

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 51 (Bonta) – As Amended April 12, 2023

SUBJECT: Early childcare and education

SUMMARY: Increases the income ceiling for purposes of California State Preschool Program (CSPP) eligibility to 120% of the State Median Income (SMI), or 120% of the area median income (AMI), whichever is higher, requires the California Department of Education (CDE) to improve access to CSPP contracts for prospective CSPP providers, permits the commingling of students participating in CSPP with children supported through other state-subsidized programs and private funding, requires Expanded Learning Opportunities Programs (ELOPs) serving transitional kindergarten (TK) students to be developmentally appropriate, requires the director of the California Department of Social Services (CDSS) to expand existing childcare resource and referral (R&R) programs, and requires CDSS to develop a new rate schedule for calculating childcare and development program reimbursement rates, as specified. Specifically, **this bill:**

- 1) Increases the threshold of “income eligible” for purposes of qualifying for CSPP from 100% of the SMI to 120% of the SMI.
- 2) Expands the definition of “income eligible” to include 120% of AMI.
- 3) Defines “income eligible” for purposes of CSPP eligibility and ongoing eligibility as 120% of the AMI or SMI, whichever is higher.
- 4) Requires the Department of Finance (DOF) to calculate AMI for family sizes of one to four by using the most recent census data available on AMI and state median family income in the past 12 months by family size.
- 5) Requires DOF to calculate AMI for family sizes of five and above by using the most recent census data for a family of four and multiplying this number by the ratios for the appropriate family size used in the federal Low-Income Home Energy Assistance Program, as specified.
- 6) Requires DOF to update its calculations of AMI for families and provide the updated data to CDE no later than March 1 of each fiscal year.
- 7) Requires CDE to:
 - a) Provide prospective CSPP providers an equitable opportunity to establish a trained workforce and administrative systems, and technical assistance on how to meet the requirements of Title 5 of the California Code of Regulations (CCR); and,
 - b) Dedicate at least 50% of CSPP contracts to applicants that can provide meaningful on-ramp opportunities and that meet one or both of the following criteria:
 - i) The applicant has not received a CSPP contract within the last five years; and,
 - ii) The applicant can demonstrate a negative financial impact due to the implementation of TK expansion.

- 8) Expands, notwithstanding any other provisions to the contrary, the requirement of the Superintendent of Public Instruction (SPI) to establish CSPP rules and regulations to include commingling of children participating in CSPP with children supported through other state-subsidized programs and private funding.
- 9) Permits, notwithstanding any other provision to the contrary, and until such a time as the SPI establishes rules and regulations permitting commingling of children CSPPs to be commingled, as specified.
- 10) Requires ELOPs serving TK pupils to be developmentally appropriate for pupils in TK.
- 11) Requires the director of CDSS, in partnership with the SPI, to expand existing childcare R&R services to include navigation, referral, and enrollment services for TK, CSPP, Head Start, general childcare programs, private childcare centers, and family childcare options for preschool programs.
- 12) Requires the R&R services to include all of the following:
 - a) Types of services, including setting, hours, and eligibility requirements;
 - b) Navigation support for families to enroll in programs; and,
 - c) Expansion of the internet website, <https://mychildcare.ca.gov/> to include the previously discussed programs.
- 13) Requires CDSS to develop a new rate schedule for calculating reimbursement rates for childcare and development programs that is reflective of the potential loss of four-year-old children who would instead be served under a TK program.

EXISTING LAW:

- 1) Defines TK as the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate (Education Code Section [EDC] 48000).
- 2) Authorizes a school district or charter school to place four-year-old children enrolled in a CSPP into a TK program classroom (EDC 48000(h))
- 3) Establishes the ELOP with the intent that all local educational agencies (LEAs) offer all unduplicated pupils in classroom-based instructional programs access to comprehensive after school and intersessional expanded learning opportunities. (EDC 46120)
- 4) Permits an LEA operating an ELOP to operate a before school component of a program, an after school component of a program, or both the before and after school components of a program, on one or more schoolsites, and, further requires the development of a program plan based on certain criteria. (EDC 46120(b)(2))
- 5) Establishes the “Child Care and Development Services Act” to provide childcare and development services as part of a comprehensive, coordinated, and cost-effective system serving children from birth to 13 years old and their parents, including a full range of

supervision, health, and support services through full- and part-time programs. (Welfare and Institutions Code Section [WIC] 10207 *et seq.*)

- 6) Defines “childcare and development services” to mean services designed to meet a wide variety of children’s and families’ needs while parents and guardians are working, in training, seeking employment, incapacitated, or in need of respite and states that these services may include direct care supervision, instructional activities, resource and referral programs, and alternative payment arrangements. (WIC 10213.5(j))
- 7) Requires CDSS, in collaboration with CDE, to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service. (WIC 10280(a))
- 8) Requires the Governor and the Child Care Providers Union (CCPU), consistent with the agreement dated June 25, 2021, to establish a “Joint Labor Management Committee” (JLMC) to develop recommendations for a single reimbursement rate structure that addresses quality standards for equity and accessibility while supporting positive learning and developmental outcomes for children. Further, requires the JLMC to develop recommendations and present the recommendations to the Department of Finance (DOF) no later than November 15, 2022 in order to inform the Governor’s proposed budget for the 2023-24 fiscal year. (WIC 10280.2(a))
- 9) Requires CDSS, in consultation with CDE, to convene a working group separate from the JLMC, to assess the methodology for establishing reimbursement rates and the existing quality standards for childcare and development and preschool programs, as specified. Further, requires the workgroup to, no later than August 15, 2022, provide recommendations, including, but not limited to, recommendations on how CDSS should define childcare workforce competencies and how these competencies would align with rate reform, to the JLMC, DOF, and the Joint Legislative Budget Committee. (WIC 10280.2(b))

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS: *Subsidized childcare in California.* Subsidized childcare in California is provided to children of eligible parents who may be working, in training, seeking employment, incapacitated, or in need of respite through a number of programs, including, among others:

- California Work Opportunity and Responsibility to Kids (CalWORKs), which provides childcare in three “stages” to families receiving CalWORKs benefits, but also to families who are transitioning from or are no longer receiving CalWORKs aid;
- Alternative Payment Programs (APPs), which provide vouchers to families who may then obtain childcare in a center, family childcare home, or from a license-exempt provider;
- CSPP, which provides culturally, developmentally, and linguistically appropriate curriculum to eligible three- and four-year olds; and,
- General Child Care (CCTR), which includes contracted centers and family childcare homes.

To be eligible for subsidized childcare and development programs, families must have an income that is below 85% of the SMI, and current law requires DOF to recalculate the SMI annually

based on the most recent census data and pursuant to a specific formula. In fiscal year 2022-23, 85% of the SMI for a family of three is \$82,102. Families seeking to participate in a CSPP, however, must have an adjusted monthly income at or below 100% of the SMI; in fiscal year 2022-23, 100% of the SMI for a family of three would be \$96,590. For eligible families, finding childcare can prove to be challenging; however many resources exist to help families navigate their options and find a childcare program that works for them. A key resource for families are R&R programs, which provide information to families, assist potential providers in the licensing process, provide direct care services, and coordinate community resources for the benefit of parents and local child care providers. There are currently 69 R&R programs across all 58 counties in California.

Transitional kindergarten. California also offers TK to families with eligible 4-year-old children and for whom a school-based early learning and care program is most appropriate. Current law defines TK as the first year of a two-year kindergarten program and children are eligible for a TK program based on their birth date. In December 2020, Governor Newsom released the “Master Plan for Early Learning and Care,” which recommended, among other things, the “expansion of access to preschool for all four-year-olds over time, building on the [TK] program, using a targeted geographic universalism approach. To the extent possible, prioritize expansion first for four-year-olds in the attendance area of high-poverty elementary schools in school districts and charter schools that receive Local Control Funding Formula Concentration Grant funds. In addition, encourage and support community-based preschool programs that meet state requirements to offer state-funded preschool options and create incentives and support for local education agencies to transition self-contained preschool classrooms to inclusive, universal programs. Programs should also offer mixed-delivery extended-day services for income-eligible families and sliding-scale fee options to other families.”

In 2021, Governor Newsom announced an initiative to expand TK to all 4-year-olds; in the 2023-24 school year, children whose fifth birthdays are between September 2nd and April 2nd will be eligible for TK. By the 2024-25 school year, children who turn five between September 2nd and June 2nd will be able to enroll in TK, and by 2025-26, the program will be available to all 4-year-olds.

Efforts to expand TK have been impacted, however, by workforce challenges. A November 2022 article by CalMatters states “By far, staffing has been the largest challenge for districts. Statewide, districts need thousands of teachers and aides to staff [TK] classes throughout the four-year rollout of the expansion. This year, some districts were able to meet most of their needs by moving teachers who were doing other jobs, including subbing, running reading programs or teaching other grades. Now districts are worried about finding qualified teachers for the next few years of the expansion. The scramble to find staff is also creating a domino effect on childcare programs and preschools whose teachers are ideal candidates for higher-paying [TK] classrooms.” A February 2023 report by the Legislative Analyst’s Office states “Workforce issues appear to be a key barrier to TK implementation. Only 23% of school districts report having enough multiple subject teaching credential holders to meet the need for TK expansion.”

Impacts of TK on community-based childcare programs. Despite the increased availability of TK programs to families, concerns have been raised regarding the impact of TK expansion on community-based childcare programs.

While wages and career opportunities are key factors for any prospective employee, California has seen an increase in the number of childcare program employees making the switch from community-based childcare programs to TK programs. The previously mentioned 2022 CalMatters article states, “To find qualified teachers and assistants, districts are looking directly at the legion of childcare and preschool teachers already working with 4-year-olds at private and nonprofit preschools and childcare centers. Some programs have lost teachers and aides to districts, which pay more and offer summers off and pension plans, and preschool and childcare providers are worried about losing even more as districts need more teachers in the next few years.”

Due to licensure requirements, community-based childcare providers are required to maintain higher adult-to-child ratios for the infants and toddlers they care for. Because of the increased need for staff, childcare programs that serve infants and toddlers also seek to provide care to four year olds, who require a lower adult-to-child ratio, and therefore subsidize the cost to provide care to younger children. However, as more families move children out of community-based childcare programs and into TK programs, childcare providers who relied on four-year-olds to offset the cost of caring for infants and toddlers are unable to afford the cost of paying the providers necessary to maintain the required staffing ratios.

While TK programs are viable options for families that require care during more traditional work hours, some TK programs do not provide full-day or year-round learning and therefore necessitate additional afterschool care. And while this model may work for families in which the parents or caregivers work a traditional schedule, for workers who work non-traditional hours, such as those who work multiple jobs to make ends meet, community-based childcare provides a vital service. These realities, coupled with rising inflation and recent increases in the minimum wage, have made it increasingly difficult for struggling childcare providers to maintain the adequate staffing necessary to keep their doors open and serve the families who require a non-school-based early learning and care option.

Author’s Statement: According to the author, “California has begun to phase in the implementation of universal TK. While the availability of TK for all families is a great victory, it does not replace the necessity of full-day and full-year services for children from birth to age four, services necessary to ensure that women can return to the workforce and contribute to California’s economic strength. We must look to our childcare programs as the key to supporting women, families, and the workforce. Community-based providers have expressed valid concerns that the loss of four-year-olds may undermine the already fragile system.

“[This bill] would support the effective and equitable functioning of California’s mixed-delivery childcare system and create a just transition for community-based providers as TK is implemented. A mixed-delivery childcare system is key to ensuring full care from birth through school age. Without such a system, California will be unable to ensure that the diverse childcare needs of families in every community and every aspect of the workforce are met.”

Need for this bill: The provisions of this bill seek to make changes to several aspects of the early learning and care continuum in an effort to improve and increase access to care for families. Specifically, this bill increases the income threshold from 100% of the SMI to 120% of the SMI for CSPP eligibility, and specifies that “income eligible” for CSPP eligibility means an adjusted monthly income at or below 120% of the AMI or SMI, whichever is higher. Additionally, the provisions of this bill seek to: provide prospective CSPP providers with

equitable opportunity to establish workforce and administrative systems; require the SPI to establish rules and regulations for the commingling of children participating in CSPP with children supported through other state-subsidized programs and private funding; and, require ELOPS programs serving TK pupils be developmentally appropriate for pupils in TK. Finally, this bill would require CDSS to develop a new rate schedule for calculating reimbursement rates for childcare and development programs that is reflective of the potential loss of four-year-old children who would instead be served under a TK program.

Equity Implications: The provisions of this bill seek to ensure equity by supporting the community-based childcare providers who provide much-needed childcare to families and children for whom a TK program is not best-suited or does not meet all of a family's childcare needs. As previously discussed, TK programs offer an alternate early learning and care model for children and families who are able to utilize a program offered during traditional school and working hours. However, for working parents that require childcare during nontraditional working hours or during summer or holiday breaks, community-based childcare is a crucial support, particularly for those parents who may work evenings, or for those who work multiple jobs. While TK expansion is not the sole cause of workforce shortages in the community-based childcare sector, it is a contributing factor. To address the impact of TK on community-based childcare, the provisions of this bill would require CDSS to implement a new rate system for childcare providers who have been impacted by the loss of 4-year-olds to TK programs in order to increase wages and benefits for childcare workers in community-based childcare programs.

Policy considerations: The provisions of this bill would increase the income ceiling for CSPP eligibility to 120% of the SMI, or 120% of the AMI, whichever is higher. It should be noted, however, that the provisions of this bill neither define AMI, nor do they provide criteria to DOF upon which the AMI determination and subsequent calculations should be based. The provisions of this bill would also require the director of CDSS, in partnership with the SPI, to expand existing childcare R&R services to include, navigation, referral, and enrollment services for certain childcare programs, including, among others, TK, CSPP, Head Start, general childcare programs, and private childcare centers. However, because CDSS-administered childcare programs already work with R&R programs, it is unclear if the responsibility to expand R&R services to CDE-administered programs should fall to CDSS. Should this bill move forward, the author may wish to make amendments that address these considerations.

Double referral: This bill will be referred to the Assembly Education Committee should it pass out of this committee.

RELATED AND PRIOR LEGISLATION:

AB 596 (Reyes) of the current legislative session, would require CDSS, in consultation with CDE, to develop and implement an alternative methodology for calculating subsidy payment rates for childcare and CSPP services, and would require an equitable sliding scale for the payment of family fees to be developed, and would prohibit the collection of family fees until the sliding scale is implemented. *AB 596 is pending before the Assembly Education Committee and is set to be heard on April 26, 2023.*

SB 380 (Limon) of the current legislative session, is identical to AB 596 (Reyes) and would require CDSS, in consultation with CDE, to develop and implement an alternative methodology for calculating subsidy payment rates for childcare and CSPP services, and would require an equitable sliding scale for the payment of family fees to be developed, and would prohibit the

collection of family fees until the sliding scale is implemented. *SB 380 is pending before the Senate Human Services Committee and is set to be heard on April 17, 2023.*

AB 131 (Committee on Budget), Chapter 116, Statutes of 2021, among other things, established a Rate Reform workgroup to be convened by CDSS for recommendations on rate methodology and existing program standards, including licensing standards, quality and environmental standards, and workforce competencies. Further, required the workgroup to submit recommendations to the Legislature no later than August 15, 2022, in order to inform the Joint Labor Management Committee recommendations on a single reimbursement rate system.

REGISTERED SUPPORT / OPPOSITION:

Support

California Legislative Women's Caucus

Opposition

None on file

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