvements to the Food Stamp program, including eliminating the “purchase requirement” to boost participation and establishing important application rights.⁷ However, the Act also tightened work requirements with work-related sanctions and limited college student eligibility to “needy students who are working at least half-time or are registered to work or are the heads of households with dependents.”⁸ The “work for food” rules became firmly established in the Food Stamp program, including for college students with low incomes.

During the 1980s, Congress relaxed the Food Stamp college student⁹ eligibility rules to allow exemptions for college students with barriers to employment if they had a disability; cared for a young child; were age 50 and older (such as “displaced homemakers”); as well as students enrolled in postsecondary programs through the “Work Incentive Program” or its successors under Aid to Families with Dependent Children (AFDC).¹⁰ But Congress let stand the narrow work rules that barred childless students from Food Stamp benefits and students who Congress determined had “voluntarily placed themselves in need” by removing themselves from the work force.^{11 12} It did not matter whether college students could actually secure a work study job or 20 hours per week of employment, nor did it matter what impact the Food Stamp work for food rules had on college student retention and graduation.

1990 Food Stamp Student Changes

The 1990 Mickey Leland Memorial Domestic Hunger Relief Act¹³ reflected a major shift in Congress' treatment of college student access to benefits. Testimony and recommendations from state agencies and national anti-hunger organizations urged Congress to recognize that "*college attendance in turn would promote self-sufficiency*,"¹⁴ and participation in the Food Stamp program while attending postsecondary programs "*enhances rather than hinders efforts to improve education and basic skill levels among the rural poor*."¹⁵ Indeed, Georgia Food Stamp caseworkers implored Congress that "*everything should be done to encourage young people to stay in school*."¹⁶

Two floor statements made during debate on the measure, by U.S. House and U.S. Senate leadership, highlight new appreciation of the value of higher education as a means toward achieving economic stability and independence for households with low incomes. As then-Representative Leon Panetta (CA-16) said:

The bill would allow low-income people to receive Food Stamps while attending programs at colleges or universities as part of their compliance with Food Stamp E&T, the Trade Adjustment Act, or *other state-operated employment and training programs*. These students have already been determined to be legitimately low income and the education program essential to their long-term self-sufficiency. Students who are currently ineligible who are not in higher education through State or local training programs would continue to be ineligible.¹⁷ [Emphasis added.]

Senator Patrick Leahy (D-VT), then chairman of the Senate Agriculture Committee, addressed the legislation's goal of expanding the definition of "employment and training programs" at the postsecondary level. He specifically noted that either the state's Food Stamp E&T program or a "state or local entity, such as a community college," could make the determination of whether the educational activity would improve the individual's employability. Senator Leahy remarked:

The legislation expands the list of employment and training programs whose enrollees may receive Food Stamps during periods when they are in classes at colleges or universities if they are otherwise eligible. *The crucial issue is whether a qualified counselor or program administrator has determined that enrollment in a college or university is necessary to improve the student's employability, whether such a person has approved the course of study as an appropriate placement.*

This determination may be made through the Food Stamp employment and training program (particularly if that program serves applicants) *or through an entity funded by the state or local government, such as a community college*. The bill refers to placements, but *it is not intended to preclude circumstances where employment and training programs recognize self-placements*. I want to emphasize, however, that these students would only be allowed to receive food stamps if they meet all income and resource rules.¹⁸ [Emphasis added.]

Congress finally recognized that having an academic degree beyond a high school diploma had become a necessary means for all socio-economic classes to achieve self-sufficiency. Toward that end, Congress amended 7 U.S.C. §2015(e)(3) to create a fourth and distinct prong of the statute for any student who:

(3) is assigned to or placed in an institution of higher education through or in compliance with the requirements of—, ...

(D), *another program for the purpose of employment and training operated by a State or local government, as determined to be appropriate by the Secretary.*" [Emphasis added.]

7 U.S.C. §2015(e)(3) already included three exemptions for individuals enrolled in “institutions of higher education” under the Food Stamp Employment and Training programs (FS E&T); the Job Training and Partnership Training Act (JTPA), now the Workforce Investment and Opportunity Act; and retraining programs authorized through the Trade Acts of 1974 and 1980. Congress clearly recognized the limitations of JTPA, the Trade Act, and FS E&T, and added the fourth prong to allow states to exempt additional students from the work for food rules. Yet few states fully appreciated the importance of this federal statutory provision until Massachusetts pursued state-level policy changes in 2010 that were consistent with this statutory option.¹⁹

2014 SNAP Student Changes

The 2014 Farm Bill further revised the college student exemptions by amending the Employment and Training exemption under 7 U.S.C. §2015 (e)(3)(B).²⁰ Congress clarified that, for purposes of exempting college students under the SNAP E&T provision, the college student’s course of study must be “*part of a program of career and technical education (as defined in Section 3 of the Carl D. Perkins Career and Technical Education Act (20 U.S.C. 2302)) that may be completed in not more than 4 years at an institution of higher education...*” The Congressional Budget Office did not score any financial expenditures or savings from this provision.²¹ Indeed, Congress re-authorized open-ended matching funds for states’ administrative costs and reimbursements to SNAP E&T participants (section 4022 of the 2014 Farm Bill Act), notably for SNAP E&T dependent care and transportation reimbursement.

Contrary to media reports, Congress was not attempting to gut the exemptions available to college students enrolled in state-administered programs.²² Rather, lawmakers were reinforcing the nexus between the SNAP E&T student exemption and career and technical education programs under the Perkins Act. In other words, Congress sought to encourage state agencies to enroll SNAP recipients through SNAP E&T in college-level courses of study focused on career and technical education, provided they did not take more than four years to complete. At the same time, the 2014 Farm Bill amending 7 U.S.C. §2015 (e)(3)(B) did not impose the same guardrails on states operating programs in accordance with (e)(3)(D) programs outside the scope of SNAP E&T.

USDA implementation

On September 21, 1995, USDA issued final regulations implementing 7 U.S.C. §2015(e)(3)(D) by amending 7 CFR 273.5(b)(11)(iv),²³ as follows:

(b) Student Exemptions. To be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria.

(11) Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in paragraphs (b)(11)(i) through (b)(11)(iv) of this section. ...

(iv) An employment and training program *for low-income households* that is operated by a State or local government *where one or more of the components of such program is at least equivalent* to an acceptable SNAP employment and training program component as specified in § 273.7(e)(1). Using the criteria in § 273.7(e)(1), *State agencies shall make the determinations* as to whether or not the programs qualify. [Emphasis added.]

The final USDA regulations include three important components:

1. USDA clarified that the state and locally administered programs should be “*for low-income households*”—thereby excluding institutions of higher education that primarily serve middle- and upper-income students. Indeed, then and now, the majority of state-administered community colleges

disproportionately serve low-income students.²⁴

2. The final regulations state that “one or more components of the program is equivalent to SNAP employment and training program.” USDA did not expect that *all* the program components had to meet the SNAP E&T components and confirmed this view in response to comments received.

“The Department agrees that the E&T program should have to meet only one of the acceptable food stamp E&T components. Since the guidelines for the food stamp E&T components are specified in the regulations, the Department also agrees that State agencies may make the equivalency determinations. The Department has changed the final regulations at 7 CFR 273.5(b)(11)(iv) accordingly. The Department does not believe that it would be administratively feasible to require eligibility workers to make a determination on the appropriateness of a program based on information submitted by an individual student.”²⁵

The SNAP E&T regulations, 7 CFR § 273.7(e)(1), include a wide range of “components”—from job search and job search training, to work experience and supported work. But for purposes of this section of the regulations, USDA intended states to qualify as SNAP-eligible those students enrolled in college-level programs.²⁶ Of the SNAP E&T components listed in 7 C.F.R. § 273.7(e)(1), subsection (vi) most closely aligns with the expansion of SNAP for students:

(vi) Educational programs or activities to improve basic skills or otherwise improve employability including educational programs determined by the State agency to *expand the job search abilities or employability* of those subject to the program. [Emphasis added.]

3. USDA clearly *delegated to state SNAP agencies* the authority to determine which state or locally administered education and training programs would qualify, recognizing that states had the most up-to-date and intimate knowledge of their state economies, workforce challenges, and training needs. This subsection of the SNAP student exemptions has not changed since implementation in 1995.

In April 2019, USDA issued final regulations implementing Section 4007 of the 2014 Farm Bill, notably the SNAP E&T student “Perkins” exemption contained in 7 CFR 273.5(b)(11)(ii).²⁷ USDA also emphasized that states retained the authority to determine what qualifies as “career and technical education” within the SNAP E&T provision:

“... the Department believes State agencies are in the best position to determine what course or program of study meet the definition. A program does not have to be receiving Perkins funding for a state agency to consider it eligible; it would just need to meet the general definition as determined by the state agency.”²⁸

More importantly for this discussion, USDA made no changes to subsection (b)(11)(iv) with respect to exempting college students enrolled in state and locally operated education and training programs that are not within the state’s SNAP E&T umbrella. Nonetheless, to the extent the regulations require the state or locally operated program to include “one or more components” of the SNAP E&T program, USDA again confirmed in its 2019 final regulations that states have both the authority and expertise to determine what courses of study are likely to meet that criteria, including both two- and four-year college programs.

Endnotes

¹ David A. Super, “SNAP for College Students: Low-Income College Students’ Eligibility for the Supplemental Nutrition Assistance Program,” *Journal of Poverty Law and Policy*, vol. 44 (2011).

² An Act to Amend the Food Stamp Act of 1964, Pub. L. No. 91-671, §§ 2,4, 84 Stat. 20148-20150, 1990, <https://www.govinfo.gov/content/pkg/STATUTE-84/pdf/STATUTE-84-Pg2048.pdf#page=1>.

³ Enacted in 1970, the Amendments prohibited participation by households in which one or more members were claimed as a tax dependent by persons who themselves were not food stamp recipients (e.g. parents living apart from older children). This provision was held unconstitutional by a U.S. District Court in 1972 and affirmed by the Supreme Court in 1973 in *U. S. Dep’t of Agric. v. Murry*, **413 U.S.508 (1973)**. The court ruled that the eligibility requirement violated due process because, “the deduction taken for the benefit of the parent in the prior year is not a rational measure of the need of a different household with which the child of the tax-deducting parent lives and rests on an irrebuttable presumption often contrary to fact.”

⁴ U.S. Gov’t Accountability Office, *Student Participation in the Food Stamps Program at Six Selected Universities*, Report No. RED-76-105, 1976, <https://files.eric.ed.gov/fulltext/ED131769.pdf>. According to the GAO summary, the data obtained found that participation of full-time students ranged from .5% to 13% percent, concluding, “...although students receiving food stamps as heads of households might represent a relatively small percentage of the student enrolled full-time at a given university, these students could represent a large part of the local jurisdiction’s food stamp caseload.”

⁵ Food Stamp Act of 1977, P.L. 95-113 § 1301, 91 Stat 913, 1977, <https://www.govinfo.gov/content/pkg/STATUTE-91/pdf/STATUTE-91-Pg913.pdf>.

⁶ H. Rep. No. 95-464, 1980 (1977).

⁷ USDA, *A Short History of SNAP: The Food and Agriculture Act of 1977*, <https://www.fns.usda.gov/snap/short-history-snap#1977>

⁸ H. Rep. No. 95-464, 1980 (1977).

⁹ For an excellent discussion of which college students are subject to the SNAP disqualifications, see page 510 in David A. Super, “SNAP for College Students”. He writes, “The disqualification rule does not apply to a student in programs that do not absolutely require a high school diploma. This is true even if the student in question is a high school graduate. The SNAP disqualification rule applies only to students in ‘institutions of higher education,’ which are defined as programs that require a high school diploma or the ‘regular’ programs of colleges and universities.” See further discussion in footnote 13, comparing 7 U.S.C. § 2015(e) and 7 C.F.R. § 273.5(a) with 7 U.S.C. § 2014(d)(3) and 7 C.F.R. § 273.9(c)(3)(ii)(A)(1)).

¹⁰ An Act to Amend the Food Stamp Act of 1977, P.L. 96-249 § 139-140; 94 Stat. 357, 1980. These amendments were codified in 7 U.S.C. §§ 2012 et seq., 26 U.S.C. § 6103; 42 U.S.C. §§ 503, 504), but some further restrictions were codified in the Omnibus Budget Reconciliation Act of 1982, P.L. 97-253 § 161, 96 Stat 763 (1982).

¹¹ S. Rep. No. 97-504 at 1676, 1681, 1982. According to the 1982 Senate Floor Report, Congress sought to “tighten food stamp rules governing participation by college and other post-secondary students who may have voluntarily placed themselves ‘in need’ by foregoing regular employment and choosing schooling instead....” and to “to limit participation to those who have no alternative source of income.”

¹² David A. Super, “SNAP for College Students”, page 508.

¹³ Mickey Leland Food for Peace Act, P.L. 101-624 §1727; 104 Stat. 3359 (1990). Amendments codified in 7 U.S.C. §§ 2012 et seq.

¹⁴ Hunger in Rural America: Hearing before the H. Sub Comm. on Domestic Marketing, Consumer Relations and Nutrition, 101st Congress, *Testimony of Theresa Barr, Corrective Action Coordinator and County Dept. of Family and Children in Albany, Georgia*, 1989, page 30.

¹⁵ Hunger in Rural America, 101st Congress, *Testimony of Robert Greenstein, Director, Center on Budget and Policy Priorities*, 1989, page 41.

¹⁶ Hunger in Rural America, 101st Congress, “Recommendations for the Food Stamp Program Simplification from the Food Stamp Caseworkers in the State of Georgia,” 1989, page 137.

¹⁷ 136 Cong. Rec. H496-02, Statement of U.S. Representative Leon Pannetta, February 1990.

¹⁸ 136 Cong. Rec. S16666-01, Statement of U.S. Senator Patrick Leahy, October 1990.

¹⁹ MassLegal Services, *Field Ops Memo 2010-28: SNAP Eligibility for Certain Community College Students*, June 2010, <https://www.masslegalservices.org/node/32130>. The USDA FNS Northeast Regional Office (NERO) featured some of Massachusetts’s SNAP policy initiatives, including the state’s new college student provision, as a promising practice at a

USDA national conference in Boise, Idaho in October 2010.

²⁰ Agriculture Act of 2014, P.L. 113-29, also known as the “2014 Farm Bill,” Section 4007, enacted February 7, 2014, <https://www.congress.gov/113/plaws/publ79/PLAW-113publ79.pdf>. The 2008 Farm Bill renamed the Food Stamp Program to the Supplemental Nutrition Assistance Program or “SNAP.” (P.L. 110-234), , enacted May 22, 2008, <https://www.govinfo.gov/content/pkg/PLAW-110publ234/pdf/PLAW-110publ234.pdf>

²¹ Congressional Budget Office notification to Chairman Frank D, Lucas, *Detailed Effects on Direct Spending of the Conference Agreement on HR 2642, The Agricultural Act of 2014*, Table 4, January 2014, <https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/costestimate/hr2642lucasltr00.pdf>

²² Congressional Research Service, *SNAP and Related Nutrition Provisions of the 2014 Farm Bill* (P.L. 113-79), April 2014. See also Elizabeth Lower-Basch, Helly Lee, *SNAP Policy Brief, College Students Eligibility*, Center for Law and Social Policy, June 2014, <https://files.eric.ed.gov/fulltext/ED561732.pdf>.

²³ USDA, Food Stamp Program Student Eligibility Final Rule, 60 Fed. Reg. 183, 48865, September 1995, <https://www.govinfo.gov/content/pkg/FR-1995-09-21/html/95-23404.htm>

²⁴ American Association of Community Colleges, *Fast Facts 2020*, <https://www.aacc.nche.edu/research-trends/fast-facts/>. According to the Association, approximately 59% of community college student receive financial aid.

²⁵ 60 Fed. Reg.183, at 48868, <https://www.govinfo.gov/content/pkg/FR-1995-09-21/html/95-23404.htm>.

²⁶ David A. Super, “SNAP for College Students”. See endnote 9 above for Super’s discussion of eligibility for students enrolled in “institutions of higher education”.

²⁷ USDA, *Supplemental Nutrition Assistance Program: Student Eligibility, Convicted Felons, Lottery and Gambling, and State Verification Provisions of the Agricultural Act of 2014*. 84 Fed, Reg. 72, April 2019, <https://www.federalregister.gov/documents/2019/04/15/2019-07194/supplemental-nutrition-assistance-program-student-eligibility-convicted-felons-lottery-and-gambling>.

²⁸ 84 Fed, Reg. 72, at 15083, <https://www.govinfo.gov/content/pkg/FR-2019-04-15/pdf/FR-2019-04-15.pdf>.