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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 1. General Provisions [10207 - 10215] (*Chapter 1 added by Stats. 2021, Ch. 116, Sec. 260.)*

10207. The purpose of this part is as follows:

- (a) To provide a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs.
- (b) To encourage community-level coordination in support of child care and development services.
- (c) To provide an environment that is healthy and nurturing for all children in child care and development programs.
- (d) To provide the opportunity for positive parenting to take place through understanding of human growth and development.
- (e) To reduce strain between parent and child in order to prevent abuse, neglect, or exploitation.
- (f) To enhance the cognitive development of children, with particular emphasis upon those children who require special assistance, including bilingual capabilities to attain their full potential.
- (g) To establish a framework for the expansion of child care and development services.
- (h) To empower and encourage parents and families of children who require child care services to take responsibility to review the safety of the child care program or facility and to evaluate the ability of the program or facility to meet the needs of the child.

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

10207.5. It is the intent of the Legislature that:

- (a) All families have access to child care and development services, through resource and referral services, where appropriate, regardless of ethnic status, cultural background, or special needs. It is further the intent that subsidized child care and development services be provided to persons meeting the eligibility criteria established under this chapter to the extent funding is made available by the Legislature and Congress.
- (b) The healthy physical, cognitive, social, and emotional growth and development of children be supported.
- (c) Families achieve and maintain their personal, social, economic, and emotional stability through an opportunity to attain financial stability through employment, while maximizing growth and development of their children, and enhancing their parenting skills through participation in child care and development programs.
- (d) Community-level coordination in support of child care and development services be encouraged.
- (e) Families have a choice of programs that allow for maximum involvement in planning, implementation, operation, and evaluation of child care and development programs.
- (f) Parents and families be fully informed of their rights and responsibilities to evaluate the quality and safety of child care programs, including, but not limited to, their right to inspect child care licensing files.
- (g) Planning for expansion of child care and development programs be based on ongoing local needs assessments.
- (h) The department, in providing funding to child care and development agencies, promote a range of services which will allow parents the opportunity to choose the type of care most suited to their needs. The program scope may include the following:
 - (1) Programs located in centers, family child care homes, or in the child's own home.

(2) Services provided part-day, full-day, and during nonstandard hours including weekend care, night and shift care, before and after school care, and care during holidays and vacation.

(3) Child care services provided for infants, preschool, and schoolage children.

(i) The department be responsible for the establishment of a public hearing process or other public input process that ensures the participation of those agencies directly affected by a particular section or sections of this chapter.

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

10208. The department shall develop standards for the implementation of quality programs. Indicators of quality shall include, but not be limited to:

(a) A physical environment that is safe and appropriate to the ages of the children and that meets applicable licensing standards.

(b) Program activities and services that are age appropriate and meet the developmental needs of each child.

(c) Program activities and services that meet the cultural and linguistic needs of children and families, including, but not limited to, program activities and services that meet the needs of dual language learners for support in the development of their home language and English.

(d) Family and community involvement.

(e) Parent education.

(f) Efficient and effective local program administration.

(g) Staff that possesses the appropriate and required qualifications, experience, training, or a combination thereof. The appropriate staff qualifications shall reflect the diverse linguistic and cultural makeup of the children and families in the child care and development program. The use of intergenerational staff shall be encouraged.

(h) Program activities and services that meet the needs of children with exceptional needs and their families.

(i) Support services for children, families, and providers of care.

(j) Resource and referral services.

(k) Alternative payment services.

(l) Provision for nutritional needs of children.

(m) Social services that include, but are not limited to, identification of child and family needs and referral to appropriate agencies.

(n) Health services that include referral of children to appropriate agencies for services.

(Amended by Stats. 2022, Ch. 62, Sec. 18. (AB 210) Effective June 30, 2022.)

10209. (a) On or before June 30, 1999, the State Department of Education, in consultation with the department, shall develop prekindergarten learning development guidelines. The development of these guidelines shall be funded from funds appropriated for this purpose in the Budget Act of 1998. The guidelines shall focus on preparing four- and five-year-old children for kindergarten. The guidelines shall identify appropriate developmental milestones for each age, how to assess where children are in relation to the milestones, and suggested methods for achieving the milestones. In addition, the guidelines shall identify any basic beginning skills needed to prepare children for kindergarten or first grade, and methods for teaching these basic skills. The guidelines shall be articulated with the academic content and performance standards adopted by the State Board of Education for kindergarten and grades 1 to 12, inclusive. The State Department of Education may contract with an appropriate public or private agency to develop the guidelines.

(b) In future expenditure plans for quality improvement activities, the department shall include funding for periodically updating the guidelines consistent with academic and performance standards and relevant research, broadly distributing the guidelines, and providing education, outreach, and training services to implement the guidelines.

(c) Programs funded by the department under Chapter 6 (commencing with Section 10235) and Chapter 7 (commencing with Section 10240), shall use the prekindergarten learning development guidelines developed pursuant to this section.

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

10209.5. (a) The department shall ensure that each contract entered into under this part to provide child care and development services, or to facilitate the provision of those services, provides support to the public school system of this state through the delivery of appropriate educational services to the children served pursuant to the contract.

(b) The department shall ensure that all contracts for child care and development programs include a requirement that each public or private provider maintain a developmental profile to appropriately identify the emotional, social, physical, and cognitive growth of each child served in order to promote the child's success in the public schools. To the extent possible, the department shall provide a

developmental profile to all public and private providers using existing profile instruments that are most cost efficient. The provider of any program operated pursuant to a contract under Section 10268.5 shall be responsible for maintaining developmental profiles upon entry through exit from a child development program.

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

10209.6. (a) It is the intent of the Legislature for general or migrant childcare and development contractors, teachers, and staff to better understand the language and developmental needs of dual language learners enrolled in publicly funded general childcare and development programs or migrant childcare and development programs by identifying them as a dual language learner through a family language instrument and support their needs through a family language and interest interview. The identification of dual language learners will help improve program quality and inform the allocation and use of state and program resources to better support them and their linguistic and developmental needs for success in school and in life.

(b) The Director of Social Services shall develop procedures for general or migrant childcare and development contractors to identify and report data on dual language learners enrolled in a general childcare and development program administered pursuant to Chapter 7 (commencing with Section 10240) or a migrant childcare and development program administered pursuant to Chapter 6 (commencing with Section 10235). To the maximum extent practicable, the procedures developed by the director shall align to the procedures required for state preschool contractors, as specified in Section 8241.5 of the Education Code.

(c) The procedures developed by the director pursuant to this section to identify dual language learners shall, at a minimum, include both of the following:

(1) (A) The distribution and collection of a completed family language instrument developed by the director from a parent or guardian of each child enrolled in a general childcare and development program or migrant childcare and development program no later than upon enrollment. The family language instrument shall, at a minimum, be able to identify which languages the child is exposed to in the child's home and community environment, and which languages the child demonstrates an understanding of or is able to speak.

(B) Notwithstanding subparagraph (A), a general or migrant childcare and development contractor serving a schoolage child enrolled in a K–12 education program who has been designated by the child's school district, county office of education, or charter school as an English learner through the state assessment for English language proficiency may use that designation as an English learner to identify the child as a dual language learner.

(2) Criteria for general or migrant childcare and development contractors to use to accurately identify dual language learners enrolled in their programs based on the information collected from the family language instrument and criteria for the family language and interest interview.

(d) For any child enrolled in a general childcare and development program or migrant childcare and development program who has been identified as a dual language learner pursuant to subdivision (c), a family language and interest interview shall be conducted by the child's teacher or other designated staff that shall include, at a minimum, an inquiry and a discussion about the strengths and interests of the child, the language background of the child, and the needs of parents, guardians, or family members of the child to support the language and development of the child. The director shall develop the family language and interest interview to be used by teachers and designated staff for purposes of this subdivision. To the maximum extent practicable, the family language and interest interview developed by the director shall align to the interview required for state preschool program contractors, as specified in Section 8241.5 of the Education Code.

(e) The reported data about dual language learners in a general childcare and development program or migrant childcare and development program shall be submitted at a timeframe determined by the director in line with the reporting requirements specified in Section 10267.5, and shall include, at a minimum, all of the following:

(1) A child's home language, the language the child is most exposed to, and the family's preferred language in which to receive verbal and written communication.

(2) A child's race or ethnicity.

(3) Language characteristics of the general childcare and development program or migrant childcare and development program, including, but not limited to, whether the program uses the home language for instruction, such as a dual language immersion program, or another program that supports the development of home languages.

(4) The language composition of the program staff.

(f) To the maximum extent possible, the director shall use existing enrollment and reporting procedures for general or migrant childcare and development contractors to meet the requirements of this section.

(g) (1) To ensure dual language learners and their linguistic and developmental needs are accurately identified in order to be effectively supported by general or migrant childcare and development contractors, the director shall develop clear implementation procedures and related guidance for those contractors that, to the maximum extent practicable, shall align to the procedures and guidance developed by the Superintendent for state preschool program contractors pursuant to Section 8241.5 of the Education Code.

(2) The director shall adopt regulations to implement this section. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, on or before August 16, 2024, the director shall develop informal directives to implement this section until the time regulations are adopted.

(h) It is the intent of the Legislature to connect information about dual language learners in the California Cradle-to-Career Data System.

(i) The procedures developed by the director to identify dual language learners pursuant to subdivisions (b) and (c) shall not be connected to or associated with the designation of an English learner in the K–12 public school system.

(j) The procedures to identify and report dual language learners pursuant to this section shall be the sole responsibility of the general or migrant childcare and development contractor. Family childcare providers shall not be responsible nor liable for the accuracy of data. The identification and reporting of dual language learners by general or migrant childcare and development contractors shall not impact the status of a provider within a family childcare home education network. Family childcare providers shall not be responsible for conducting family language and interest interviews. General or migrant childcare and development contractors shall provide the designated staff to conduct family language and interest interviews for families enrolled in family childcare homes.

(k) In order to minimize the administrative work required of contractors, teachers, staff, and families involved in a general childcare and development program, a migrant childcare and development program, or the state preschool program, as specified in this section and Section 8241.5 of the Education Code, the director and Superintendent of Public Instruction shall coordinate efforts to implement this section.

(l) (1) Nothing in this section shall be construed to compel a parent or guardian of a child enrolled in a general childcare and development program or migrant childcare and development program to complete the family language instrument described in subparagraph (A) of paragraph (1) of subdivision (c) or the family language and interest interview described in subdivision (d).

(2) A contract for a state preschool program shall not be affected by a parent or guardian of a child enrolled in a general childcare and development program or migrant childcare and development program who declines to complete the family language instrument described in subparagraph (A) of paragraph (1) of subdivision (c) or the family language and interest interview described in subdivision (d).

(3) Nothing in this section shall be construed to affect the eligibility of a child to enroll in a general childcare and development program or migrant childcare and development program under Section 10271.

(Added by Stats. 2023, Ch. 435, Sec. 2. (AB 393) Effective January 1, 2024.)

10210. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, it is the policy of this state that no child shall be hungry while in attendance in child care and development facilities as defined in Section 10213.5 and that child development facilities have an obligation to provide for the nutritional needs of children in attendance.

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

10210.5. It is the intent of the Legislature that in providing child development programs the department give priority to children of families that qualify under applicable federal statutes or regulations as recipients of public assistance and other low-income and disadvantaged families. Federal reimbursement shall be claimed for any child receiving services under this part for whom federal funds are available.

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

10211. (a) The department is hereby designated as the single state agency responsible for the promotion, development, and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties. The department shall administer the federal Child Care and Development Fund.

(b) For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

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

10211.5. (a) The department shall collaborate with the Secretary of Health and Human Services, with the advice and assistance of the Child Development Programs Advisory Committee, in the development of the state plan required pursuant to the federal Child

Care and Development Fund, before submitting or reporting on that plan to the federal Secretary of Health and Human Services.

(b) (1) For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

(2) For purposes of this section, "collaborate" means to cooperate with and to consult with.

(c) (1) As required by federal law, the department shall develop an expenditure plan that sets forth the final priorities for child care. The department shall coordinate with the State Department of Education, the California Children and Families Commission, and other stakeholders, including the Department of Finance, to develop the Child Care and Development Fund (CCDF) Plan. On or before February 1 of the year that the CCDF Plan is due to the federal government, the department shall release a draft of the plan. The department shall then commence a 30-day comment period that shall include at least one hearing and the opportunity for written comments. By April 1 of the year that the CCDF Plan is due, the department shall provide the revised plan and a description of any changes to the earlier draft to the Director of Finance and the chairs of the fiscal committees of the Legislature.

(2) After the CCDF Plan is approved by the United States Department of Health and Human Services, the department shall provide to the Department of Finance and the fiscal committees of the Legislature a copy of the final plan and a description of any changes made since submitting the draft plan for review.

(3) If the annual Budget Act requires changes to the approved CCDF Plan, the department shall submit an amended plan to the United States Department of Health and Human Services.

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

10212. The department shall consult with the Commission on Teacher Credentialing, and the office of the Chancellor of the California Community Colleges in development of the state plan, where appropriate.

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

10212.5. It is the intent of the Legislature that federal funds received pursuant to the federal Child Care and Development Fund be allocated according to federal regulations. For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

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

10212.6. (a) It is the intent of the Legislature to add approximately 206,800 new childcare slots above the slot levels funded during the 2020–21 fiscal year, distributed as follows:

(1) Approximately 62,000 slots to general childcare and development programs (Chapter 7 (commencing with Section 10240)).

(2) Approximately 143,000 slots to alternative payment programs (Chapter 3 (commencing with Section 10225)).

(3) Approximately 1,300 slots to migrant alternative payment programs (Chapter 3 (commencing with Section 10225)).

(4) Approximately 500 slots to the Emergency Child Care Bridge Program under Section 11461.6.

(b) (1) As of May 15, 2024, the state has added funding to programs that, as of that date, resulted in an award of an estimated 118,800 new childcare slots to all of the following programs:

(A) An estimated 22,000 slots to general childcare and development programs.

(B) An estimated 95,000 slots to alternative payment programs.

(C) An estimated 1,300 slots to migrant alternative payment programs.

(D) An estimated 500 slots to the Emergency Child Care Bridge Program.

(2) It is the intent of the Legislature that the remaining new childcare slots described in subdivision (a) that have not been added and awarded as of January 1, 2024, may be distributed as follows:

(A) In the 2024–25 fiscal year, an estimated 11,000 slots to general childcare and development programs.

(B) In the 2026–27 fiscal year, 12,000 slots to general childcare and development programs and 32,000 slots to alternative payment programs, subject to an appropriation in the annual Budget Act.

(C) In the 2027–28 fiscal year, 17,000 slots to general childcare and development programs and 16,000 slots to alternative payment programs, subject to an appropriation in the annual Budget Act.

(D) In the 2028–29 fiscal year and each fiscal year thereafter, the total number of unawarded slots to general childcare and development programs from prior years and additional childcare slots needed to maintain total slot levels, as described in subdivision (a), subject to an appropriation in the annual Budget Act.

(3) Any unawarded slots described in paragraph (2) shall be distributed in each subsequent fiscal year that the slot remains unawarded to the same program specified in paragraph (2), subject to an appropriation in the annual Budget Act.

(4) (A) To distribute the General Childcare and Development slots described in paragraph (2), the State Department of Social Services shall release at least one request for applications in the fall of the applicable fiscal year. The department shall announce awards for new slots by April 1 of the applicable fiscal year, and shall execute contracts beginning on or after April 1 of the applicable fiscal year, contingent on submission of all required documentation by the applicant.

(B) Notwithstanding subparagraph (A), the department shall award contracts for services for 2024–25 awarded General Childcare and Development slots beginning on or after October 1, 2024, contingent on submission of all required documentation by the applicant.

(c) On an annual basis, the department shall revise the number of added and awarded slots described in paragraphs (1) and (2) of subdivision (b) based on final awardee data. Pursuant to subparagraph (D) of paragraph (2) of subdivision (b), to the extent that these updated slot estimates fall below total slot levels listed in subdivision (a), the department shall add, award, and put into contract additional slots to maintain total slot levels, to the extent requested, as described in subdivision (a), subject to an appropriation in the annual Budget Act.

(Added by Stats. 2024, Ch. 73, Sec. 19. (SB 163) Effective July 2, 2024.)

10213. (a) The Legislature finds and declares all of the following:

(1) Providing children in California with a healthy start is one of the best investments the state can make.

(2) Research links early childhood interventions and improved life outcomes, including higher education levels, better health, and stronger career opportunities.

(3) All children, from birth through 12 years of age, should have access to culturally, linguistically, and developmentally appropriate, nurturing, educational, and high-quality early learning and care opportunities.

(4) All families should have access to a variety of early learning and care settings that meet their needs and are affordable.

(5) Parents are more likely to be successful in school and work if they know that their children are safe and productively engaged throughout the day.

(6) Children who are emotionally, developmentally, and academically supported in an early learning and care setting are more likely to start school ready to learn and continue to excel once they are enrolled in school.

(7) High-quality early learning and care programs require a competent, effective, well-compensated, and professionally supported workforce that reflects the racial, ethnic, and linguistic diversity and needs of the children and families served, including children who are dual language learners and children with exceptional needs.

(8) Early learning and care programs must be integrated with other supports and services for children, families, and the workforce.

(9) Subsidized access to high-quality early learning and care programs requires funding sources that are adequate and sustainable to meet the costs of care, respond to the diverse needs of children and families, and adequately compensate and support the workforce.

(b) To guide the implementation of a well-aligned, comprehensive state early learning and care system, the Secretary of California Health and Human Services, or the secretary's designee, in concurrence with the executive director of the State Board of Education, or the executive director's designee, and in consultation with the Superintendent of Public Instruction, or the Superintendent of Public Instruction's designee, shall enter into a contract with one or more nongovernmental research entities to review existing research and data and to conduct research on priority areas of study identified pursuant to subdivision (d). This work shall be compiled in a report, or series of reports, released on a continuing basis and shall be completed on or before October 1, 2020, and provided to the Governor, the chairpersons of the relevant legislative policy and budget committees, the Secretary of California

Health and Human Services, the executive director of the State Board of Education, the Superintendent of Public Instruction, and the Director of Finance.

(c) The report or series of reports prepared pursuant to subdivision (b) shall be designed to support and incorporate relevant components of the 2019 California Assembly Blue Ribbon Commission on Early Childhood Education Final Report, and are intended to be used to develop a master plan to ensure comprehensive, quality, and affordable child care and universal preschool for children from birth to school age. To the extent necessary and appropriate, the entities conducting research pursuant to this section shall engage a diverse group of stakeholders and experts, including families and providers, to inform their recommendations. All reports shall take into account fiscal sustainability and include costs to implement the recommendations and strategies for prioritizing investments into the recommendations over a multiyear period.

(d) The amount appropriated for purposes of this section in the Budget Act of 2019 shall be allocated for the following priority areas of study:

(1) A fiscal framework that provides options for ongoing funding to significantly expand early learning and care in the state, including options to generate needed revenues and examine alternate funding streams. This framework shall incorporate the principles of shared responsibility, fiscal sustainability, and regional variability, including by examining the appropriate role for government, businesses, and parents in meeting high-quality, affordable child care and prekindergarten education needs.

(2) Early learning and care facility needs statewide, including surveys of subsidized early learning and care providers to collect information regarding ownership or rental of the facilities, monthly facility payments, ancillary costs, interest in expanding existing facilities, and any associated challenges, including ongoing facility maintenance. This study shall identify areas of the state most in need of early learning and care facility expansion and shall recommend the most appropriate setting types given the unique geographic and capacity characteristics of the region. Additionally, this study shall also seek input from relevant regional entities to identify existing publicly owned facilities that could house early learning and care programs with modifications to meet health and safety requirements, including those facilities owned by school districts, county offices of education, cities, and counties.

(3) Need for early learning and care services by families eligible for subsidies, including those not currently receiving services. The study shall include, but not be limited to, surveys of parents to collect information on current early learning and care arrangements, hours of care needs, key considerations regarding choice of provider and setting, and data about the racial, ethnic, and linguistic diversity of eligible families. This study shall include the need for early learning and care with a priority focus on those children from birth through 5 years of age, but shall also include children from birth through 12 years of age, and shall highlight regions of the state with the lowest relative access to care. The study shall also make recommendations on how to support and promote types of early learning and care that meet families' cultural and linguistic needs.

(4) An actionable quality improvement plan that includes, but is not limited to, both of the following:

(A) A cohesive set of minimum quality and program guidelines for all subsidized child care providers by and across settings that balances the improved social, emotional, cognitive, and academic development of children with the resources available to providers, and that takes into account gender, class, race, language access, implicit bias, and lived experience in the construction of quality.

(B) An accessible and cohesive career pathway for all types of child care professionals, including those whose primary language is not English, that considers a ladder of mobility, aligned with the state's system of provider reimbursement, based on competencies that are evidence based and driven by characteristics of quality, and that may consider educational attainment to produce a trained and stable workforce.

(5) Necessary steps to provide universal prekindergarten education for all three- and four-year-old children in California, including by considering both of the following:

(A) Recommendations to address the overlap between the transitional kindergarten, state preschool, and Head Start programs, and ensure that all children, regardless of family income, have access to the same level of prekindergarten program quality.

(B) Recommendations to align prekindergarten education with the subsidized child care system and the elementary and secondary education system, to ensure that children have access to a full day of care, as needed, and ensure seamless matriculation to elementary and secondary education.

(e) The Secretary of California Health and Human Services shall report to the Department of Finance and the Joint Legislative Budget Committee on the proposed expenditures of funding for research identified pursuant to subdivision (d) before entering into any contract for this purpose.

(f) For purposes of subdivisions (b) to (d), inclusive, the California Health and Human Services Agency may enter into exclusive or nonexclusive contracts with nongovernmental research entities on a bid or negotiated basis. A contract entered into or amended pursuant to subdivision (b) shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of

the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.

(g) Notwithstanding any other law, the one or more nongovernmental research entities may subcontract as necessary in the performance of its duties, subject to approval of the Secretary of California Health and Human Services.

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

10213.5. As used in this part:

(a) "Alternative payments" includes payments that are made by one childcare agency to another agency or childcare provider for the provision of childcare and development services, and payments that are made by an agency to a parent for the parent's purchase of childcare and development services.

(b) "Alternative payment program" means a local government agency or nonprofit organization that has contracted with the department pursuant to Section 10225.5, or a migrant alternative payment program pursuant to Chapter 6 (commencing with Section 10235), to provide alternative payments and to provide support services to parents and providers.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private nontax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(e) "Attendance" means the number of children present at a childcare and development facility. "Attendance," for purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(f) "Capital outlay" means the amount paid for the renovation and repair of childcare and development and preschool facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable childcare and development and preschool facilities for lease to qualifying contracting agencies.

(g) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a childcare and development facility.

(h) "Childcare and development facility" means a residence or building or part thereof in which childcare and development services are provided.

(i) "Childcare and development programs" means those programs that offer a full range of services for children from infancy to 13 years of age, for any part of a day, by a public or private agency, in centers and family childcare homes. These programs include, but are not limited to, all of the following:

(1) General childcare and development.

(2) Migrant childcare and development.

(3) Childcare provided by the California School Age Families Education Program (Article 7.1 (commencing with Section 54740) of Chapter 9 of Part 29 of Division 4 of Title 2).

(4) Resource and referral.

(5) Childcare and development services for children with exceptional needs.

(6) Family childcare home education network.

(7) Alternative payment.

(8) Schoolage community childcare.

(j) "Childcare and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(l) "Children with exceptional needs" means either of the following:

(1) Infants and toddlers under three years of age who have been determined to be eligible for early intervention services pursuant to the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) and its implementing regulations. These children include an infant or toddler with a developmental delay or established risk condition, or who is at high risk of having a substantial developmental disability, as defined in subdivision (a) of Section 95014 of the Government Code. These children shall have active individualized family service plans, shall be receiving early intervention services, and shall be children who require the special attention of adults in a childcare setting.

(2) Children 3 to 21 years of age, inclusive, who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code, and who meet eligibility criteria described in Section 56026 of the Education Code and, Article 2.5 (commencing with Section 56333) of Chapter 4 of Part 30 of Division 4 of Title 2 of the Education Code, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children shall have an active individualized education program, shall be receiving early intervention services or appropriate special education and related services, and shall be children who require the special attention of adults in a childcare setting. These children include children with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (also referred to as emotional disturbance), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, who need special education and related services consistent with Section 1401(3)(A) of Title 20 of the United States Code.

(m) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(n) "Cost" includes, but is not limited to, expenditures that are related to the operation of childcare and development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs. "Cost" may also include amounts for licensable facilities in the community served by the program, including lease payments or depreciation, downpayments, and payments of principal and interest on loans incurred to acquire, rehabilitate, or construct licensable facilities, but these costs shall not exceed fair market rents existing in the community in which the facility is located. "Reasonable and necessary costs" are costs that, in nature and amount, do not exceed what an ordinary prudent person would incur in the conduct of a competitive business.

(o) "Elementary school," as contained in former Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(p) "Family childcare home education network" means an entity organized under law that contracts with the department pursuant to Section 10250 to make payments to licensed family childcare home providers and to provide educational and support services to those providers and to children and families eligible for state-subsidized childcare and development services. A family childcare home education network may also be referred to as a family childcare home system.

(q) "Health services" include, but are not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3) and the Child Health and Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(r) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(s) "Intergenerational staff" means persons of various generations.

(t) "Dual language learner" means children whose first language is a language other than English or children who are developing two or more languages, one of which may be English.

(u) "Parent" means a biological parent, stepparent, adoptive parent, foster parent, caretaker relative, or any other adult living with a child who has responsibility for the care and welfare of the child.

(v) "Program director" means a person who, pursuant to Sections 10242 and 10380.5, is qualified to serve as a program director.

(w) "Proprietary childcare agency" means an organization or facility providing childcare, which is operated for profit.

(x) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(y) "Severely disabled children" are children with exceptional needs from birth to 21 years of age, inclusive, who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, or severe intellectual disabilities. "Severely disabled children" also include those individuals who would have been eligible for enrollment in a developmental center for handicapped pupils under Chapter 7 (commencing with Section 56800) of Part 30 of Division 4 of Title 2 of the Education Code as it read on January 1, 1980.

(z) "Short-term respite childcare" means childcare service to assist families whose children have been identified through written referral from a legal, medical, or social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Childcare is provided for less than 24 hours per day in childcare centers, treatment centers for abusive parents, family childcare homes, or in the child's own home.

(aa) "Site supervisor" means a person who, regardless of their title, has operational program responsibility for a childcare and development program at a single site. A site supervisor shall hold a permit issued by the Commission on Teacher Credentialing that authorizes supervision of a childcare and development program operating in a single site. The department may waive the requirements of this subdivision if the department determines that the existence of compelling need is appropriately documented.

(ab) "Standard reimbursement rate" means that rate established by the department pursuant to Section 10280.

(ac) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility before the full enrollment of children.

(ad) "California state preschool program" means part-day and full-day educational programs for low-income or otherwise disadvantaged three- and four-year-old children.

(ae) "Support services" means those services that, when combined with childcare and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(af) "Teacher" means a person with the appropriate permit issued by the Commission on Teacher Credentialing who provides program supervision and instruction that includes supervision of a number of aides, volunteers, and groups of children.

(ag) "Underserved area" means a county or subcounty area, including, but not limited to, school districts, census tracts, or ZIP Code areas, where the ratio of publicly subsidized childcare and development program services to the need for these services is low, as determined by the department.

(ah) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(ai) "Homeless children and youth" has the same meaning as defined in Section 11434a(2) of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.).

(aj) "Local educational agency" means a school district, a county office of education, a community college district, or a school district acting on behalf of one or more schools within the school district.

(ak) "Alternative methodology" means a cost-based ratesetting method, including a cost estimation model, on which to base payment rates pursuant to the requirements set forth in Section 98.45 of Title 45 of the Code of Federal Regulations.

(al) (1) Effective no later than March 1, 2024, "part-time care" means care certified for a child for fewer than 25 hours per week.

(2) Effective no later than March 1, 2024, "full-time care" means care certified for a child for 25 or more hours per week.

(3) Notwithstanding 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 department may implement and administer this subdivision by all-county letters, bulletins, or similar written instructions until regulations are adopted.

(4) The department shall initiate a rulemaking action to adopt regulations to implement this subdivision no later than July 1, 2026.

(5) If the provisions of this subdivision are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 10426, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(Amended by Stats. 2023, Ch. 193, Sec. 6. (SB 140) Effective September 13, 2023.)

10214. Child care exempt from licensure is a valid parental choice of care for all programs provided for under this part, and no provision of this part shall be construed to exclude or discourage the exercise of that choice.

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

10214.5. Notwithstanding any other provision of law, child care and development programs, as defined in Section 10213.5, shall include, but not be limited to, respite child care and development.

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

10215. (a) If a state of emergency is declared by the Governor, the department may waive any requirements of this code or regulations adopted pursuant to this code relating to child care and development programs operated pursuant to this chapter only to the extent that enforcement of the regulations or requirements would directly impede disaster relief and recovery efforts or would disrupt the current level of service in child care and development programs.

(b) If a state of emergency is declared by the Governor, the department may waive any requirements of this code or regulations adopted pursuant to this code relating to child nutrition programs in child care and development programs operated pursuant to this chapter only to the extent that enforcement of the regulations or requirements would directly impede disaster relief and recovery efforts or would disrupt the current level of service in child care and development programs.

(c) A waiver granted pursuant to subdivision (a) or (b) shall not exceed 45 calendar days.

(d) For purposes of this section, "state of emergency" includes, but is not limited to, fire, flood, earthquake, or a period of civil unrest.

(e) If a request for a waiver pursuant to subdivision (a) or (b) is for a child care and development program or child nutrition program that receives federal funds and the waiver may be inconsistent with the state plan or any federal law or regulations governing the program, the department shall seek and obtain approval of the waiver from the appropriate federal agency before granting the waiver.

(f) (1) From July 1, 2020, to June 30, 2021, inclusive, due to the ongoing impacts of child care and development facility closures and low child attendance due to the COVID-19 pandemic and related public health directives, the Superintendent shall reimburse a contracting agency for a California state preschool program pursuant to Article 2 (commencing with Section 8207) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, a general child care and development program pursuant to Chapter 7 (commencing with Section 10240), a family child care home education network pursuant to Chapter 8 (commencing with 10250), a migrant child care and development program pursuant to Chapter 6 (commencing with Section 10235), or child care and development services for children with special needs pursuant to Chapter 9 (commencing with Section 10260) that meets one of the following requirements:

(A) The program operated by the contracting agency opens by September 8, 2020, or within 21 calendar days from the start date of the contracting agency's 2020–21 program calendar approved by the department, whichever is sooner, and remains open and offering services through the 2020–21 program year.

(B) The program operated by the contracting agency is closed by local or state public health order or guidance due to the COVID-19 pandemic.

(C) (i) The program operates on the campus of a local educational agency that is closed by local or state public health guidance or order and the local educational agency has required the early learning and care program to close.

(ii) To ensure continuity of care and access to services during the COVID-19 pandemic, the governing board or body of the local educational agency requiring a closure pursuant to clause (i) shall discuss in a public hearing and prepare a plan for safely reopening early learning and care programs as soon as safely possible, but no later than when local education agency campuses open for in-person instruction.

(2) Reimbursement pursuant to paragraph (1) shall be 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less, pursuant to guidance released by the Superintendent.

(3) A child care program specified in paragraph (1) that is physically closed pursuant to subparagraph (B) or (C) of paragraph (1) due to the COVID-19 pandemic, but funded to be operational, shall provide distance learning services as specified by the

Superintendent. A contractor specified in paragraph (1) shall submit a distance learning plan to the department pursuant to guidance from the Superintendent.

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