



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98]** ( *Division 9 added by Stats. 1965, Ch. 1784.* )

**PART 1.8. Child Care and Development Services Act [10207 - 10492.2]** ( *Part 1.8 added by Stats. 2021, Ch. 116, Sec. 260.* )

**CHAPTER 25. Building a Better Early Care and Education System [10420 - 10429.5]** ( *Chapter 25 added by Stats. 2021, Ch. 116, Sec. 260.* )

**10420.** This chapter shall be known, and may be cited, as the Building a Better Early Care and Education System Act.  
(*Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.*)

**10420.5.** (a) The purpose of this chapter is to promote quality, access, and stability in the early care and education system by authorizing an appropriate unit of family child care providers to choose a provider organization to act as their unit's representative on all matters specified in this chapter. It is also the purpose of this chapter to promote full communication between family child care providers and the state by permitting a provider organization certified as the representative of family child care providers to meet and confer with the state regarding matters within the scope of representation and other areas as mutually agreed upon in negotiations.

(b) This chapter is not intended to change the family child care providers' status as employees or independent business owners or classify family child care providers as public employees.

(c) This chapter is not intended to change or interfere with the requirements governing licensing or enforcement thereof set forth in the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code).

(d) This chapter is not intended to interfere with the ability of the state, the department, another department or agency, or a political subdivision of the state to comply with the requirements of federal grants or federal funding.

(*Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.*)

**10421.** As used in this chapter:

(a) "Certified provider organization" means a provider organization that is certified by the Public Employment Relations Board as the representative of family child care providers in an appropriate unit after a proceeding under Section 10424.

(b) (1) "Family child care provider" or "provider" means a child care provider who participates in a state-funded early care and education program as specified in subdivision (f) and is either of the following:

(A) An individual who operates a family child care home, as defined in Section 1596.78 of the Health and Safety Code, and who is licensed pursuant to the requirement in Section 1596.80 of the Health and Safety Code.

(B) An individual who provides early care and education in their own home or in the home of the child receiving care and is exempt from licensing requirements pursuant to Section 1596.792 of the Health and Safety Code.

(2) An assistant-provider, a volunteer, or any other individual who works or volunteers for a family child care home, as defined in Section 1596.78 of the Health and Safety Code, and who does not possess a license pursuant to Section 1596.80 of the Health and Safety Code shall not be considered a family child care provider for purposes of this chapter. However, an individual who, separate and apart from that work or volunteer service within a family child care home, participates in a state-funded early care and education program and provides care that is exempt from licensing requirements pursuant to Section 1596.792 of the Health and Safety Code shall be considered a family child care provider for purposes of this chapter in their capacity as the provider of this separate, license-exempt care.

(c) "Mediation" means an effort by an impartial third party to assist in reconciling a dispute regarding matters within the scope of representation between representatives of the Governor and the certified provider organization through interpretation, suggestion, and advice.

(d) "Provider organization" means an organization that has all of the following characteristics:

(1) Includes family child care providers as members.

(2) Has as one of its main purposes the representation of family child care providers in their relations with public or private entities in California concerning the terms of their participation in state-funded early care and education programs.

(3) Is not an entity that contracts with the state or a county to administer or process payments for a state-funded early care and education program.

(4) Its organizational bylaws or other internal governing documents give family child care providers the right to be members of the organization and to participate in the democratic control of the organization.

(e) "Public Employment Relations Board" or "board" means the Public Employment Relations Board established pursuant to Section 3541 of the Government Code. The powers and duties of the board described in Section 3541.3 of the Government Code, and the respective implementing regulations, shall apply, as appropriate, to this chapter to the extent those procedures are not inconsistent with the procedures specified in this chapter. If a provision of this chapter is the same or substantially the same as that contained in Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, it shall be interpreted and applied in accordance with the regulations and judicial interpretations of the provision in those statutes. For exclusive purposes of this chapter, any reference in Section 3541.3 of the Government Code to "employee" or "employees" shall be deemed to refer to a "provider" as defined in subdivision (b), any references to "employee organizations" shall be deemed to refer to "provider organizations" as defined in subdivision (d), any references to "exclusive representative" shall be deemed to refer to "certified provider organization" as defined in subdivision (a), and any references to "employer" shall be deemed to refer solely to the department, any other agency, department, contractor, subcontractor, or any political subdivision of the state administering a state-funded early care and education program. The board may also adopt, amend, or repeal all rules and regulations necessary to carry out this chapter as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption, amendment, or repeal of regulations pursuant to this subdivision is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

(f) "State-funded early care and education program" means a program administered by the department, another department or agency, or a political subdivision of the state, including programs established subsequent to the enactment of this chapter, to subsidize early learning and care for children, but does not include the public education system.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10421.5.** The state action antitrust exemption to the application of federal and state antitrust laws shall apply to the activities of family child care providers and their representatives authorized under this chapter.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10422.** (a) For purposes of this section, the Public Employment Relations Board, as established pursuant to Section 3541 of the Government Code, shall determine if an entity seeking information is a provider organization within the meaning of subdivision (d) of Section 10421 as follows:

(1) The general counsel of the Public Employment Relations Board shall have the authority to determine if an organization is a provider organization upon application by that organization. The general counsel shall issue their determination within 10 days of receiving the application.

(2) If an organization is determined not to be a provider organization, the general counsel of the Public Employment Relations Board shall state the reasons for this determination. An applicant determined not to be a provider organization may appeal this adverse determination to the board within 30 days of the determination.

(3) Once a provider organization has been determined to be a provider organization by the general counsel of the Public Employment Relations Board, this determination shall remain valid for one year.

(b) Within 10 days of receipt of a request from a provider organization determined to be such by the Public Employment Relations Board in accordance with subdivision (a), the department shall make available in manipulable electronic format to that provider organization information regarding all providers of a family child care home, as defined in Section 1596.78 of the Health and Safety

Code, who are licensed pursuant to the requirement in Section 1596.80 of the Health and Safety Code. The information shall include the name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; and state facility license number of each provider of a family child care home.

(c) (1) Upon receipt of a request from a provider organization, department and any other state department or agency administering a state-funded early care and education program, with the assistance of any contractors or subcontractors and any political subdivisions of the state that are administering a state-funded early care and education program, shall immediately commence collecting information regarding any individual who has been a family child care provider, as defined in subdivision (b) of Section 10421, within the preceding three months, including each family child care provider's name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; the agency, contractor, subcontractor, or political subdivision of the state administering the state-funded early care and education program in which the provider participates; the date the provider began subsidy care; the date the provider ended subsidy care, if applicable; whether the provider is licensed or not; the unique provider identification number, if applicable; and the state facility license number, if known. The department and any other state department or agency administering a state-funded early care and education program, with the assistance of any contractors or subcontractors and any political subdivisions of the state administering a state-funded early care and education program, shall make reasonable efforts to collect the information under this subdivision in a timely manner.

(2) Within 60 days of receipt of an initial request from a provider organization, the department and any other state department or agency administering a state-funded early care and education program shall make available to the provider organization, in a manipulable electronic format unless demonstrably impracticable to do so, all of the information described in paragraph (1) that is available based on the reasonable efforts of the department, and any other state department or agency administering a state-funded early care and education program to collect the information.

(3) As soon as it is in the possession of the department or any other state department or agency administering a state-funded early care and education program, the department and any other state department or agency administering a state-funded early care and education program shall make available to the provider organization any information described in paragraph (1) that cannot be reasonably collected within 60 days.

(d) Following an initial request as described in subdivision (c), but no earlier than 90 days following receipt of that request, the department and any other state department or agency administering a state-funded early care and education program shall use reasonable efforts to continue to collect and make available to the requesting provider organization, in a manipulable electronic format, unless demonstrably impracticable to do so, an updated list of the information described in paragraph (1) of subdivision (c), as of that date, monthly unless more frequent or more detailed lists are required by an agreement with a provider organization.

(e) This section does not permit an agency, department, contractor, subcontractor, or a political subdivision of the state to delay or obstruct the collection or provision to a provider organization of information pursuant to subdivisions (c) and (d).

(f) The department and any other state department or agency administering a state-funded early care and education program, with the assistance of any contractors or subcontractors and any political subdivisions of the state that are administering a state-funded early care and education program, shall provide a certified provider organization, for each family child care provider within an appropriate unit, as described by Section 10424, the family child care provider's name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; the agency, contractor, subcontractor, or political subdivision administering the state-funded early care and education program in which the provider participates; the date the provider began subsidy care; the date the provider ended subsidy care, if applicable; whether the provider is licensed or not; the unique provider identification number, if applicable; and the state facility license number, if known. An updated list of this information shall be provided to the certified provider organization in a manipulable electronic format on a monthly basis unless more frequent or more detailed lists are required by an agreement between the Governor or the Governor's designee and the certified provider organization.

(g) If a provider organization has been certified as the representative of family child care providers in an appropriate unit, subdivisions (b), (c), and (d) shall not apply to requests by other provider organizations.

(h) This section does not preclude a provider organization and the Governor or the Governor's designee from agreeing to a different interval within which the department and any other state department or agency administering a state-funded early care and education program must provide the provider organization with this information.

(i) Any information regarding providers of small family child care homes, as defined in Section 1596.78 of the Health and Safety Code, that is made available to the provider organization under this section shall be provided in a manner consistent with Section 1596.86 of the Health and Safety Code.

(j) The information provided under this section shall be provided in a manner consistent with Section 6207 of the Government Code for a participant in the address confidentiality program established pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(k) Upon receipt of a written request by a family child care provider, the department and any other state department or agency administering a state-funded early care and education program shall remove the family child care provider's home and mailing

address; home, work, and cellular telephone numbers; and email address from any lists subsequently made available to a provider organization pursuant to subdivisions (c) and (d).

(l) The Public Employment Relations Board shall have initial exclusive jurisdiction to resolve any disputes arising among the provider organization, the Governor or the Governor's designated representative, the department, any other agency, department, contractor, subcontractor, or any political subdivision of the state administering a state-funded early care and education program, and family child care providers regarding lists of family child care providers given to the provider organization pursuant to this section.

(m) The Public Employment Relations Board shall perform its duties under this section consistent with its regulations and shall have the authority to make additional regulations. The board may also adopt, amend, or repeal all rules and regulations necessary to carry out this chapter as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption, amendment, or repeal of regulations pursuant to this subdivision is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10422.5.** Family child care providers have the right to form, join, and participate in the activities of provider organizations of their own choosing. Family child care providers also have the right to refuse to join or participate in the activities of provider organizations. This chapter does not change the rights of family child care providers to represent themselves individually in their relations with the state, agencies or departments of the state, contractors of the state, parents, or others, or their rights to speak to and petition the government with respect to all aspects of the state's early care and education program or any other topic.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10423.** Family child care providers are not public employees, and this chapter does not create an employer-employee relationship between family child care providers and the state, any agency or department of the state, any political subdivision of the state, or a contractor or subcontractor administering a state-funded early care and education program, for any purpose, including, but not limited to, eligibility for health or retirement benefits, workers' compensation, unemployment insurance, liability under the Labor Code or state wage orders, or vicarious liability in tort. This chapter does not alter the status of a family child care provider as a business owner, an employee of a family, or a contractor.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10423.5.** This chapter does not alter the rights of families to select, direct, and terminate the services of family child care providers.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10424.** (a) An appropriate unit of family child care providers, as described in subdivision (h), may designate, in accordance with this chapter, the provider organization, if any, that shall be its representative for purposes of this chapter. The board shall, pursuant to the procedures in this section, certify a provider organization designated by an appropriate unit of family child care providers as the representative of those providers for purposes of this chapter. There shall be no more than one certified representative for purposes of this chapter at any time.

(b) Requests for elections, challenges, requests for intervention, and requests for decertification shall be filed with, received by, and acted upon by the board, in accordance with its rules and regulations, to the extent those regulations are not inconsistent with this chapter, provided that a valid petition for a certification or decertification election shall be resolved by a secret ballot election among family child care providers. This section does not prevent the board from entering into agreements with one or more third-party services to conduct those elections.

(c) (1) A provider organization petitioning for an election to be certified by the board as the representative for an appropriate unit of providers shall include in its petition proof of a 10-percent showing of interest designating the provider organization to act as the statewide representative of the providers. For purposes of the showing of interest, "family child care provider" shall include any "family child care provider" within the meaning of subdivision (b) of Section 10421 who received a subsidy payment in any of the last three full calendar months before the petition was submitted for which the information is available pursuant to subdivision (d) of Section 10422. Proof of support may consist of, but does not require, any one of the following:

(A) Proof of dues payments.

(B) Dues deduction authorization forms.

(C) Membership applications.

(D) Authorization cards signed by providers.

(E) Petitions signed by providers, provided the purpose of the petition is clearly stated on each page.

(2) (A) The board, or a neutral third party designated by the board to act on a request for an election, shall consider evidence of a family child care provider's support, or lack of support, for a provider organization valid if it was signed by the family child care provider within two years of the date it is submitted to the board. For purposes of showing proof of support by a provider for a provider organization, as described in paragraph (1), the board shall accept any electronic signature that satisfies either of the following:

(i) Contains the signer's name and contact information including one or more of the following: telephone number, email address, or home address. The party collecting the signatures shall send the signer a confirmation transmission to the telephone number, email address, or home address provided, which includes the information provided, the date signed, and the language to which the signer has agreed; and the party collecting the signatures shall maintain for inspection any responses to the confirmation transmission received by the time of submission. The party collecting signatures shall submit to the board any response from a signer indicating the signer did not authorize the electronic signature.

(ii) Meets the requirements of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).

(B) Notwithstanding subparagraph (A), if the board enacts regulations authorizing the acceptance of electronic signatures, those regulations shall govern as to any signatures signed after the date those regulations become effective.

(3) Documents submitted to the board as proof of provider support shall remain confidential and not be disclosed by the board to any party other than the petitioner, except to indicate whether the proof of support is sufficient.

(4) A party that contends that proof of provider support was obtained by fraud or coercion, or that the signatures on such support documents are not genuine, shall file with the board evidence in the form of declarations under penalty of perjury supporting such contention within 20 days after the filing of the petition that the proof of support accompanied. The board shall refuse to consider any evidence not timely submitted, absent a showing of good cause for late submission. When prima facie evidence is submitted to the board supporting a claim that proof of support was tainted by misconduct, the board shall conduct an investigation. If, as a result of the investigation, the board determines that the showing of support is inadequate because of misconduct, the petition shall be dismissed.

(d) (1) Upon submission of an election request, and at the direction of the board, the Department of Human Resources shall, with the assistance of the department, any state department or agency or its contractor or subcontractor, and any political subdivision of the state, provide the board and the party seeking certification a list of all family child care providers, as defined in subdivision (b) of Section 10421, who received a subsidy payment in any of the last three full calendar months before the date the petition was submitted for which provider information is available pursuant to subdivision (d) of Section 10422. The list shall be provided at a date established by the board, but in no case earlier than April 1, 2020. This list shall include, for each provider, the following information: the provider's name; home address; mailing address; county; home, if known, work, and cellular telephone numbers; email address, if known; the agency, contractor, subcontractor, or political subdivision of the state administering the state-funded early care and education program in which the provider participates; the unique provider identification number, if applicable; and the state facility license number, if known. The list shall be produced in manipulable electronic format and shall be alphabetized. The board may designate a neutral third party to act on any of the requests filed with the board pursuant to this subdivision.

(2) Unless otherwise directed by the board, to be eligible to vote in a representation, amendment, or decertification election, a provider must have received a subsidy payment in any of the last three full calendar months before the date the petition was submitted for which information is available pursuant to subdivision (d) of Section 10422.

(e) (1) Upon submission of an election request, the board shall direct the Department of Human Resources, with the assistance of the department, any other agency or department, any political subdivisions of the state that are involved in the administration of the state-funded early care and education program, and the relevant contractors or subcontractors of those departments and agencies, to provide notice of the request for recognition to providers as soon as possible, but in no event later than 10 days following receipt of the request.

(2) A notice of a request for recognition shall consist of a copy of the request for recognition and any form written by the board for this purpose. The notice shall be provided to providers through email, through the agencies' and contractors' respective internet websites, or through other means reasonably calculated to provide notice to the greatest number of providers; and, where the means of notice allows, shall remain posted for at least 20 days.

(3) Within 20 days following posting or distribution of the request for recognition, an entity determined to be a provider organization pursuant to subdivision (a) of Section 10422 may file an intervention to appear on the ballot. A provider organization petitioning as an intervenor in an election shall demonstrate a 10-percent showing of interest in the same manner as described in subdivision (c).

(f) If the board makes an initial determination that the showing is insufficient, the board may allow an additional 10 days for a petitioner to perfect its proof of support. If the board determines that a petition is valid and an election is required, the board shall direct the Department of Human Resources, with the assistance of the department, any other agency or department, any political subdivisions of the state that are involved in the administration of the state-funded early care and education program, and the relevant contractors or subcontractors of those departments and agencies, to mail notice of the election to providers.

(g) If a petition is determined to be valid, the election shall be conducted by mail ballot no later than 90 days from the date the petition is filed or June 1, 2020, whichever is later.

(h) The only appropriate bargaining unit of providers is a statewide unit of all family child care providers described in subdivision (b) of Section 10421.

(i) A certified provider organization shall represent each provider in the represented unit fairly with respect to matters within the scope of the certified provider organization's role as representative of the bargaining unit for purposes of this chapter, without discrimination and without regard to whether the provider is a member of the certified provider organization.

(j) Provider organizations shall have the right to represent their members with respect to matters within the scope of the provider organization's role as representative of the bargaining unit for purposes of this chapter, except that once a provider organization is certified as the exclusive representative of the unit, the certified provider organization is the only organization that may represent that unit in relations with the state. Provider organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. This section does not prohibit a provider from appearing on their own behalf in their relations with the state.

(k) The Governor, or the Governor's representative, shall grant exclusive recognition to the certified provider organization, subject to the right of a provider to represent themselves.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10424.5.** (a) The scope of representation shall not extend to the rights of families to select, direct, and terminate the services of family child care providers. The scope of representation shall be limited to the following:

(1) Improvement of recruitment and retention of providers.

(2) Joint labor-management committees, including the training partnership described in Section 10429.5.

(3) Grievance arbitration.

(4) Professional development and training for providers, including preservice and ongoing inservice training and training on supporting dual language learners in their biliteracy and overall development.

(5) Contributions to a certified provider organization-administered benefit trust fund.

(6) Payment and payment reporting procedures for state-funded early care and education programs.

(7) Reimbursement rates including, but not limited to, rate add-ons for providers who complete additional training; and other economic matters.

(8) The deduction of membership dues and other voluntary deductions authorized by individual providers and allocation of the costs of implementing that deduction system.

(9) Strike and lockout provisions.

(10) Confidentiality of information exchanged between parties consistent with state and federal law.

(11) Management and certified provider organization rights clauses.

(12) Any standard contract clauses necessary to effectuate a memorandum of understanding, including an entire agreement or integration clause, savings clause, or duration clause.

(13) Impacts on providers' delivery of services, as a result of changes in regulations, rules, or resolutions, including, but not limited to, those that impact providers in regards to licensing and child care quality measures. However, the decision to promulgate, the content of a regulation, rule, or resolution, and the enforcement of a regulation, rule, or resolution are not within the scope of representation, and shall not be a subject of meeting and negotiating.

(14) The structure, time, and manner of certified provider organization access to preservice meetings and orientations, as set forth in Section 10428.7.

(b) All matters not specifically enumerated are reserved to the state and may not be a subject of meeting and negotiating, except that this section does not limit the right of the state to consult and reach agreement with any certified provider organization on any matter outside the scope of representation. Any matter outside the enumerated subjects listed in this section agreed to by the parties in a memorandum of understanding shall not be considered a mandatory subject of bargaining.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10425.** (a) The department and any other state department or agency administering a state-funded early care and education program shall permit the certified provider organization to participate in a stakeholder meeting convened to provide input regarding proposed rules and regulations that are subject to the procedures set forth in Chapter 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code and that are within the scope of representation, as described in Section 10424.5.

(b) Except in cases of an emergency as provided in this section, the Governor, through the Department of Human Resources, or the Governor's designee shall give reasonable written notice to the certified provider organization of any rule, resolution, or regulation directly relating to matters within the scope of representation, as described in Section 10424.5, proposed to be adopted by the department, or the State Department of Education, and shall give the certified provider organization the opportunity to meet and confer with the Governor, through the Department of Human Resources, or the Governor's designee.

(c) In cases of an emergency where the Governor, through the Department of Human Resources, determines that a rule, resolution, or regulation must be adopted immediately without prior notice or meeting with the certified provider organization, the Department of Human Resources or the Governor's designee shall provide a notice and opportunity to meet and confer in good faith at the earliest practical time following the adoption of that rule, resolution, or regulation.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10425.5.** (a) The Governor, through the Department of Human Resources or the Governor's designee, shall meet and confer in good faith regarding all matters within the scope of representation with representatives of a certified provider organization and, before arriving at a determination of policy or course of action, shall fully consider the presentations made by the certified provider organization on behalf of the family child care providers it represents.

(b) Unless the Governor otherwise so designates, the Department of Human Resources shall be the representative of the Governor to meet and confer regarding the scope of representation with representatives of the certified provider organization defined in subdivision (a) of Section 10421, for family child care providers and to carry out the professional functions and responsibilities in labor relations matters in accordance with this chapter.

(c) As used in this section, "meet and confer in good faith" means that the Governor, through the Department of Human Resources or the Governor's designee, and representatives of the certified provider organization shall have the mutual obligation to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The duty to meet and confer in good faith also requires the parties to begin negotiations sufficiently in advance of the adoption of the state's final budget for the ensuing fiscal year so that there is adequate time for agreement to be reached before the adoption of the final budget and for the resolution of an impasse.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10426.** (a) If an agreement is reached between the Governor, through the Department of Human Resources or the Governor's designee, and the certified provider organization, they shall jointly prepare a written memorandum of understanding, which shall be presented, when appropriate, to the Legislature for determination.

(b) (1) If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in a Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of an existing statute, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.

(2) If the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

(3) This section does not prevent the parties from agreeing and effecting those provisions of the memorandum of understanding that have received legislative approval or those provisions that do not require legislative action.



(c) A memorandum of understanding between the Governor, through the Department of Human Resources or the Governor's designee, and the certified provider organization shall be binding on all state departments and agencies and any political subdivision of the state that are involved in the administration of the state-funded early care and education program and the relevant contractors or subcontractors of those departments and agencies.

(d) This chapter does not alter the requirements governing the early care and education reimbursement system that are set forth in Section 10228 and in Article 1 (commencing with Section 18074) of Chapter 19 of Division 1 of Title 5 of the California Code of Regulations.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10426.5.** (a) Deductions may be requested by a certified provider organization from the subsidy payments of its provider members, and the Department of Human Resources or Governor's designee shall ensure that those requests are honored. The department, any other state department or agency administering a state-funded early care and education program, contractors or subcontractors of state agencies and departments, and any political subdivisions of the state shall assist the Department of Human Resources or the Governor's designee in ensuring these requests are honored. The deductions may include membership dues, initiation fees, general assessments, and payment of any other membership benefit program sponsored by the certified provider organization.

(b) If the deduction of membership dues or other voluntary deductions from a provider's subsidy payments requires action by more than one agency, department, political subdivision of the state, contractor, or subcontractor, the certified provider organization shall establish reasonable procedures to ensure that the total amount deducted does not exceed the total dues and other voluntary deductions owed by that provider.

(c) The state, its agencies and departments, their contractors and subcontractors, and any political subdivisions of the state shall not be liable in any action by a provider seeking recovery of, or damage for, improper calculation or use of dues or other voluntary deductions.

(d) An entity that makes subsidy payments to providers, as described in subdivision (a), shall do all of the following:

(1) Rely on a certification from the certified provider organization requesting a deduction or reduction that it has and will maintain an authorization, signed by the individual provider from whose subsidy the deduction or reduction is to be made. A certified provider organization that certifies that it has and will maintain individual provider authorizations shall not be required to provide a copy of an individual authorization to the entity unless a dispute arises about the existence or terms of the authorization. The certified provider organization shall indemnify the state, its agencies and departments, and their contractors and subcontractors, and any political subdivisions of the state, for any claims made by the provider for deductions made in reliance on that certification.

(2) Direct provider requests to cancel or change deductions for a certified provider organization to the certified provider organization, rather than to the entity that makes subsidy payments. The entity that makes subsidy payments shall rely on information provided by the certified provider organization regarding whether deductions for the certified provider organization were properly canceled or changed, and the certified provider organization shall indemnify the state, its agencies and departments, and their contractors and subcontractors, and any political subdivisions of the state, for any claims made by the provider for deductions made in reliance on that information. Deductions may be revoked only pursuant to the terms of the provider's written authorization.

(3) After receiving notification from a certified provider organization that it possesses authorization for deduction, commence the first deduction in the next pay period after the entity receives the notification.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10427.** (a) If a memorandum of understanding has expired, and the Governor or the Governor's representative and the certified provider organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations, subject to subdivision (b), the parties to the agreement shall continue to give effect to the provisions of the expired memorandum of understanding, including, but not limited to, all provisions that supersede existing law, any arbitration provisions, any no strike provisions, and any provisions covering membership dues consistent with Section 10426.5.

(b) If, after a reasonable period of time, the parties fail to reach agreement, the parties may agree upon the appointment of a mediator mutually agreeable to the parties, or either party may declare that an impasse has been reached and request the board to appoint a mediator. When both parties mutually agree upon a mediator, costs of mediation shall be divided one-half to the state and one-half to the certified provider organization. A memorandum of understanding reached by means of mediation is subject to appropriation by the Legislature and necessary statutory revisions.

(c) After the mediation procedure has been exhausted, and no resolution has been reached by the parties, the Governor, or the Governor's representative, may declare an impasse and implement any or all of its last, best, and final offer. Any proposal in the Governor's, or the Governor's representative, last, best, and final offer that, if implemented, would conflict with existing statutes or



require the expenditure of funds, shall be presented to the Legislature for approval. Implementation of the last, best, and final offer does not relieve the parties of the obligation to bargain in good faith and reach an agreement on a memorandum of understanding if circumstances change, and does not waive rights that the certified provider organization has under this chapter.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10427.5.** It is unlawful for the Department of Human Resources or the Governor's designee, the department, or any state agency or department charged with the administration of any state-funded early care and education program, as defined in subdivision (f) of Section 10421, to do any of the following:

- (a) Impose or threaten to impose reprisals on providers, to discriminate or threaten to discriminate against providers, or otherwise to interfere with, restrain, or coerce providers because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision and subdivision (f), "provider" includes individuals seeking to participate in state-funded early care and education programs as providers.
- (b) Deny to provider organizations rights guaranteed to them by this chapter.
- (c) Refuse or fail to meet and confer in good faith with the certified provider organization.
- (d) Dominate or interfere with the formation or administration of any provider organization, or contribute financial or other support to it, or in any way encourage providers to join any provider organization in preference to another.
- (e) Refuse to participate in good faith in the mediation procedure set forth in Section 10427.
- (f) Deter or discourage providers from becoming or remaining members of a provider organization, or from authorizing representation by a provider organization, or from authorizing dues or other voluntary deductions to a provider organization.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10427.7.** It is unlawful for any political subdivision, contractor, or subcontractor, charged with the administration of a state-funded early care and education program, as defined in subdivision (f) of Section 10421, to do any of the following:

- (a) Impose or threaten to impose reprisals on providers, to discriminate or threaten to discriminate against providers, or otherwise to interfere with, restrain, or coerce providers because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "provider" includes providers seeking to participate in state-funded early care and education programs as providers.
- (b) Deny to provider organizations rights guaranteed to them by this chapter.
- (c) Dominate or interfere with the formation or administration of any provider organization, or contribute financial or other support to it, or in any way encourage providers to join any provider organization in preference to another.
- (d) Deter or discourage providers from becoming or remaining members of a provider organization, or from authorizing representation by a provider organization, or from authorizing dues or other voluntary deductions to a provider organization. For purposes of this subdivision, "provider" includes individuals seeking to participate in state-funded early care and education programs as providers.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10428.** It shall be unlawful for a provider organization or a certified provider organization to:

- (a) Cause or attempt to cause the Department of Human Resources or the Governor's designee, the department, or any state agency, department, local political subdivision, contractor, or subcontractor, charged with the administration of a state-funded early care and education program, as defined in subdivision (f) of Section 10421, to violate Section 10427.5 or 10427.7.
- (b) Impose or threaten to impose reprisals on providers, to discriminate or threaten to discriminate against providers, or otherwise to interfere with, restrain, or coerce providers because of their exercise of rights guaranteed by this chapter.
- (c) Refuse or fail to meet and confer in good faith with the Department of Human Resources or the Governor's designee.
- (d) Refuse to participate in good faith in the mediation procedure set forth in Section 10427.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10428.3.** (a) An unfair practice charge alleging that a political subdivision, a contractor, or a subcontractor has committed a violation of Section 10427.7, or an unfair practice charge alleging a violation of subdivision (c) of Section 10427.5 that is based on the conduct of a political subdivision, a contractor, or a subcontractor, shall commence only after all the following requirements have been met:

- (1) A party alleging an unfair practice shall first provide notice to the Department of Human Resources of any alleged violation of Section 10427.7 by a political subdivision, a contractor, or a subcontractor, or any alleged violation of subdivision (c) of Section 10427.5 that is based on the conduct of a political subdivision, a contractor, or a subcontractor, and any facts supporting the

alleged violation, within 30 calendar days of the date on which the party knew or reasonably should have known about the incident giving rise to the alleged violation.

(2) The department, or any state agency or department charged with the administration of state-funded early care and education programs, consistent with the advice and direction of the Department of Human Resources, shall work in good faith with the political subdivision, contractor, or subcontractor to cure the alleged violation within 60 calendar days of the postmarked notice from a provider, provider organization, or certified provider organization. State agencies or departments shall expedite, whenever possible, the resolution of alleged violations that have a financial impact on providers. If the political subdivision, contractor, or subcontractor cures the alleged violation, it shall send a written description of steps taken to the party alleging a violation within the 60-day period and to the department or the department charged with the administration of state-funded early care and education programs, as applicable, and to the Department of Human Resources.

(3) At the conclusion of the 60-day period, the party alleging an unfair practice may commence an unfair practice charge before the board consistent with Section 10428.5. In the board agent's initial determination as to whether the charges of unfair practices establish a prima facie violation of Section 10427.5 or 10427.7, consistent with Section 10428.5 and applicable regulations, if the board agent determines the political subdivision, contractor, or subcontractor cured the alleged unfair practice during the 60-day period, the board shall dismiss the charge for failure to establish a prima facie violation.

(b) In any unfair practice charge before the board, the political subdivision, contractor, or subcontractor shall have the opportunity to be represented by a representative of its choice, but in no instance shall the state, the Department of Human Resources, the department, or any state agency charged with the administration of state-funded early care and education programs be obligated to provide representation to the political subdivision, contractor, or subcontractor before the board. However, the Department of Human Resources may intervene in any such proceedings before the board.

(c) In any violation of Section 10427.7 committed by a political subdivision, contractor, or subcontractor, as determined by the board, any monetary damage award or attorney fee award shall not be imposed upon the state, the Department of Human Resources, the department, or any other department or agency charged with the administration of a state-funded early care and education program, as defined in subdivision (f) of Section 10421.

(d) The state, the Department of Human Resources, the department, and any state agency charged with the administration of state-funded early care and education programs shall not be liable for an unfair labor practice committed by a political subdivision, contractor, or subcontractor.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10428.5.** (a) The powers and duties of the board described in Section 3541.3 of the Government Code, also apply, as appropriate, to this chapter. In implementing this chapter, the board shall rely on its existing regulations for the adjudication of unfair practice charges. The board may promulgate emergency regulations as necessary to effectuate its powers and duties under this chapter.

(b) The initial determination as to whether the charges of unfair practices are justified and, if so, what remedy is necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board, except that in an action to recover damages due to an unlawful strike, the board does not have authority to award strike-preparation expenses as damages, and does not have authority to award damages for costs, expenses, or revenue losses incurred during, or as a consequence of, an unlawful strike. Procedures for investigating, hearing, and deciding these cases shall be devised and promulgated by the board and shall include all the following:

(1) Any provider, provider organization, certified provider organization, the Department of Human Resources or the Governor's designee, or the department, or any state agency, department, political subdivision, contractor, or subcontractor, charged with the administration of any state-funded early care and education program, as defined in subdivision (f) of Section 10421, shall have the right to file an unfair practice charge, except that the board shall not do either of the following:

(A) Issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge. This period may be tolled for the completion of the notice and cure requirements in Section 10428.3.

(B) Issue a complaint against conduct also prohibited by the provisions of the agreement between the parties until the grievance machinery of the agreement, if it exists and covers the matter at issue, has been exhausted, either by settlement or binding arbitration. However, when the charging party demonstrates that resort to contract grievance procedures would be futile, exhaustion shall not be necessary. The board has discretionary jurisdiction to review the settlement or arbitration award reached pursuant to the grievance machinery solely for the purpose of determining whether it is repugnant to the purposes of this chapter. If the board finds that the settlement or arbitration award is repugnant to the purposes of this chapter, it shall issue a complaint on the basis of a timely filed charge, and hear and decide the case on the merits. Otherwise, the board shall dismiss the charge. The board shall, in determining whether the charge was timely filed, consider the six-month limitation set forth in this subdivision to have been tolled during the time it took the charging party to exhaust the grievance machinery.

(2) The board does not have the authority to enforce agreements between the parties, and shall not issue a complaint on any charge based on alleged violation of any agreement that would not also constitute an unfair practice under this chapter.

(3) The board has the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action as will effectuate the policies of this chapter.

(c) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such case, may petition for a writ of extraordinary relief from such decision or order.

(d) Such petition shall be filed in the district court of appeal in the appellate district where the unit determination or unfair practice dispute occurred. The petition shall be filed within 30 days after issuance of the board's final order, order denying reconsideration, or order joining in the request for judicial review, as applicable. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless such time is extended by the court for good cause shown. The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying, or setting aside the order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, are conclusive. The provisions of Title 1 (commencing with Section 1067) of Part 3 of the Code of Civil Procedure relating to writs shall, except where specifically superceded herein, apply to proceedings commenced pursuant to this section.

(e) If the time to petition for extraordinary relief from a board decision has expired, the board may seek enforcement of any final decision or order in a district court of appeal or a superior court in the district where the unit determination or unfair practice case occurred. If, after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person or entity refused to comply with the order, the court shall enforce such order by writ of mandamus. The court shall not review the merits of the order.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10428.7.** (a) If online or group in-person preservice meetings or orientations are held for family child care providers by the state or a department, contractor, subcontractor, or political subdivision of the state, that entity shall provide a certified provider organization mandatory access to the entirety of those preservice meetings or orientations and the ability to make a presentation about the certified provider organization and its activities, its negotiations and memorandum of understanding, and membership at the preservice meeting or orientation trainings. The state or a department, contractor, subcontractor, or political subdivision of the state that is providing the preservice meeting or orientation shall notify the certified provider organization of its group in-person preservice meeting or orientation at least 10 days in advance of the preservice meeting or orientation, or, in the event that 10 days' notice is not possible, as soon as the entity providing the preservice meeting or orientation has notice of the planned preservice meeting or orientation. If participation in a preservice meeting or orientation is limited to current providers, the date, time, and place of the preservice meeting or orientation shall not be disclosed to anyone other than the providers, the certified provider organization, or a vendor that is contracted to provide a service for purposes of the preservice meeting or orientation.

(b) The structure, time, and manner of certified provider organization access to preservice meetings or orientations held for providers by the state, or a department, contractor, subcontractor, or political subdivision of the state, are within the scope of representation as described in Section 10424.5. This section does not prohibit agreements between a certified provider organization and the Governor, or the Governor's representative, that provide for preservice meetings or orientations that vary from the requirements of subdivision

(a). If such an agreement is adopted as part of a memorandum of understanding pursuant to Section 10426, the requirements of this section shall not apply to the extent they are inconsistent with the agreement. In the absence of a mutual agreement regarding preservice meetings or orientations, all of the requirements of this section shall apply.

(c) For purposes of this section, the following definitions apply:

(1) "Group" means open to five or more providers or potential providers.

(2) "Orientation" means any presentation or meeting required for initial or continued participation in state-funded early care and education programs, any presentation or meeting where information required for participation in state-funded early care and education programs is communicated directly to providers or, if no such presentation or meeting is held in a county in a calendar month, the orientations required for license applicants as described in Section 1596.845 of the Health and Safety Code.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10429.** (a) This section shall apply only if a provider organization has been certified pursuant to Section 10424.

(b) If the state, or a department, political subdivision, contractor, or subcontractor that administers a state-funded early care and education program chooses to disseminate mass communications to family child care providers or applicants for participation in

state-funded early care and education programs concerning providers' rights to join or support a provider organization or a certified provider organization, or to refrain from joining or supporting a provider organization or a certified provider organization, the Department of Human Resources or the Governor's designee shall meet and confer with the certified provider organization concerning the content of the mass communication.

(c) If the state, or a department or political subdivision of the state that administers a state-funded early care or education program, is the entity sending a mass communication, and the Department of Human Resources and the certified provider organization do not agree on the content of the mass communication covered by this section, and if the state, or a department or political subdivision of the state, still chooses to disseminate the mass communication, the state, or a department or political subdivision of the state, shall distribute to the family child care providers, in addition to, and at the same time as, its own mass communication, a communication of reasonable length provided to the state, or a department or political subdivision of the state, by the certified provider organization. The certified provider organization shall provide the state, or a department or political subdivision of the state, with adequate copies of its own mass communication before distribution.

(d) This section does not apply to the distribution of a communication concerning provider rights that has been adopted for purposes of this section by the Public Employment Relations Board or the Department of Human Resources.

(e) For purposes of this section, a "mass communication" means a written document, or script for an oral or recorded presentation or message, that is intended for delivery to multiple providers.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*

**10429.5.** To effectuate the purposes of this chapter, any training partnership that is established as a joint labor-management committee pursuant to paragraph (2) of subdivision (a) of Section 10424.5. to make recommendations as to any professional development and training program agreed to through the meet and confer process described in paragraph (4) of subdivision (a) of Section 10424.5, shall consult with public entities, including, but not limited to, the Early Childhood Policy Council and its subcommittees, the department, the Superintendent of Public Instruction, and nonprofit entities, including the California Child Care Resource and Referral Network, First 5 California, and local First 5 commissions.

*(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)*