



CHILD CARE LAW CENTER

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Legislative Update - November 14, 2014

The Child Care and Development Block Grant Act of 2014 (S.1086)

On November 17, 2014, the Senate is expected to pass S.1086, which has already passed the House of Representatives and is the first comprehensive reauthorization for the 1990 Child Care and Development Block Grant (CCDBG) in nearly twenty years. This act is the primary source of federal funding to help families pay for child care. The Child Care and Development Block Grant Act of 2014 will require changes to California's child care programs, including:

- Higher health and safety standards for subsidized child care, and
- Policies to help families maintain greater stability in their child care arrangements.

The reauthorized Child Care and Development Block Grant standards will improve the quality and stability of state-subsidized child care programs. It will be up to federal and state legislators to ensure that its mandates are sufficiently funded, so that children and families have access to the high quality child care program it offers. Otherwise, families may lose their subsidized child care under the new law, rather than benefit from its improvements.

Background of the Child Care and Development Block Grant (CCDBG) Reauthorization

Congress authorized the original CCDBG nearly twenty-five years ago with minimal safety and quality requirements, and last reauthorized the bill in 1996. In 2013, a bipartisan group of Senators introduced and passed S.1086, though passage of S.1086 by both houses of Congress was considered unlikely. The House of Representatives unexpectedly passed an amended version of S.1086 on September 15, 2014. Unable to proceed on the amended S.1086 by unanimous consent, then majority leader Harry Reid (D-NV) scheduled S.1086 for a cloture vote by the Senate on November 13, 2014. The bill passed with 96-1 votes for cloture. It now will be sent to the Senate Floor, where it is expected to pass, and then to President Obama for signing and passage into law.

Passage of S.1086 means that the Administration for Children and Families, Office of Child Care must reissue new proposed regulations. The proposed regulations released for comment in May 2013 will not go into effect. However, S.1086 and the May 2013 draft regulations address many of the same issues, and offer some similar requirements.

What the CCDBG Reauthorization Means For Child Care Quality in California

The health and safety provisions in the bill include, for the first time, mandatory annual inspections for *all* child care programs that use CCDBG funds, including license-exempt child care providers.

Child Care Law Center Legislative Update November 14, 2014
The Child Care and Development Block Grant Act of 2014
P. 2

Existing California law subjects licensed child care facilities to on-site inspection only once every five years, whether or not the facilities receive state subsidies. Current law does not require any inspection of license-exempt child care providers.

The bill imposes numerous health and safety training requirements on child care providers. The topics of the health and safety requirements that states must impose on subsidized child care providers are:

- Prevention and control of infectious diseases
- Prevention of sudden infant death syndrome and use of safe sleep practices
- Administration of medications
- Prevention of and response to emergencies caused by food allergies
- Building and physical premises safety
- Prevention of shaken baby syndrome and abusive head trauma
- Emergency preparedness
- Hazardous material handling and disposal
- Safe transportation for providers that offer transportation
- First aid and CPR

The requirements *may* include nutrition, physical activity, or any other area that a State determines is necessary to promote child development or to protect children's health and safety. Child care providers must complete training in these requirements pre-service or during an orientation period. The bill does not specify a required number of training hours for child care providers, but does require the State Plan to report the number of hours of ongoing training required annually.

The bill's new training requirements are far more substantial than those required under current California licensing law. The training and monitoring requirements for license-exempt child care providers will have a particularly significant impact on California's subsidized child care system, because many low-income parents depend on license-exempt care.

California will have two years from the enactment of the bill to comply with the monitoring requirements. Within three years of the enactment of the bill, California must make monitoring reports available to the public.

The CCDBG Reauthorization also contains provisions that will increase the quality of care for children with disabilities. California will have to make available policies on the social, emotional and behavioral health of young children and on preschool expulsions. They may use quality-improvement funds to train providers with respect to challenging behaviors.

What CCDBG Reauthorization Means For Families with Subsidized Child Care in California

Under the new Reauthorization bill, every child receiving child care assistance with CCDBG funds will be considered eligible for not less than twelve months before the state imposes any kind of redetermination, regardless of temporary changes in parent's work status or income, so long as the family income does not exceed 85 percent of the State Median Income. California already uses a 12-month redetermination period, but requires parents to report changes in work

Child Care Law Center Legislative Update November 14, 2014

The Child Care and Development Block Grant Act of 2014

P. 3

or personal status or income, which can trigger a loss of the child care subsidy. California's income ceiling is 70% of the State Median Income.

Also, state policies must take into account fluctuations in earnings and keep their redetermination processes from unduly disrupting parents' employment. The new bill allows for a graduated phase-out of care for parents who have exceeded state income eligibility at the time of redetermination. Many states already offer phasing out of subsidies, in the form of tiered income eligibility, but California does not.

The bill encourages states to offer parents receiving child care assistance at least three months continued assistance to search for employment if they lose their job. California currently allows parents sixty days of assistance to search for employment under those circumstances.

The 12-month eligibility protection, allowances for fluctuating income, and job search provisions will help low-income children remain in quality child care, and stabilize families with child care assistance.

The bill further encourages, but does not require, states to delink reimbursement rates from attendance, "to the extent practicable," to ensure that children's illnesses or parents unpredictable schedules do not create financial instability for their child care programs and providers. This will align California's subsidized child care programs with the policies in Head Start and public schools.

Federal Funding Levels for the CCDBG

The CCDBG Reauthorization bill recommends increases to the discretionary funding for the CCDBG, but not in the present fiscal year. It recommends phasing in roughly \$400 million in discretionary funding over the next six years, a 16.5 percent increase, resulting in \$2.75 billion discretionary funding in FY2020.

Consistent with its emphasis on quality, the bill increases the amount that California and other states must set aside for quality improvement:

- from 4 percent to 7 percent in the first two fiscal years following enactment
- at least 8 percent in the third and fourth fiscal years, and
- 9 percent thereafter.

It includes an additional 3 percent set aside to improve the quality of infant and toddler care. It does not address the \$2.9 billion mandatory funding levels for the CCDBG, for jurisdictional reasons.

This money is likely to be inadequate to meet the task of the quality improvements. States will either need to make up the difference, or risk terminating children and families from child care programs.

Child Care Law Center Legislative Update November 14, 2014

The Child Care and Development Block Grant Act of 2014

P. 4

Next Steps for California Child Care Advocates - The State Plan and California Legislature

Federal law requires California to prepare and submit a “State Plan” detailing how it will spend CCDBG funds. The current California State Plan expires September 30, 2015. Prior law required the State Plan to cover two years; S.1086 increases that period to three years. The California Department of Education (CDE) must hold at least one hearing to provide the public an opportunity to comment on the provision of child care services under its State Plan. The CDE has set a [State Plan hearing](#) for Monday, April 22, 2015, from 1:00 p.m. to 4:00 p.m.

The California Budget Act of 2014 requires CDE to provide the revised plan and a description of any changes to the earlier draft to the Director of Finance and the chairs of the fiscal committees of the Legislature by April 1, 2015.

Advocates should check the CDE website for updates about the State Plan, and submit comments to Legislative fiscal committees and CDE.

Child Care Law Center Recommendations

Parents in California face certain rewards—and risks—under the new legislation. The Child Care and Development Block Grant of 2014 provides opportunities to improve quality and access for all children - if policymakers allocate the requisite federal and state funding to pay for the required improvements. Higher quality means higher costs. Low- income families should benefit from these efforts to improve the quality of subsidized child care, but not at the risk of losing their child care assistance. The state and federal governments must fund the new training and monitoring requirements.

Restrictions on the use of license-exempt care will not eliminate the need for such care by parents who work swing shifts, weekends, night shifts, and unpredictable schedules.

The Child Care Law Center has stressed the need to plan for new requirements in order to avoid a difficult transition that might otherwise result in families losing access to child care and early education. The passage of S.1086 renders the need for this planning even more timely and important.

The Child Care Law Center has been and will continue advocating for the following issues and provisions in the California implementation of the Reauthorization’s requirements:

1. Stability for low-income families through 12-month eligibility and “family-friendly” administrative guidelines.
2. Graduated phase-out for families who have reached the income eligibility ceilings.
3. Access to license-exempt child care providers for parents with subsidies who work non-traditional schedules, have children with disabilities or special needs, or who have cultural, linguistic or other compelling reasons.
4. Annual inspections of licensed child care programs.
5. Training requirements for child care providers on how to recognize and report suspected child abuse, as well as additional funding for these and other training requirements.
6. Policies regarding expulsion of preschool-aged children and to promote positive behavioral intervention.