

# United States Senate

WASHINGTON, DC 20510

September 18, 2024

The Honorable Thomas J. Vilsack  
Secretary  
Department of Agriculture  
1400 Independence Ave SW  
Washington, DC 20250

Dear Secretary Vilsack,

We write to request that the United States Department of Agriculture (USDA) act quickly to address exorbitant school lunch fees charged by payment processors. Every day, greedy payment processing companies are ripping off working families, snatching dollars meant to pay for kids' school lunches in order to pad their profits. It is unacceptable that parents face exorbitant fees just so their children can eat school lunch, and USDA should prohibit these sham fees.

A July 2024 report by the Consumer Financial Protection Bureau (CFPB) found that payment processors were collecting more than \$100 million in fees annually from families buying school lunches<sup>1</sup> and that this burden fell disproportionately on low-income families.<sup>2</sup> These fees are outrageous, and we were pleased to see your commitment that "USDA will review its policies and work with schools, state oversight agencies and the payment processors to ensure that all families have a clear and readily-available fee-free payment method."<sup>3</sup> We urge you to act quickly to do so to support children, families, and schools across the country.

For years, it has been USDA's stated view that students participating in federal nutrition programs "shall not be charged any additional fees," based on the widespread understanding that, "by charging fees in addition to the regular reduced price or paid meal charge, a school is limiting access to the program and imposing an additional criterion for participation."<sup>4</sup> Yet, in 2014, USDA created an exemption for online payment processors, which were permitted to levy

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<sup>1</sup> Consumer Financial Protection Bureau, "CFPB Report Highlights Junk Fees Charged by School Lunch Payment Platforms," July 25, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-junk-fees-charged-by-school-lunch-payment-platforms/>.

<sup>2</sup> Consumer Financial Protection Bureau, "Costs of Electronic Payments in K-12 Schools," July 25, 2024, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-costs-of-electronic-payments-in-k-12-schools/>.

<sup>3</sup> Consumer Financial Protection Bureau, "CFPB Report Highlights Junk Fees Charged by School Lunch Payment Platforms," July 25, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-junk-fees-charged-by-school-lunch-payment-platforms/>.

<sup>4</sup> Food and Nutrition Service, "Fees for Lunchroom Services," June 14, 2021, <https://www.fns.usda.gov/cn/fees-lunchroom-services>.

fees as long as schools offered alternative fee-free payment methods alongside any payment method that involved fees.<sup>5</sup> In 2017, USDA further clarified that school districts “cannot exclusively use an online system” for school lunch payments and that “families must be notified about all payment systems used at the school, including any fees associated with specific payment options.”<sup>6</sup>

However, in the years since USDA issued this guidance, cashless payment methods have become much more common, which has allowed payment processors to funnel ever more money into their own pockets, instead of the school lunch accounts parents are trying to replenish. In its report, CFPB found that parents and students are predominantly at the mercy of three large payment processing firms that dominate the market and are “insulate[d] from competition.”<sup>7</sup> As a result, fees levied by these firms represent a growing share of school lunch payments. In most school districts, families must pay a flat fee each time they deposit money into their child’s school lunch account, and “lower-income families making frequent small payments” shoulder this burden disproportionately.<sup>8</sup> CFPB found that, “over the course of a school year, families with children eligible for means-tested reduced price lunch programs may send \$0.60 to payment processors for each \$1 they spend on school lunch.”<sup>9</sup> These fees represent usurious profiteering by payment processors and must be stopped.

While USDA requires school districts to offer “at least one method of payment that is free of charge,”<sup>10</sup> this does not adequately mitigate the harms of exorbitant payment processing fees. Many school districts do not notify families about alternative payment methods, and some school districts only offer alternative payment methods that can be difficult to access – such as cashier’s checks or money orders.<sup>11</sup> And despite claims from payment processing companies that school districts can negotiate fees during the contracting process, individual school districts have little to no power to negotiate a fair contract when three companies control 67%<sup>12</sup> of the payment

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<sup>5</sup> Food and Nutrition Service, “Online Fees in the School Meal Programs,” October 8, 2014, <https://www.fns.usda.gov/cn/online-fees-school-meal-programs>.

<sup>6</sup> Food and Nutrition Service, “Unpaid Meal Charges: Guidance and Q&A,” March 23, 2017, <https://www.fns.usda.gov/cn/unpaid-meal-charges-guidance-qas>.

<sup>7</sup> Consumer Financial Protection Bureau, “Costs of Electronic Payments in K-12 Schools,” July 25, 2024, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-costs-of-electronic-payments-in-k-12-schools/>.

<sup>8</sup> Consumer Financial Protection Bureau, “CFPB Report Highlights Junk Fees Charged by School Lunch Payment Platforms,” July 25, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-junk-fees-charged-by-school-lunch-payment-platforms/>.

<sup>9</sup> *Id.*

<sup>10</sup> Food and Nutrition Service, “Unpaid Meal Charges: Guidance and Q&A,” March 23, 2017, <https://www.fns.usda.gov/cn/unpaid-meal-charges-guidance-qas>.

<sup>11</sup> Consumer Financial Protection Bureau, “CFPB Report Highlights Junk Fees Charged by School Lunch Payment Platforms,” July 25, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-junk-fees-charged-by-school-lunch-payment-platforms/>.

<sup>12</sup> Consumer Financial Protection Bureau, “Costs of Electronic Payments in K-12 Schools,” July 25, 2024, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-costs-of-electronic-payments-in-k-12-schools/>.

processing market. It's therefore unsurprising that CFPB reported that payment companies "have broad control over fee rates."<sup>13</sup>

Following the CFPB's report, USDA made a commitment to "crack[] down on junk fees that are raising meal costs for families," including by "review[ing USDA] policies and work[ing] with schools, state oversight agencies and the payment processors to ensure that all families have a clear and readily-available fee-free payment method."<sup>14</sup>

As millions of students head back to school this month, we urge you to act on these commitments and stand up to greedy payment processors by withdrawing USDA's 2014 guidance permitting payment processing fees on school lunch purchases. We also urge you to work with state departments of education to empower individual school districts to secure fair payment processing contracts, rather than leaving community schools at the mercy of corporate greed. USDA should not permit payment processing companies to simply shift the burden of these fees from working families onto struggling school districts – the solution must be to address this market dysfunction directly. Together, these steps will lower costs for families who are already facing higher costs at the checkout counter due to corporate price-gouging and ensure that greedy payment processors cannot continue to rip off American families.

Thank you for your consideration of this important matter.

Sincerely,



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Elizabeth Warren  
United States Senator



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John Fetterman  
United States Senator



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Sherrod Brown  
United States Senator



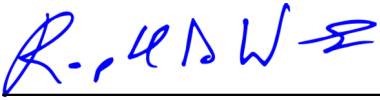
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Debbie Stabenow  
United States Senator

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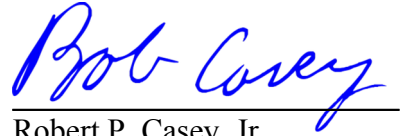
<sup>13</sup> *Id.*

<sup>14</sup> Consumer Financial Protection Bureau, "CFPB Report Highlights Junk Fees Charged by School Lunch Payment Platforms," July 25, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-junk-fees-charged-by-school-lunch-payment-platforms/>.



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Raphael Warnock  
United States Senator



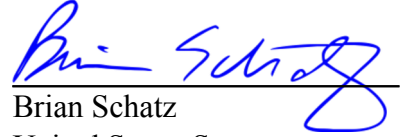
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Robert P. Casey, Jr.  
United States Senator



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Bernard Sanders  
United States Senator



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Brian Schatz  
United States Senator