



## CHILD CARE LAW CENTER

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### **Child Care and Development in California's 2008-2009 Budget Bill and Related Legislation**

California's 2008-2009 Budget and related legislation provided funding and made changes to the laws governing California's subsidized child care and development system. We present a brief description of the Budget and legislative changes to the Education Code:

The Budget Act (AB 1781, Chapter 268, Statutes of 2008), appropriated approximately \$3.3 billion for the various child care programs administered by California's Department of Education (CDE), including funding for CalWORKs Stages 2 & 3 child care (CalWORKs Stage 1 is funded through the Human Services budget) general child care centers, family child care homes, state preschool and after-school programs. The Administration estimates that a total of approximately 915,000 child care slots are funded in the Budget.

The Budget includes \$338.3 million in one-time Proposition 98 resources to fund CalWORKs Stage 2 child care. This funding reflects a policy change the Administration initiated in 2007-08 to fund Stage 2 costs without a federal Temporary Assistance for Needy Families (TANF) holdback. The Budget provides an additional \$25.5 million in Proposition 98 resources for this purpose. The Administration has indicated this amount will fully fund Stages 2 & 3 for the current fiscal year, but there is already concern that the funding will be insufficient. After the Budget was passed by the Legislature, the Governor used his authority to make line item vetoes including a \$16.4 million cut to CalWORKs Stage 2 child care funding. The Legislature had added this amount to the Stage 2 appropriation in response to compelling testimony from child care advocates about the Stage 2 shortfall in 2007-2008 and its harsh impact on families and agencies. The Legislature wanted to ensure that the state would be able to meet the child care needs of current and former CalWORKs families in 2008-09.

The Child Care Law Center was successful in ensuring the Budget bill again included language that expressed the Legislature's intent to fully fund CalWORKs Stage 3 for former CalWORKs families. Although the Governor did not veto this language, he stated:

"This intent statement duplicates statutory intent language and, while it reflects a goal to provide sufficient funds, I want to be clear that inclusion of this language in the budget bill is not a commitment to fund any deficiency that might occur."

In addition, the Governor used his veto authority to make a \$70.0 million cut to funding that counties use to provide CalWORKs Stage 1 child care and employment services to help parents find and maintain employment.

The Budget Act includes \$10.9 million for growth for non-CalWORKs child care programs in 2008-2009, but it does not provide a COLA for child care and development programs. In addition, the Budget freezes the income eligibility ceiling for families in need of child care services at the 2007-2008 level.

The Human Services Budget Trailer bill (AB 1279, Chapter 759, Statutes of 2008), contained provisions that revised several sections of the Education Code relating to child care and development services.

First, as a condition of receiving significant federal funding through the Child Care and Development Fund (CCDF), every two years California is required to submit a State Plan to the federal Health and Human Services Department describing its use of the funds for the state's subsidized child care and development services. The Child Care Law Center successfully worked with California's Department of Education (CDE), legislative budget staff, and others to make changes to the CCDF State Plan development process to provide for more opportunity for genuine public input and specific legislative oversight. The new law, Education Code 8206.1(c), requires CDE to coordinate with the Department of Social Services, the California Children and Families Commission, and other stakeholders, including the Department of Finance, to develop the CCDF Plan. CDE is mandated to release a draft of the plan by February 1, and then commence a 30-day comment period that includes at least one hearing and the opportunity for written comments. Prior to the May budget revision, CDE is required to provide the revised CCDF State Plan to the chairs of the appropriations and budget committees of each house of the Legislature for their review.

The Child Care Law Center was also successful in ensuring the inclusion of a new section of the Education Code, section 8447(g), which protects every family receiving CalWORKs cash aid from being required to pay a "family fee," a share of the cost of subsidized child care determined by family size and income. However, the Governor deleted a Budget bill provision that would have exempted families who receive child care services from paying fees if their incomes are less than 40 percent of the state's median income (SMI), adjusted for family size. Contrary to the Governor's veto statement, CDE, the advocacy community and the Legislature had previously reached a consensus that the floor for charging family fees would not go below 40 percent of SMI. The Governor's veto was particularly egregious as it not only lowers the family fee floor for 2008-2009, but sets the stage for lowering the family fee floor every time the SMI is adjusted upward.

The Budget Trailer Bill delays implementation of the 2007 Regional Market Rate (RMR) survey until March 2009 (CDE's survey of the rates child care providers charge nonsubsidized families that is used to set rate ceilings for provider payments in the subsidy system), though it maintains the use of county aggregates in setting the rate ceilings and confirms that the RMR survey should be conducted every two years rather than annually. The Trailer bill also sets the rate ceilings for both CalWORKs and non-CalWORKs subsidies at the 85<sup>th</sup> percentile of the 2007 RMR survey for state fiscal years 2008-2009 and 2009-2010.

The Trailer Bill also sets the cap for Alternative Payment Program administration and support services (the public and private, nonprofit programs that administer child care subsidies at the local level) at 19% of their total contract amount.

Newly enacted Education Code section 8275.5 requires CDE to promote full utilization of child care and development funds by matching available unused funds with identified service needs. CDE is authorized to use interagency adjustments between different contractors with the same type of contract when both agencies mutually agree to a temporary transfer of funds for the balance of the fiscal year. It is not yet certain how CDE will implement this new authority.

Finally, the State Government Budget Trailer Bill (AB 1389, Chapter 751, Statutes of 2008) includes a provision that eliminates the Department of Housing and Community Development's Child Care Facility Financing Program (direct loan, loan guarantee and microloan products). Although the program was defunded five years ago with loan receivables directed to the General Fund, the possibility of resurrecting the program had been under discussion.