



MEMORANDUM

To: State Policy Makers and Child Care Advocates
From: The Child Care Law Center
Re: Child Care Funding in the American Rescue Plan Act, 2021
Date: March 16, 2021

ISSUES PRESENTED

The American Rescue Plan Act (“ARPA”) of 2021 passed both chambers of Congress on March 10, 2021 and was signed into law by President Biden on March 11, 2021. What requirements and funding does the ARPA provide for child care and early learning?

BRIEF SUMMARY

The ARPA includes about \$40 billion for child care, including: about \$24 billion for a new Child Care Stabilization fund (Section 2202) that will provide subgrants to child care providers, whether they are currently paid with child care subsidies or are paid with no child care subsidies; almost \$15 billion for States’ Child Care Development Block Grant (“CCDBG”) programs with some new flexibilities added to address the needs of communities and child care providers during the Covid-19 pandemic (Section 2201(a) and (c)). The ARPA also includes a separate pot of funding (\$35 million) for Federal administrative costs, technical assistance, and research expenses to assist the Federal Office of Child Care (“OCC”) in distributing and implementing these funds (Section 2201(b)).¹ In addition, the ARPA provides \$3.55 billion for the Child Care Entitlement to States (“CCES”), the current mandatory Federal child care funding stream (Section 9801), representing an increase of \$633 million over current levels. This section also waives the CCES State match requirements for Fiscal Years (“FYs”) 2021-2022 and expands this funding stream to Territories and Tribes.

California typically receives 10 percent of Federal funds and is therefore expected to receive about \$4 billion from the ARPA.² With this significant infusion of Federal funds, California can take action now to bring immediate relief to families, child care providers and communities. People of color and those with the least resources have borne the brunt of this pandemic. An equitable approach should be used to distribute these funds. Now is the time to heal some of the harm to families before and during the pandemic, and create long-term solutions.

IN-DEPTH DISCUSSION

I. Child Care Funding from the ARPA

A. CCDBG Funding under section 2201(a) and (c)

The law allots \$14.99 billion for the CCDBG, with some additional flexibilities for States to address the unique needs of providers and communities during the Covid-19 pandemic. American Rescue Plan Act of 2021, Pub. L. No. 117-2, §§ 2201(a) and (c) (2021).³ The Federal OCC must obligate this money to Lead Agencies by September 30, 2021. *See id.* § 2201(a). States must obligate this money by September 30, 2023 and liquidate (expend)⁴ the funding by September 30, 2024. *Id.*⁵ This money is **not subject** to sections 658E(c)(3)(E) nor 658G requirements of the CCDBG. *Id.*:

- Section 658E(c)(3)(E) states that the Lead Agency must reserve the minimum amount required to improve child care activities and for quality improvement, and that no less than 70 percent of the remainder must go to direct services. 42 U.S.C. § 9858c(c)(3)(E).
- Section 658G requires the Lead Agency to reserve money for activities relating to improving quality child care services and provides a list of activities for which the money must be used. 42 U.S.C. § 9858e.

As the money is “to carry out the [CCDBG] without regard to requirements in sections 658E(c)(3)(E) or 658G of such Act,” States may use it for other means that meet the purposes of the CCDBG § 2201(a).

Additionally, a Lead Agency is “authorized to use such funds to provide child care assistance” to essential workers *without following the income eligibility requirements* dictated by CCDBG section 658P(4) (the section that offers the definition for an “eligible child”). *Id.* An “eligible child,” under section 658P(4) is an individual:

- who is less than 13 years old;
- *whose family income does not exceed 85 percent of the State median income for a family of the same size, and whose family assets do not exceed \$1,000,000 (as certified by a member of such family); and*
- who lives with
 - a parent or parents who are working, or attending a job training or educational program; or who resides with a parent or parents who are working or attending a job training or educational program; or
 - is receiving, or needs to receive, protective services and resides with a parent or parents not described in the preceding clause.

Accordingly, States may serve essential workers not meeting CCDBG “**income** eligibility requirements.” § 2201(a). (emphasis added).

Moreover, section 2201(c) makes clear the CCDBG funding provided to States must “supplement, not supplant, other Federal, state, and local public funds expended to provide child care services for eligible individuals.” § 2201(c). This section prevents States and localities from using the CCDBG funding to fill other budget holes or replace existing State or local spending with new Federal dollars. Instead, States must use this funding to supplement those existing sources of funding.

B. Child Care Stabilization Funding under section 2202

The law includes \$23.975 billion in funding for stabilization grants to States. § 2202(b). The money is generally to be used in accordance with the CCDBG except for the requirements in subparagraphs (C) and (E) of section 658E(c)(3), 658G, and subject to the other requirements of section 2202(c). § 2202(c).

Therefore, the Child Care Stabilization funding is **not subject** to sections 658E(c)(3)(C) and (E) and section 658G:

- Section 658E(c)(3)(C) mandates a limit on State administrative spending to 5 percent of the aggregate amount of funds available for use notwithstanding costs for providing direct services. 42 U.S.C. § 9858c(c)(3)(C).
- Sections 658E(c)(3)(E) and 658G are discussed *supra* and refer to reserving minimum funding for improving child care activities, and quality improvement. §§ 9858c(c)(3)(E), 9858e.

1. Definitions under section 2202

The ARPA gives the same meaning to “Lead Agency,” “Indian Tribe,” and “Tribal organization,” as they are defined in section 658P of the CCDBG. *See* § 2202(a)(2)(B); 42 U.S.C. § 9858n. The law defines “COVID-19 public health emergency” as the public health emergency declared on January 31, 2020 by the Secretary of Health and Human Services (“Secretary”) pursuant to section 319 of the Public Health Service Act. § 2202(a)(1); *see* 42 U.S.C. § 247d.

An eligible provider is one who meets the definition of section 658P of the CCDBG. § 2202(a)(2)(A); *see* 42 U.S.C. § 9858n(6). The ARPA also explicitly adds that an eligible provider includes an individual who is “licensed, regulated, or registered in the State, territory, or Indian Tribe on the date of enactment of this Act and meets applicable State and local health and safety requirements.” § 2202(a)(2)(B). **This language is intended to clarify that CCDBG-eligible providers as well as other providers not currently receiving public funds are eligible to receive funding under the ARPA.** *See* § 9858n(6)(a) (“an eligible child care provider means—a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—(i) **is licensed, regulated, or registered under State law** as described in section 9858c(c)(2)(F) of this title; and (ii) **satisfies the State and local requirements**, including those referred to in section 9858c(c)(2)(I) of this title; applicable to the child care services it provides.”) (emphasis added).

2. Subgrants to eligible child care providers under 2202(c)

The Secretary allots funding to States using the underlying formula in CCDBG section 6580. § 2202(c); see 42 U.S.C. § 9858m.:

- Section 6580(a)(1)-(2) of the CCDBG refers to how much funding the Secretary may reserve for Territories, possessions, and indigenous tribes. 42 U.S.C. § 9858m(a).
- Section 6580(b)⁶ of the CCDBG refers to how States will be allotted Federal funds. *Id.* § 9858m(b).⁷

The grants “shall be used in accordance with [the CCDBG] except for requirements in [658E(c)(3)(C)-(E) and 658G] of the Act,” and other new requirements specified in the section discussed *supra*. § 2202(c)-(d).

3. State Reservations and Subgrants under section 2202(d)

a. State Funding Reservations under section 2202(d)(1)

The Lead Agency that receives money through section 2202(b) may reserve no more than 10 percent of the allotted money to:

- administer subgrants,
- provide technical assistance and support for applying or accessing the subgrant,
- publicize the availability of the subgrant,
- carry out activities to increase the supply of child care, and
- provide assistance to providers certifying their requirements to apply for the subgrant.

Id. § 2202(d)(1).

This language allows California to reserve more for administrative costs than is allowed under existing CCDBG rules. The remainder of this funding not reserved by the State must be used for subgrants to stabilize child care providers. *Id.* § 2202(d)(2).

b. Subgrant Process under section 2202(d)(2)

An eligible child care provider is permitted to apply for a subgrant “regardless of such a provider’s previous receipt of other Federal assistance.” *Id.* § 2202(d)(2)(A). This means child care providers who are not paid with publicly-funded child care subsidies qualify for these subgrants. The goal of the subgrants to eligible providers is “to support the stability of the child care sector during and after the COVID-19 public health emergency.” *Id.*

The language “to support the stability of the child care sector during and after the COVID-19 public health crisis,” shows intent that the law is to address immediate needs during the COVID-19 crisis and to strengthen the field in the long term. *Id.*

A child care provider is considered eligible to apply for a subgrant if, when the provider applies, they are either:

- open and available to provide child care services; or
 - closed because of public health, financial hardship, or other reasons due to COVID-19.
- Id.* § 2202(d)(2)(B)(i)-(ii).

This provision permits a wide array of providers to apply for subgrants to meet their unique needs. The amount of money available to an applicant is based on what the provider submits in their application. *Id.* § 2202(d)(2)(C). This amount “shall be based on the provider’s stated current operating expenses, including costs associated with providing or preparing to provide child care services during the Covid–19 public health emergency, and to the extent practicable, [to] cover sufficient operating expenses to ensure continuous operations for the intended period of the subgrant.” *Id.*

The Lead Agency is required to create a subgrant application on their website. *Id.* § 2202(d)(2)(D)(i). The application is required to include certifications that providers must make to state that, during the entire subgrant period, they will meet these requirements:

- When open and available to provide child care services, the provider will implement policies that follow local/State guidance and to the “greatest extent possible” implement the Center for Disease Control (“CDC”) guidelines;
- The provider will pay full compensation, including benefits if applicable, as of the date of application and will not take any action that reduces weekly compensation or the compensation rate below “full compensation,” including involuntary furloughing at time of application and submission; and
- The provider will provide relief from fees for enrolled families to the extent possible, and prioritize families who are struggling to pay when providing such relief.⁸

Id. § 2202(d)(2)(D)(i)(I)-(III).

The Lead Agency must accept and process applications for subgrants on a rolling basis and “provide subgrant funds in advance of provider expenditures, except as provided in subsection (e)(2).” *Id.* § 2202(d)(2)(D)(ii). Subsection (e)(2) permits that a “provider may use the subgrant funds for sums obligated or expended before the date of enactment for the Act for the cost of a good or service described in paragraph (1) to respond to the COVID-19 public health emergency.” *Id.* The goods or services described in subsection (e)(1) are listed *infra*.

If the Lead Agency is unable to “obligate at least 50 percent of the funds received pursuant to subsection (c),” the lead agency must notify the Secretary **within 9 months** from the date of the ARPA’s enactment.⁹ *Id.* § 2202(d)(2)(E).

c. Permitted Use of Funds under section 2202(e)

A child care provider may use the subgrant funding for any or all of the following:

- Personnel costs (payroll, salaries, employee benefits, premium pay, costs for recruitment or retention);
- Rent under a lease, or mortgage payment, utilities, facility maintenance or

improvements, or insurance;

- Personal protective equipment, cleaning or sanitation supplies and services, or training and professional development related to health/safety practices;
- Purchases of or updates for equipment and supplies for Covid-19;
- Goods necessary to maintain or resume services;
- Mental health support for employees or children.

Id. § 2203(d)(1)(A)-(F).

Additionally, “a provider may use the subgrant funds to reimburse the provider for sums obligated or expended before the date of enactment of this Act for the cost of a good or service” described in section 2202(e)(1). *Id.* § 2202(e)(2). This provision may be critical for child care providers who took on personal or other debt in order to remain open while they waited for additional Federal stabilization funding to reach them.

d. Supplementing, not Supplanting, under section 2202(f)

The law expressly states the money granted is not meant to supplant any other Federal, State, and local public funding expended for eligible families and children. *Id.* § 2202(f).

This section prevents States and localities from using the Child Care Stabilization funding to fill other budget holes or replace existing state or local spending with new Federal dollars. Instead, states must use this funding to supplement those existing sources of funding.

C. Mandatory CCES Funding

The legislation amends Section 418 of the Social Security to provide \$3.55 billion for the CCES mandatory funding stream for FY 2021 and each subsequent fiscal year. *Id.* § 9801. This funding level represents an increase of \$633 million over current CCES funding levels, which have remained flat since FY 2006.¹⁰ The legislation also makes a number of changes to the CCES funding including to:

- Open up the funding stream to Tribes, Tribal organizations, and Territories. Of the funding total, \$3.375 billion is for States, \$100 million is for Tribes and Tribal organizations, and \$75 million is for Territories. § 9801(a)(3)(A)-(C).
- Waive the required state match for FYs 2021 and 2022. § 9801(b).
- Allot the specified funding for Territories in “proportion to their respective needs” and allow redistribution of funding among Territories. § 9801(c).

II. Considerations for State Implementation of the ARPA

The ARPA provides new opportunities for State leaders to consider how to stabilize and support the entire child care sector. Implementation of this new funding will need to take into consideration: new requirements that apply to the funding and may differ from current CCDBG

rules and how States can ensure effective, equitable implementation through their policy choices.

A. New Requirements that Apply to the Funding and Differ from Current CCDBG Rules

Both the new CCDBG funding and the Child Care Stabilization funding have additional flexibilities and rules that differ from current CCDBG rules. See accompanying Table 2 and discussions *supra*. These new flexibilities offer State leaders opportunities to expand funding to providers who are not paid with publicly-funded child care subsidies nor receive other types of Federal assistance, cover providers' operating costs, waive or reduce family fees, serve essential workers who do not meet the CCDBG's income eligibility requirements, and use more funding for direct services.

However, States must ensure they meet the requirements under each relevant section of the ARPA, including: different obligation and liquidation periods for the CCDBG and Child Care Stabilization funding; administrative funding limits for the Child Care Stabilization funding, application and other requirements for stabilization subgrants; and the prohibition on supplanting other public child care funding, among others. In addition, providers who receive subgrants through the Child Care Stabilization fund are required to comply with new requirements, particularly around not reducing employee compensation for the duration of the subgrant and providing relief from fees and tuition for enrolled families to the extent possible.

B. How California Can Ensure Effective and Equitable Implementation: Recommendations for Use

Parents need affordable, safe child care more than ever, and child care providers need support to stay open or close when required to due to the pandemic. We all depend on parents and child care providers to keep our economy running and ensure our children are cared for, healthy, and safe. Working parents and child care providers are risking their lives while many others have the privilege of working from home to minimize their exposure to the pandemic. Black and Brown people, and people with the fewest resources and supports are carrying our communities' heaviest burdens. Our recommendations reflect the needs expressed to us by parents, child care providers, and child care advocates.

1. Waive family fees for all families

California should exercise this unique opportunity to waive fees for *all* families, irrespective of whether families are sheltering in place, and has the authority to do so under sections 2201(a) (the CCDBG funding) and 2202(c) (the Child Care Stabilization funding). Importantly, the State should also ensure that child care providers are paid the full subsidy amount and do not absorb the cost for waiving the family fees.

The CCDBG funding uses existing rules that give Lead Agencies flexibility to waive family fees for families whose incomes are at or below poverty, for children in “protective services,” or other criteria the state establishes.¹¹ 45 C.F.R. 98.20(a). Therefore, existing CCDBG rules give States significant flexibility to define in their Child Care Development Fund (“CCDF”) Plan the criteria that they believe would best serve families with the least resources, during Covid-19 and beyond, including which families should not be assessed fees for care. Should California waive family fees for *all* families using the CCDBG funds under section 2201, the State would likely need to apply for a waiver to the Administration for Children and Families (“ACF”) of the OCC.

California already waived family fees for all families from April 2020 through August 2020, irrespective of whether the families were sheltering in place, while ensuring child care providers were made whole for the subsidy payments. *See* Cal. A.B. 82 (2021); Cal. S.B. 820 (2020); Cal. Exec. Order No. N–66–20 (May 29, 2020). This policy immediately put money back into the pockets of parents and child care providers, particularly mothers and families of color. The State’s waiver from family fees was readily approved by the ACF. The Consolidated Appropriations Act of 2021 allows for family fees for all families to be waived until October 31, 2022 and based on conversations with our Federal partners, the State should have no difficulty gaining permission from the ACF to waive family fees for all families by using funds from the ARPA as well. *See* Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020).

Waiving family fees with the Child Care Stabilization funding money under section 2202 likely does not require a waiver because child care providers applying for subgrants must agree to “provide relief from [family fees] and tuition payments for families...to the extent possible and prioritize such relief for families struggling to make either type of payment.” § 2202(d)(2)(D)(i)(III). In California, parents either pay their family fees directly to the child care provider or they pay them to the Alternative Payment Program (“AP”) that administers their child care subsidy. The manner by which family fees are collected depends on the AP’s policy. *See* 5 CCR § 18413. To account for instances by which families pay their family fees to the AP, the State must clarify to the ACF that child care providers are still providing relief from family fees with subgrants under the ARPA, even though the AP is doing so on their behalf. *See* § 2202(d)(2)(D)(i)(III).

2. Provide significant grant funding to all providers, including those not paid with publicly-funded child care subsidies

The ARPA provides funding through the CCDBG to allow States to serve providers who currently receive CCDBG funding. It also broadens eligibility beyond CCDBG providers for the Child Care Stabilization funding under section 2202(a)(2)(B), and explicitly notes that subgrants must be provided to eligible providers, regardless of whether that provider receives other Federal public assistance:

The lead agency *shall* use the remainder of the grant funds awarded pursuant to subsection (c) to make subgrants to qualified child care providers described in subparagraph (B), *regardless of such a provider’s*

previous receipt of other Federal assistance, to support the stability of the child care sector during and after the COVID–19 public health emergency.

§ 2202(d)(2)(A) (emphasis added).

Child care providers, most of whom are women of color and immigrants in our State, earn on average \$30,000 per year, a disparaging amount for one of the most important jobs in the world — caring for and teaching our children.¹² Family child care providers and family, friend, and neighbor providers make even less. Family child care providers and child care centers who do not receive payment with child care subsidies are also bearing the brunt of the pandemic. It is critical that these providers, many of whom are women of color and were excluded from receiving Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funding from the State, receive assistance now to satisfy the goals and intent of the legislation, irrespective of whether they are paid with child care subsidies.

The Child Care Stabilization funding requires that providers estimate their operating costs and that States provide subgrants based on these operating expenses “and to the extent practicable, cover sufficient operating expenses to ensure continuous operations for the intended period of the grant.” *Id.* at § 2202(d)(2)(C). As discussed above, California should provide clear guidance and support to providers to calculate their ongoing operating costs, including accounting for waiver of family fees. It should also ensure that stabilization subgrant amounts are sufficient for programs to maintain operations, including accounting for waiving family fees and budget shortfalls programs may face due to lower enrollment. Consistent with language of the ARPA, the subgrant amounts should be provided based on the providers’ current and prospective operating expenses. *See id.* § 2202(d)(2)(C). The subgrant length should be sufficient to provide stability for providers as the Covid-19 pandemic continues. *Id.*

3. Expand and Extend Child Care Assistance to Families

In tandem with investments in parent affordability, provider reimbursement rate increases, and provider grants, we urge the State to use this new funding to expand and extend child care voucher assistance to more families. Under the CCDBG, States decide income and other eligibility requirements within broad federal bounds, though all states restrict eligibility in some way due to limited funding.

The ARPA explicitly states that new CCDBG funding may be used for child care assistance to essential workers—defined in the law as “health care sector employees, emergency responders, sanitation workers, and other workers deemed essential” during the Covid-19 response—regardless of whether they are income eligible under Federal and State CCDBG rules. § 2201(a).

Essential workers, many of whom are Black and Brown parents, are the backbone of our economy. Parents cannot work without affordable child care. Funding to extend and expand

child care vouchers to essential workers should be targeted to the most underserved communities and regions of the State that face the greatest shortfall in subsidies.

4. Increase and stabilize provider reimbursement rates

States have significant control over how reimbursement rates are set in their CCDBG programs, including under the terms of the new CCDBG funding. To accommodate increased costs and other needs during the pandemic—as well as to acknowledge the low payment rates that affected program quality and access even before this crisis—the State should use the funding to raise provider reimbursement rates across-the-board, including for family, friend and neighbor providers. Increasing reimbursement rates will primarily impact women, especially women of color, who have risked their lives to care for our children. In addition, to promote stability for providers, the State should delink provider payments from attendance and occasional child absences, as allowed under CCDBG rules. *See* 45 C.F.R. § 98.15(a)(8); 45 C.F.R. § 98.45(l)(2).

5. Ensure Funding Distribution is Equitable

New and existing funding provides significant flexibility for States to determine who receives resources. We urge California to ensure any allocation of resources is done equitably, ensuring that the highest-need communities and providers receive the most assistance, particularly if funding is limited. To do so, we urge the State to disseminate information and provide support to assist with application and eligibility processes, as discussed above; ensure all eligible providers receive some minimum level of resources; and provide significant, additional resources for children, families, and providers with high needs. Such targeting could be accomplished by using administrative proxies such as: providers and families who qualify for the free or reduced price meals under the California State Meal Program, the Supplemental Nutrition Assistance Program (“SNAP”), the Child and Adult Care Food Program (“CACFP”), and other child nutrition programs; and providers and families who live in high-poverty Census tracts.¹³

6. Streamline and clarify state processes and guidance

These new funding streams, and how they can be used, may be confusing for providers and families. It is imperative that California provide clear information about the new funding to communities, including clear guidance about what is required and what is not required under Federal and State rules. All guidance should be written in plain language and in multiple languages.

The State should also streamline, to the maximum extent possible, the certification and application process and requirements for providers applying for stabilization subgrants. California should avoid placing undue new requirements on providers other than those specified in the APRA. The State should also provide clear guidance quickly for all provider applicants—including those paid and not paid with publicly-funded child care subsidies—about compliance with the subgrants, how the compensation and fee relief will be assessed, and how to determine the funding level providers should request to cover their operating costs. A

provider may have a difficult time accurately calculating how much money to request in the subgrant for employee payroll and increased costs.

Furthermore, the State should use a portion of the funding reserved under Section 2202(d)(1) for State administrative and other costs to provide technical assistance to providers to assist them in the application process, particularly providers who are unfamiliar with publicly-funded child care; family child care providers; providers in rural areas; family, friend and neighbor providers; providers who speak a language other than English; and tribal providers.

California should ensure that information about the new funding streams, their rules, and any application requirements and portals are widely available, accessible, and publicized in multiple languages and via multiple communication methods.

CONCLUSION

California must seize this unique opportunity to substantially increase the availability of affordable child care, reduce burdens for families, pay child care providers a livable wage that reflects their vital work on behalf of families and to our communities, and create a plan to equitably distribute funding support. The improvements and growth we create now will set the foundation for a stronger, sustainable path forward. The Covid-19 pandemic has magnified the inequities and structural racism embedded in our child care policies. This challenging time has also raised broad awareness to how the lack of child care and low wages of providers impact *everyone*—the ability for parents to work, teachers and staff to return to the classroom, businesses to reopen and remain open, and importantly, to keep children healthy and happy. Now is the time to make the necessary changes—without strong support, Black and Brown families and people with the least resources will continue to bear the brunt of this pandemic for generations to come.

We encourage the State to take an active role in building up all Californians by waiving family fees for all families, increasing the amount of child care vouchers and pay to child care providers, and providing subgrants to all providers regardless of whether they receive publicly-funded child care subsidies—all of which can be done under the ARPA.

Endnotes

¹ Note: although the language provided this funding does not specify that it is for Federal expenses, because both CCDBG and the new Child Care Stabilization funding have their own rules and funding reservations for State administrative expenses, we assume the \$35 million investment is for Federal use.

² See Center for Law and Social Policy (“CLASP”), *Child Care Relief Funding in American Rescue Plan: State-by-State Estimates*, <https://www.clasp.org/publications/fact-sheet/child-care-estimates-american-rescue-plan> (last visited March 12, 2021) (California’s allocation of the discretionary funding).

³ House Bill 1319 was signed into law by President Biden on March 11, 2021. It is now published and is therefore cited as the “American Rescue Act Plan of 2021.”

⁴ “Expenditures mean charges made by a non-Federal entity to a project or program for which a Federal award was received.” 2 C.F.R. § 200.34. “Expenditure” is also commonly referred to as “liquidation.”

⁵ See also OCC, *CCDF Funding Allocations and Periods of Availability* (2012), <https://www.acf.hhs.gov/occ/policy-guidance/ccdf-funding-allocations-and-periods-availability#3> (allocation and liquidation requirements) (last visited March 16, 2021).

⁶ 6580(b) refers to allotments to States from the Discretionary Fund. 45 C.F.R. § 98.61.

⁷ The proportioning formula is as follows: The sum is equal to: 50% of (young child factor multiplied by the ratio of [the State allotment percentage to the total sum of corresponding State products]) and 50% of (school lunch factor multiplied by the ratio of [the State allotment percentage to the total sum of corresponding State products]). 42 U.S.C. § 9858m(b)(1)(a)-(b). The young child factor is the ratio of the number of children under five years old in the State to the number of children under five years old in the country. § 9858m(b)(2). The school lunch factor is the number of children who get free or reduced price lunch to the number of children in the United States. § 9858m(b)(3). The allotment percentage is the per capita income of all United States individuals divided by the per capita income of all State individuals. § 9858m(b)(4)(a).

⁸ The federal law uses the term “copayment,” but California law uses the phrase “family fees” to describe this payment. See Cal. Educ. Code § 8273.

⁹ Obligations may include subgrants or contracts that require the payment of funds to a third party (e.g., subgrantee or contractor). However, the following are not considered third party subgrantees or contractors: (i) A local office of the Lead Agency; (ii) Another entity at the same level of government as the Lead Agency; or (iii) A local office of another entity at the same level of government as the Lead Agency. 45 C.F.R. § 98.60.

¹⁰ See Congressional Research Service, *The Child Care and Development Fund (CCDF) in FY2021 Reconciliation Proposals*, [https://www.democrats.senate.gov/imo/media/doc/CCDF%20in%20FY2021%20Reconciliation%20\(2-17-21\).pdf](https://www.democrats.senate.gov/imo/media/doc/CCDF%20in%20FY2021%20Reconciliation%20(2-17-21).pdf) (non-partisan report on Federal funding levels) (last visited March 16, 2021).

¹¹ “Family fees” (called “copayments” under federal law) are the family’s share of cost for publicly-funded child care. Family fees are based on a family’s income, size and whether they are authorized for part-time or full-time care. Cal. Educ. Code § 8273. The OCC also clarified these flexibilities under existing CCDBG law. OCC, *CCDF Frequently Asked Questions In Response to COVID-19*, <https://www.acf.hhs.gov/occ/faq/ccdf-frequently-asked-questions-response-covid-19> (last visited March 12, 2021).

¹² Bureau of Labor Statistics, U.S. Department of Labor, *May 2019 State Occupational Employment and Wage Estimates California*, <https://www.bls.gov/oes/current/oes399011.htm> (last visited March 16, 2021).

¹³ These are initial suggestions from the Child Care Law Center, but additional analysis may reveal other proxies that can help target families and providers most in need.