

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 555 (Juan Carrillo) – As Introduced February 8, 2023

SUBJECT: California state preschool programs

SUMMARY: Revises requirements for three-year olds being served in California State Preschool Program (CSPP) by adjusting reimbursement rates, changing licensing requirements, and moving three-year olds up on the priority list for enrollment. Specifically, **this bill:**

- 1) Deletes the requirement that children under four years of age must be served in a CSPP licensed by Title 22 of the California Code of Regulations (Title 22).
- 2) Requires an applicant and contracting agency serving part-day and full-day programs to equally give priority to serving three-and four-year olds by adding three-year olds to the third priority category and deletes the requirement that three-year olds be given the fourth priority when considering enrollment.
- 3) Requires the reimbursement rate for CSPP to be based on the “lesser” of the following:
 - a) The maximum reimbursable rate stated in the contract;
 - b) Net reimbursable program costs; or,
 - c) The product of the adjusted child days of enrollment for certified children times the contract rate set forth in this section.
- 4) Replaces existing licensing requirements for CSPPs that meet the following requirements:
 - a) Located in a school building;
 - b) Operating in a local educational agency (LEA) facility;
 - c) Meets California Building Standards Code as described in Title 24 of the California Code of Regulations; and,
 - d) Meets kindergarten and preschool classroom requirements in Title 5 of the California Code of Regulations (Title 5).
- 5) Permits part-day preschool programs to receive reimbursement adjustment factors for children with exceptional needs, who are at risk of neglect, abuse, or exploitation or who are dual language learners.
- 6) Permits children who meet more than one of the adjustment factors to be reported for reimbursement.
- 7) Permits the California Department of Education (CDE) to implement this bill using management bulletins or similar instructions on or before August 1, 2024, until regulations are filed with the Secretary of State.

- 8) Requires CDE to begin the regular rulemaking process by December 31, 2024, to implement the provisions of this bill.
- 9) Updates an outdated code reference.

EXISTING LAW:

- 1) Establishes licensing requirements for childcare providers under the administration of the California Department of Social Services (CDSS). (22 Title of California Regulations)
- 2) Establishes licensing requirements for early education providers under the administration of CDE. (5 Title of California Regulations)
- 3) Establishes the “Childcare and Development Services Act” to provide childcare and development services as part of a coordinated, comprehensive, 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.*)
- 4) Establishes the “Early Education Act” to provide an inclusive and cost-effective preschool program that provides high-quality learning experiences, coordinated services, and referrals for families to access health and social-emotional support services through full- and part-day programs and that all families have equitable access to a high-quality preschool program, regardless of race or ethnic status, cultural, religious, or linguistic background, family composition, or children with exceptional needs. (Education Code Section [EDC] 8200 *et seq.*)
- 5) States the intent of the Legislature that all families have access to childcare and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children, and enhancing their parenting skills through participation in childcare and development programs. (EDC 8202)
- 6) Defines “CSPP” to mean those programs that offer part-day and/or full-day educational programs for eligible three- and four-year-old children. These programs may be offered by a public, private, or proprietary agency, and operated in childcare centers or family childcare homes operating through a family childcare home education network. (EDC 8205(x))
- 7) Requires the CSPP to include, but not be limited to, part-day age and developmentally appropriate programs designed to facilitate the transition to kindergarten for three- and four-year-old children in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. (EDC 8235)
- 8) Requires, unless the contract specifies a lower number, a part-day CSPP be for a minimum of:
 - a) Three hours per day, excluding time for home to school transportation; and,

- b) 175 days per year. (EDC 8207(b))
- 9) Requires, unless the contract specifies a lower number, the operation of full-day CSPP be for a minimum of 246 days per year. (EDC 8207(c))
- 10) Defines “three-year-old children” as children who will have their third birthday on or before December 1 of the fiscal year in which they are enrolled in a CSPP. Children who have their third birthday on or after December 2 of the fiscal year, may be enrolled in a CSPP on or after their third birthday. (EDC 8208)
- 11) Establishes eligibility criteria for state subsidized child development services based on family and child circumstance, including, but not limited to, income, homelessness, or if a child is or has been abused, neglected or exploited, as specified. (EDC 8263)
- 12) Provides that families, including those with three- and four-year-old children seeking part day or full time state preschool, must meet at least one requirement in each of the following areas to be eligible for state preschool:
- a) A family is a current aid recipient; income eligible; homeless; or one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited; or,
 - b) A child with exception needs defined as:
 - i) Children under three years of age who have been determined to be eligible for early intervention services pursuant to the California Early Intervention Services Act.
 - ii) Children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements.
 - c) Has a member of its household who is certified to receive benefits from Medi-Cal, CalFresh, the California Food Assistance Program, the California Special Supplemental Nutrition Program for Women, Infants, and Children, the federal Food Distribution Program on Indian Reservations, Head Start, Early Head Start, or any other designated means-tested government program. Eligible applicants within this category are given priority. (EDC 8205 & EDC 8208)

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

COMMENTS:

Background: *State-subsidized childcare.* California’s subsidized childcare system is designed to provide assistance to parents and guardians who are working, in training, seeking employment, incapacitated, or in need of respite. Center-based direct-contract childcare and development programs are dually administered by CDSS and CDE. CDE administers the CSPP,

which provides developmentally, culturally, and linguistically appropriate curriculum to eligible three- and four-year olds. The bill directly impacts CSPPs by changing current enrollment priority.

Mixed-Delivery Early Childhood Education System. California has a complex, mixed-delivery system for early childhood education (ECE) by utilizing home, community, and school-based settings funded by a combination of public and private funding. Transitional kindergarten (TK) and LEA-based CSPP use Proposition 98 funding, community-based CSPP and Head Start pull down state and federal contracts and grants, and state vouchers are used for California Work Opportunity and Responsibility to Kids (CalWORKs) and Alternative Payment Programs (APPs).

The Early Childhood and Development Act of 2020 shifted all childcare programs, with the exception of the CSPP, from CDE to CDSS to align childcare and development programs to be more integrated and coordinated in order to achieve the “vision of a high-quality, affordable, early childhood system that comprehensively and effectively serves children and families”.

Regulatory requirements – Title 22 versus Title 5. Most ECE programs are regulated using Title 22 state licensing requirements, which is administered by CDSS; however, CDE oversees programs such as TK and CSPP that are required to follow Title 5 of state licensing requirements. CSPPs serving four-year olds on school campuses and specified home-based providers are exempt from CDSS licensure, but current law still requires CDSS licensure and Title 22 compliance. This bill seeks to add three-year olds to licensure exemption.

These programs often have overlap in the settings in which they operate; however, each program and age group follow different licensing requirements that correspond with different health and safety needs. Each setting is unique and is designed to serve different demographics to ensure children have the opportunity to thrive where appropriate. The licensing requirements are intended to reflect these factors. It is important to note that Title 5 regulations are also designed and applicable to the K-12 setting; as such, they are designed for this population’s unique needs. Conversely, Title 22 is designed for childcare needs which are often different than educational settings. Due to the different setting, there are key differences in each regulatory section. The following are highlights of the differences:

- Teacher education:
 - Title 22: 12 ECE units and six months of experience for a teacher, and 12 ECE semester units and 3 administration units.
 - Title 5: 24 ECE units plus 16 general education units for teachers and an Associate’s Degree or 60 units with 24 ECE units plus 5 administration units and 2 adult supervision units.
- Adult/child ratios:
 - Title 22: for ages two to six-years old the ratio must be 12:1
 - Title 5: for ages 2.9 to six years old the ratio must be 8:1

- Health-Related:
 - Title 22: must notify parent or guardian immediately if a child is ill or seriously injured
 - Title 5: school must provide medical supplies
- Disaster-plan:
 - Title 22: each licensee must maintain a disaster plan
 - Title 5: each school district or county of education must develop a disaster plan
- Parental Transparency:
 - Title 22: Notice of licensee's compliance or noncompliance with the correction of a deficiency for a period of 30 days; Information on each childcare facility must be posted online, including but not limited to: name and address, licensed capacity, status of the license, and number of inspections and citations
 - Title 5: Parent rights include, but are not limited to: classroom observation, teacher/administration meetings, a safe and supportive learning environment for their child, examination of classroom materials, information regarding child's academic progress, information regarding school rules, and the opportunity to volunteer or participate in a committee
- Teacher Background:
 - Title 22: staff subject to fingerprinting and a Child Abuse Central Index review; must be immunized against influenza, pertussis, and measles
 - Title 5: staff subject to fingerprinting, and no immunization requirements.

The following are the most common ECE settings:

- General Childcare and Development Programs (CCTR) include center-based or family childcare home care, provide part- or full-time care for children from 0-5 years and out-of-school care for school age children up to age 13 from income-eligible families who have a need for care. Depending on setting, CCTRs either only follow Title 22 regulations, or they follow both Title 22 and Title 5;
- APPs provide voucher-based childcare subsidies to low-income parents to access childcare through a wide range of providers. Includes vouchers offered through California's state welfare program, California Work Opportunity and Responsibility to Kids (CalWORKs), those for working families, as well as programs specifically for migrant children. An APP provider can fall under either Title 22 regulations or Title 5 regulations depending on the setting;
- CSPP provides center-based preschool for three- and four-year-old children from income eligible families, or who are otherwise eligible. Depending on setting, CSPPs either only follow Title 5 regulations, or they follow both Title 22 and Title 5;

- Head Start and Early Head Start are federally funded preschool and child development programs that promote school readiness of children from birth to age five from low-income families by “enhancing their cognitive, social, and emotional development.” Families qualify if their income is below the federal poverty level.
- Family Childcare (FCC) serve children from birth to school and can serve up to 14 children depending on their licensing designation. FCCs can accept APP or private pay. FCCs must adhere to Title 22. Some FCCs also are a part of a Family Childcare Home Education Network (FCCHEN) which contract for CCTR and CSPP and these providers must also follow Title 5.

Early childhood education program settings. Community-Based Programs are often located in commercial-type buildings and many are private centers that rely on family tuition and fees as well as public funding. In a 2023 report by First 5, “ECE in community-based settings can positively impact child development outcomes. Publicly funded high-quality preschool programs have proven to prepare children academically for school with lasting benefits into adulthood. In addition to academic preparation, many community-based settings facilitate parental access to social services and support parent engagement.” The following are considered community-based programs: APPs, CSPPs, and CCTRs.

Home-based settings are found in neighbors’, families’, and loved ones’ homes or a babysitter. This type of setting benefits the need for flexible hours, language and cultural needs, and children with a disability. Home-based settings include APPs, CSPPs and CCTRs that participate in a FCCHEN, FCCs, a Family, Friend, or Neighbor (FFN), and nannies/babysitters. The most common home-based ECE program is an FCC.

School-Based Programs are set in an LEA and typically a school site and can use Proposition 98 funding. These programs follow Title 5 regulations and require teachers to be credentialed. School-based programs also typically have a focus on school readiness. When a family has an older sibling, school-based programs allow for a “one-stop shop” for family engagement. The following are the different types of school-based programs: CSPPs, CCTR, Head Start, and TK.

Enrollment priorities. CSPP utilizes a priority enrollment system to determine which qualified family should be given the limited slots. For full and part-day programs, first priority is given to three- or four-year olds who are receiving child protective services or who are identified as at-risk of abuse, neglect or exploitation; second priority is for eligible three- and four-year olds who have exceptional needs in lowest income ranking order; third priority is for eligible four-year olds who are not enrolled in a TK program in income ranking order, followed by families in which English is the primary home language, followed by families who have been on the waiting list the longest; fourth priority is given to three-year old children; fifth priority is for children in families whose income is no more than 15% above the income eligibility threshold, with up to 10% of the enrolled children over the income eligibility threshold.

This bill inserts three-year olds as the same priority as four-year olds instead of prioritizing four-year olds first.

Author’s Statement: According to the Author, “In 2021–22, California only served 8.5 percent of the over 300,000 eligible three-year-olds in the CSPP. [This bill] will increase access and expand opportunities for children in the California State Preschool Program (CSPP) by removing

barriers that programs face in serving three-year olds and children who require multiple additional supports, while strengthening system coherence and stability for CSPP programs as they recover from the pandemic and support California's children and families to not only recover, but to thrive.

“Research shows the critical importance of access to preschool programs for all children, but particularly Black, /Latino, Native American, and other children of color, as well as multilingual learners, children with disabilities and children experiencing poverty. The provisions in this bill are critical to ensuring systemic supports so that these children can experience the long-term benefits of access to two years of preschool.

“As the early education field and educational system recover from the pandemic, now is a critical time to ensure these systems are structured to adapt to change. It is critical to remove barriers to access in this critical transition period so that we can provide the much needed support so working parents can meaningfully participate in the workforce and sustain their families.”

Need for this bill: California's early education system continues to shift with the evolving work of stakeholders and regulators identifying the best ways to serve young children. This bill seeks to address a lack of four-year old enrollment as a result of the ongoing implementation of TK. This bill will allow three-year olds to be considered during priority enrollment and keep CSPP classrooms open. Because four-year olds are eligible for TK and enrolling less in CSPP programs, three-year olds might benefit from also being placed as an equal priority. Increasing access to CSPP for three-year olds could have a significant impact on their long-term learning benefits.

This bill also seeks to increase reimbursement for children that may need more services than others. Increasing reimbursement for these children could allow more access to the services needed to be successful in school beyond preschool.

Equity Implications: Early education has proven to provide lasting positive impact on lives. In a study done in 2022 by Georgetown University in Tulsa, Oklahoma, found that children who were enrolled in pre-kindergarten were ahead in pre-reading, pre-writing, pre-math skills at kindergarten entry, and were more attentive and less timid than peers. While all children made learning gains, children from low-income families, Latino, Black and Native American children, and multilingual learners had the greatest gains in school readiness skills. This study also found that Black and Latino children who attended preschool were significantly more likely to enroll in four-year college institutions than peers who did not attend preschool.

An April 2019 Public Policy Institute of California publication, *Public Preschools in California*, reported, “There are some indications that low-income children benefit more than their wealthier peers from access to free, high-quality preschool.” However, the report also stated, “Children who face disadvantages [such as families with limited education, near poverty, with limited English, and children of color] tend to have lower enrollment in preschool.”

This bill is attempting to increase access to available CSPP spots and reach more children to reap the benefits described. The differing ECE settings are by design and allow families to choose options that are optimal for them. This bill will allow families to continue making these choices.

Policy Considerations: While it is important to increase early education enrollment for three-year olds, it is equally important that safety and quality are maintained. Title 22 regulations are

used in a variety of settings, as described above, and offer necessary protections from various health and safety issues. Three-year olds are still in an age group that is learning to communicate clearly and effectively. Of note, Title 5 regulations do not include licensing violation notifications or postings. It is imperative that California is serving young children safely. It is unclear how removing licensure for three-year old classrooms would impact their environment and safety. Removing licensure for one childcare setting does not provide equity to all children in attendance nor the providers working to maintain licensure. It is unclear how three-year olds would benefit from less oversight. As such, the author should amend the bill to remove licensure exemption for three-year olds.

Proposed Committee Amendments:

The Committee is proposing the author take the following amendments:

On page 3, strike out lines 1 to 24, inclusive, and strike out pages 4 to 7, inclusive, on page 8, strike out lines 1 to 19, inclusive.

On page 16, strike out lines 3 to 40, inclusive, and strike out page 17

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

RELATED AND PRIOR LEGISLATION:

SB 246 (Leyva) of 2021, would have required CDSS to establish a single reimbursement rate for early learning and care programs, including variation for regional costs and quality adjustment factors. *SB 246 was held in the Assembly Appropriations Committee.*

AB 258 (Arambula), Chapter 697, Statutes of 2017, authorized the County of Fresno to establish a five-year pilot program for the purpose of developing and implementing an individualized county childcare subsidy plan that meets the particular needs of families in Fresno County.

AB 273 (Aguiar-Curry), Chapter 689, Statutes of 2017, expanded eligibility for federal and state subsidized child development services to families who need childcare because the parents are engaged in an educational program for English language learners, or to attain a high school diploma or general educational development certificate.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

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