CHILD CARE LAW CENTER

Federal & State Policy Updates in Early Childhood Development
May 2024 - Bay Area Early Childhood Funders

Federal Budget

On March 23, 2024, President Biden signed the bipartisan $1.2 trillion federal spending package for FY 2024. Highlights of this agreement include:

- $8.75 billion for the Child Care and Development Block Grant (an increase of $725 million from last year)
  - California will receive an estimated $830.3 million (an increase of $76.8 million from last year)
- $12.27 billion for Head Start (an increase of $250 million from last year)

Funding for many of the vital programs for families and children remains flat, with small reductions and increases for some. This budget amounts to a decrease in spending for most programs due to inflation and higher costs.[1]

Advocates continue to urge Congress to support the $16 billion emergency supplemental child care and early learning proposal by President Biden, and Senate and House Democrats. Congressional champions also ask for $12.4 billion, the "doubling of CCDBG" that some Republicans called for a couple of years ago to hold them accountable.

The bipartisan supported Child Tax Credit proposal remains at an impasse due to push back from Republican Senators.

Updates on Child Care Development Fund

New Child Care and Development Fund Final Rule

On February 28, 2024, the Administration for Children and Families (ACF) released the new CCDF Final Rule for implementation of the Child Care and Development Fund (CCDF). Two main areas where California *must* come into compliance with the new CCDF Final Rule include:

(1) States must use private-pay practices that account for child care fixed costs by paying in advance of or at the beginning of the delivery of services of child care services to children receiving assistance.

California law requires that contractors pay child care providers "within 21 calendar days" after submitting their attendance records or invoices. California's current law and regulations must change to comply with the above new federal rule.

(2) States must support the fixed costs of providing child care services by delinking provider payments from a child's occasional absences by paying child care providers based on enrollment.

[1] See E-mail from Whitney Pesek, Nat. Women's Law Caucus to Karina Laigo, Staff Attorney at Child Care Law Center (Mar. 29, 2024 12:01 PST) (on file with Child Care Law Center).

> California law has historically paid providers based on hours and days of care, and in large part, based on attendance.[2] California temporarily paid child care providers based on enrollment rather than attendance during the COVID-19 pandemic, and extended this policy through June 30, 2025.[3] California must now pay child care providers based on enrollment *permanently*.

The Final CCDF Rule also codifies the provision encouraging states to pay child care providers caring for children receiving CCDF subsidies the state's established subsidy payment rate in order to better account for the actual cost of care, even if that amount is greater than the price the provider charges parents who do not receive a subsidy.

CCDF State Plan

CCDF is the largest source of federal funding for child care distributed to states. CCDF funding ensures families with the lowest incomes have affordable, publicly funded child care. The aim of this funding is also to pay child care providers, mainly women of color, a fair wage.

To receive CCDF funding, states must submit a State Plan every three years to the federal Administration for Children and Families (ACF) Office of Child Care, outlining how they will meet the CCDF requirements and use the funds to best support families, children, and child care providers. The California Department of Social Services (CDSS) collected public feedback on the 2025-2027 State Plan this past year and is expected to submit its final draft to ACF by July 1, 2024.

[2] *See* Cal. Code regs. tit. 5 §§ 18075, 18076.2; *see generally* Cal. Dep't Soc. Servs., *Child Care Bulletin (CCB) No. 23-26* (Sept. 21, 2023), https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/CCBs/2023/CCB_23-26.pdf?ver=2023-09-29-154911-510 (the policy of paying providers based on enrollment and not attendance began July 1, 2021 and has been extended twice).

[3] *See* Assemb. B. 131, 2021-2022 Leg. Reg. Sess. § 263 (b)(5) (Cal. 2021), Chapter 116, Statutes of 2021 ($70 million for child care providers to continue to be paid based on total certified need, rather than attendance, until June 30, 2022); Assemb. B. 210, 2022-2023 Leg. Reg. Sess. § 27 (a)(1)(A) – (B) (Cal. 2022), Chapter 62, Statutes of 2022. (providers paid based on enrollment rather than attendance through June 30, 2023); S. B. 140 §§ 3 (d) & 18 (a) (for the 2023-24 fiscal year, family child care providers are paid for maximum authorized hours of care); S. B. 140 §§ 3 (c) & 18 (b) (permitting child care centers that remains open following their program calendar receive the lesser of either 100% of the contract maximum reimbursable amount or the net reimbursable program costs through June 30, 2025); *see also See* Child Care Providers United, *Child Care Providers United Contract*, https://childcareprovidersunited.org/ourcontract/ (last visited Feb. 14, 2024) & Child Care Providers United, *Childcare Providers Labor Relations*, California Department of Human Resources, https://www.calhr.ca.gov/Pages/childcare-providers-labor-relations.aspx (last visited Feb.14, 2024); Cal. Dep't Soc. Servs., Child Care Bulletin (CCB) No. 23-26 (Sept. 21, 2023), *supra* note 5.

Governor Newsom's California State Budget May Revision FY 2024-25

On May 10, 2024, Governor Newsom announced his 2024-25 State Budget May Revision ("the May Revise"). He reports an updated $27.6 billion state budget shortfall this year and $28.4 billion deficit next fiscal year with no plan for new taxes or potential revenue sources. To meet the state's constitutional mandate to pass a balanced budget, the Governor instead proposes significant cuts and pauses to vital programs that disproportionately impact families and children of color.

The Governor plans to cover the shortfall by slashing programs and reducing funding ($14.6 billion), programs, dipping into state reserves ($8.9 billion) or "rainy day funds", internally borrowing and shifting funds ($74.7 billion), and delaying and deferring funding (-$3.2 billion).

In the May Revision, Governor Newsom proposes $110.951 billion in state funds for all Health and Human Services programs, including $4.988 billion ($3.122 billion in General Funds) for child care and development programs.[4]

Affordable Child Care for Families

Affordable child care spaces ensure families have flexible, dependable child care with maximum choice. Without this care, thousands of parents, especially mothers of color, are forced to choose between working to provide for their families and caring for their children.

Unlike Governor Newsom's January Budget proposal, he now **indefinitely delays his promise of adding 200,000 child care spaces by FY 2026-27**. He also **rescinds 27,000 spaces** authorized in previous budgets for an estimated cost savings of $1.4 billion. To date, the state has released only 119,000 of the promised spaces, essentially leaving 81,000 children without child care. This proposal forces mainly Black and Brown families to shoulder the burden of these cuts. California Budget and Policy Center estimates show that 2.16 million children are eligible for publicly funded child care spaces and a majority are children of color. Their estimates also show that *only* *10.7%* of children are actually receiving these child care services.

Governor Newsom also proposes to reduce funding for the Emergency Child Care Bridge Program for Foster Children by $34.8 million this fiscal year and ongoing, resulting in about 1,700 fewer child care spaces for children in foster care. With Black and Indigenous American children comprising the majority of children in foster care in California, the Governor again makes cuts at the expense of families of color.

A Fair Wage for Enriching Care

Paying child care providers a fair wage is an antiracist policy that is essential and long overdue.

Like his January budget proposal, Governor Newsom does not include the funds necessary to pay child care providers a fair wage in his May Revision. The state agreed to use a new, cost-

[4] Dep't Soc. Servs., *Local Assistance 2024 May Revision Table Number 3*, 18 (2024), https://www.cdss.ca.gov/Portals/9/Additional-Resources/Fiscal-and-Financial-Information/Local-Assistance-Estimates/2024-25/2024-25-May-Revision-Detail-Tables.pdf.

based formula ("alternative methodology") by 2025 so that child care providers are paid a higher wage based on the true cost of providing enriching care to our youngest children. In order to realize the terms of rate reform in the Agreement Between the Child Care Providers United (CCPU) and State of California, funding must be included in the state budget.

While the Governor maintains last year's budget funding for temporary subsidy rate increases through June 30, 2025, the May Revision does not include a timeline for the alternative methodology implementation. After the state submits its CCDF State Plan by July 1, 2024 and ACF approves it, the law requires for contract negotiations related to subsidy rates to reopen between CCPU and the state.

California State Preschool Program and Transitional Kindergarten

Governor Newsom proposes to eliminate 145.8 million ($47.9 million in 25-26 and $97.9 million ongoing starting in 26-27) of previously committed funding for state preschool programs to serve at least 10 percent of children with disabilities by 2026-27. State preschool programs must still serve at least 5 percent of children with disabilities.

The May Revision also continues funding TK expansion through this year, extending eligibility to children who turn five years old between April 2 and June 2. The proposal decreases Proposition 98 funding to reflect the estimated decrease in General Fund revenues from over a three-year period in comparison with the Governor's January proposed budget.

The California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program was to support the construction of new school facilities and retrofitting of existing school facilities. Unlike his January proposal to delay the $550 funding for one year, Governor Newsom now eliminates this program.

CalWORKs

The CalWORKs program, California's version of the federal Temporary Assistance for Needy Families Program (TANF), provides modest cash assistance and support services to the state's families with the lowest incomes to help meet their very basic needs.

Governor Newsom makes additional cuts to CalWORKs programs in his May Revision:

- CalWORKs Home Visiting Program: Reduces $47.1 million of ongoing funding
- CalWORKs Mental Health and Substance Use Disorder Services: Permanently eliminates $126.6 million in total funding

Under state law, the Safety Net Reserve must be "utilized…for the purpose of maintaining existing program benefits and services for the Medi-Cal and CalWORKs programs during economic downturns." Governor Newsom continues his proposal to withdraw the full $900 million from this reserve, and maintains cutting other critical CalWORKs programs:

- Family Stabilization (provides assistance to families experiencing crisis, such as drug treatment and emergency housing): Reverts $55 million GF from 2023-24 and reduces $71 million GF beginning 2024-25 and ongoing.

- Expanded Subsidized Employment (assists CalWORKs participants with procuring jobs): Reverts $134.1 million GF in 2023-24 and reduces $134.1 million GF in 2024-25 and ongoing.

The Governor also continues cuts to Employment Services Intensive Case Management, reducing $47 million GF in 2024-25 and ongoing. These severe cuts will particularly hurt families of color, pushing them into deeper poverty.

As required under state law, the May Revise proposes an approximate .3-percent CalWORKs grant increase which is tied to projected tax revenues and grant costs. The increase begins October 1, 2024.

Other Vital Programs for Children and Families

- **Critical Supports for Immigrant Families:** The Governor continues to support the health and well-being of immigrant families by expanding Medi-Cal Eligibility to income-eligible undocumented immigrants ages 26-49 starting January 1, 2024. However, he eliminates the In-Home Supportive Services benefit for undocumented individuals of all ages, resulting in $433 million of savings.

- **Food Assistance for Families:** With rising inflation and more families living in deep poverty, ensuring children and adults are well-nourished is more critical than ever. In his May Revision, the Governor delays the planned expansion of the California Food Assistance Program for undocumented individuals over age 55 from October 2025 to 2027-28. This cut results in $144 million in savings.

- **Tax Credits for Families with Low Incomes:** Governor Newsom proposes to maintain California's Earned Income Tax Credit (CalEITC), Young Child Tax Credit, and Foster Youth Tax Credit. These refundable state income tax credits provide tax refunds or reductions in state taxes to millions of Californians with low incomes. These credits also support racial and gender equity by targeting cash to Californians of color, immigrants, and women.

- **Family Urgent Response System (FURS):** The Governor proposes to eliminate FURS, a 24/7 hotline for current and former youth in foster care and their caregivers to get immediate help for any issue they may be experiencing. This cut results in $30 million in savings.

California Policy Legislation Affecting Families and Children 2024-25

AB 1808 (Nguyen) extends 24-month child care eligibly to CalWORKs child care.

AB 2381 (Bonta) pays directly contracted child care programs based on the lesser of the maximum reimbursable amount stated in the contract, the net reimbursable program costs, or certified days of enrollment.

AB 2476 (Bonta) requires contractors to pay child care providers at the maximum subsidy payment rate and starting April 30, 2026, pay providers prior to the day of child care services.

AB 596 (Gómez Reyes) and SB 380 (Limón) implement comprehensive rate reform; develop an alternative methodology based on the true cost of care.

SB 9 (Cortese) creates a three-year pilot program in at least three counties to extend foster care services to non-minor dependents up to 22 years old if they are experiencing or at reasonable risk of homelessness.