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**AB-321 Childcare services: enrollment priority.** (2021-2022)

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**Assembly Bill No. 321**

**CHAPTER 903**

An act to amend Sections 8210, 8211, and 8241.5 of the Education Code, and to amend Section 10271 of the Welfare and Institutions Code, relating to childcare.

[ Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 321, Valladares. Childcare services: enrollment priority.

The Child Care and Development Services Act, administered by the State Department of Social Services, requires the department to administer childcare and development programs that offer a full range of services to eligible children from infancy to 13 years of age, inclusive. The Early Education Act requires the Superintendent of Public Instruction to, among other things, provide an inclusive and cost-effective preschool program. Both acts require that families meet specified requirements to be eligible for federal- and state-subsidized childcare and development services and preschool programs, including, among other requirements, that the family needs childcare services or full-day preschool because, among other reasons, the family is homeless, the child's parents are seeking employment or permanent housing, or the child's parents are employed.

Existing law requires both the Superintendent of Public Instruction and the State Department of Social Services to adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement their respective acts. Existing law specifies priority for services pursuant to the acts and requires that first priority be given to neglected or abused children, as specified. Existing law also requires that 2nd priority be given equally to all eligible families, regardless of the number of parents in the home, that are income eligible. Existing law further requires that if 2 or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first.

This bill would additionally require that priority be given to a child from a family in which the primary home language is a language other than English if there are no families with a child with exceptional needs. The bill would make conforming changes.

The bill would make related findings and declarations.

This bill would incorporate additional changes to Sections 8210 and 8211 of the Education Code proposed by AB 185 to be operative only if this bill and AB 185 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Sections 8210 and 8211 of the Education Code proposed by SB 185 to be operative only if this bill and SB 185 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 10271 of the Welfare and Institutions Code proposed by SB 1047 to be operative only if this bill and SB 1047 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

# THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

## **SECTION 1.** The Legislature finds and declares all of the following:

(a) California is home to the nation's largest multilingual population. As the number and diversity of preschool dual language learners grow so must the state's supportive programs.

(b) Approximately 60 percent of the state's children from birth through five years of age are dual language learners, and nearly 20 percent of schoolage children are English learners. These student populations enter the education system with valuable linguistic and cultural assets that contribute to the state's rich diversity and competitiveness in a global multilingual economy.

(c) Graduating multilingual and bilingual students greatly benefits the state as they bring unique skills into the workforce that will greatly fuel and strengthen the economy, thus improving the quality of life in our communities.

(d) The Governor's recently published Master Plan for Early Learning and Care calls for equitable access to high-quality early learning programs for dual language learners and to support their optimal bilingual and overall development.

(e) The Legislature is committed to prioritizing access to state preschool and childcare and developmental services for children who reside in homes in which the primary language is a language other than English.

**SEC. 2.** Section 8210 of the Education Code, as amended by Section 4 of Chapter 62 of the Statutes of 2022, is amended to read:

**8210.** (a) Each applicant or contracting agency shall give priority for part-day programs according to the following:

(1) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused, or exploited and for whom there is a written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resources and referral services so that services for the child can be located.

(2) (A) (i) Until June 30, 2024, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, as described in Section 8213.

(ii) Commencing July 1, 2024, to the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the 10 percent of funded enrollment set aside pursuant to Section 8208, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, as described in Section 8213.

(B) Within this priority category, children with exceptional needs from families with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) (A) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program.

(B) (i) Within this priority category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.

(iii) If there are no families with a child with exceptional needs, a child from a family in which the primary home language is a language other than English shall be enrolled first.

(iv) If there are no families in which the primary home language is a language other than English, the child that has been on the waiting list for the longest time shall be enrolled first.

(4) The fourth priority shall be given to eligible three-year-old children. Enrollment determinations within this priority category shall be made pursuant to subparagraph (B) of paragraph (3).

(5) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the eligibility income threshold, as described in Section 8213. Within this priority category, priority shall be given to three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled

in the 10 percent of funded enrollment set aside pursuant to Section 8208, then to four-year-old children before three-year-old children without exceptional needs.

(6) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:

(A) A California preschool program site operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, may enroll any four-year-old children whose families reside within the attendance boundary of the qualified elementary school. These children shall, to the extent possible, be enrolled by lowest to highest income according to the most recent schedule of income ceiling eligibility table.

(B) Children enrolling in the California state preschool program to provide expanded learning and care to transitional kindergarten or kindergarten pupils, pursuant to subdivision (l) of Section 48000.

(b) The Superintendent shall set criteria for, and may grant specific waivers of, the priorities established in this section for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) (1) Children with exceptional needs enrolled in the percent of funded enrollment set aside pursuant to Section 8208 shall be enrolled without regard to the priorities listed in subdivision (a).

(2) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, the child that has been on the waiting list for the longest time shall be admitted first.

**SEC. 2.1.** Section 8210 of the Education Code is amended to read:

**8210.** (a) Each applicant or contracting agency shall give priority for part-day programs according to the following:

(1) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused, or exploited and for whom there is a written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resources and referral services so that services for the child can be located.

(2) (A) To the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the percent of funded enrollment set aside pursuant to Section 8208, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, as described in Section 8213.

(B) Within this priority category, children with exceptional needs from families with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) (A) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213.

(B) (i) Within this priority category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child from a family in which the primary home language is a language other than English shall be enrolled first.

(iii) If there are no children from a family in which the primary home language is a language other than English, the child that has been on the waiting list for the longest time shall be admitted first.

(4) The fourth priority shall be given to eligible three-year-old children. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income

eligibility threshold, as described in Section 8213. Enrollment determinations within this priority category shall be made pursuant to subparagraph (B) of paragraph (3).

(5) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the eligibility income threshold, as described in Section 8213. Within this priority category, priority shall be given to three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the 10 percent of funded enrollment set aside pursuant to Section 8208, then to four-year-old children before three-year-old children without exceptional needs.

(6) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:

(A) A California preschool program site operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, may enroll any three- or four-year-old children whose families reside within the attendance boundary of the qualified elementary school. These children shall, to the extent possible, be enrolled by lowest to highest income according to the most recent schedule of income ceiling eligibility table.

(B) Children enrolling in the California state preschool program to provide expanded learning and care to transitional kindergarten or kindergarten pupils, pursuant to subdivision (l) of Section 48000.

(b) The Superintendent shall set criteria for, and may grant specific waivers of, the priorities established in this section for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) (1) Children with exceptional needs enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208 shall be enrolled without regard to the priorities listed in subdivision (a).

(2) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, the child that has been on the waiting list for the longest time shall be admitted first.

**SEC. 2.2.** Section 8210 of the Education Code is amended to read:

**8210.** (a) Each applicant or contracting agency shall give priority for part-day programs according to the following:

(1) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused, or exploited and for whom there is a written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resources and referral services so that services for the child can be located.

(2) (A) To the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the percent of funded enrollment set aside pursuant to Section 8208, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, as described in Section 8213.

(B) Within this priority category, children with exceptional needs from families with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) (A) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213.

(B) (i) Within this priority category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child from a family in which the primary home language is a language other than English shall be enrolled first.

(iii) If there are no children from a family in which the primary home language is a language other than English, the child that has been on the waiting list for the longest time shall be admitted first.

(4) The fourth priority shall be given to eligible three-year-old children. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213. Enrollment determinations within this priority category shall be made pursuant to subparagraph (B) of paragraph (3).

(5) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the eligibility income threshold, as described in Section 8213. Within this priority category, priority shall be given to three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the 10 percent of funded enrollment set aside pursuant to Section 8208, then to four-year-old children before three-year-old children without exceptional needs.

(6) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:

(A) A California preschool program site operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, may enroll any three- or four-year-old children whose families reside within the attendance boundary of the qualified elementary school. These children shall, to the extent possible, be enrolled by lowest to highest income according to the most recent schedule of income ceiling eligibility table.

(B) Children enrolling in the California state preschool program to provide expanded learning and care to transitional kindergarten or kindergarten pupils, pursuant to subdivision (l) of Section 48000.

(b) The Superintendent shall set criteria for, and may grant specific waivers of, the priorities established in this section for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) (1) Children with exceptional needs enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208 shall be enrolled without regard to the priorities listed in subdivision (a).

(2) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, the child that has been on the waiting list for the longest time shall be admitted first.

**SEC. 3.** Section 8211 of the Education Code is amended to read:

**8211.** (a) Each applicant or contracting agency shall give priority for full-day programs according to the following:

(1) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused or exploited upon written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resources and referral services so that services for the child can be located.

(2) (A) To the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, described in Section 8213.

(B) Within this priority category, children with exceptional needs from families with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) (A) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program.

(B) (i) Within this priority category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.

(iii) If there are no families with a child with exceptional needs, a child from a family in which the primary home language is a language other than English shall be enrolled first.

(iv) If there are no families in which the primary home language is a language other than English, the child that has been on the waiting list for the longest time shall be enrolled first.

(4) The fourth priority shall be given to eligible three-year-old children. Enrollment determinations within this priority category shall be made pursuant to subparagraph (B) of paragraph (3).

(5) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the income eligibility threshold, as described in Section 8213. Within this priority category, priority shall be given to three- and four-year-old children with an individualized family service plan or individualized education program, then four-year-old children before three-year-old children without an individualized family service plan or individualized education program.

(6) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:

(A) The contractor may enroll three- and four-year-old children from families that meet eligibility criteria pursuant to paragraph (3) of subdivision (d) of Section 8208. Within this priority, contractors shall enroll families in income ranking order, lowest to highest, and within income ranking order, enroll four-year-old children before three-year-old children.

(B) For California state preschool program sites operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, the contractor may enroll any three- and four-year-old children whose families reside within the attendance boundary of the qualified school without establishing eligibility or a need for services pursuant to paragraph (1) or (3) of subdivision (d) of Section 8208. These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest.

(b) The Superintendent shall set criteria for, and may grant specific waivers of, the priorities established in this section for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) (1) Children with exceptional needs enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208 shall be enrolled without regard to the priorities listed in subdivision (a).

(2) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, the child that has been on the waiting list for the longest time shall be admitted first.

**SEC. 3.1.** Section 8211 of the Education Code is amended to read:

**8211.** (a) Each applicant or contracting agency shall give priority for full-day programs according to the following:

(1) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused or exploited upon written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resources and referral services so that services for the child can be located.

(2) (A) To the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, described in Section 8213.

(B) Within this priority category, children with exceptional needs from families with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) (A) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1)

of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213.

(B) (i) Within this priority category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child from a family in which the primary home language is a language other than English shall be enrolled first.

(iii) If there are no children from a family in which the primary home language is a language other than English, the child that has been on the waiting list for the longest time shall be admitted first.

(4) The fourth priority shall be given to eligible three-year-old children. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213. Enrollment determinations within this priority category shall be made pursuant to subparagraph (B) of paragraph (3).

(5) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the income eligibility threshold, as described in Section 8213. Within this priority category, priority shall be given to three- and four-year-old children with an individualized family service plan or individualized education program, then four-year-old children before three-year-old children without an individualized family service plan or individualized education program.

(6) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:

(A) The contractor may enroll three- and four-year-old children from families that meet eligibility criteria pursuant to paragraph (4) of subdivision (d) of Section 8208. Within this priority, contractors shall enroll families in income ranking order, lowest to highest, and within income ranking order, enroll four-year-old children before three-year-old children.

(B) For California state preschool program sites operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, the contractor may enroll any three- and four-year-old children whose families reside within the attendance boundary of the qualified school without establishing eligibility or a need for services pursuant to paragraph (1) or (3) of subdivision (d) of Section 8208. These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest.

(b) The Superintendent shall set criteria for, and may grant specific waivers of, the priorities established in this section for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) (1) Children with exceptional needs enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208 shall be enrolled without regard to the priorities listed in subdivision (a).

(2) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, the child that has been on the waiting list for the longest time shall be admitted first.

**SEC. 3.2.** Section 8211 of the Education Code is amended to read:

**8211.** (a) Each applicant or contracting agency shall give priority for full-day programs according to the following:

(1) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused or exploited upon written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resources and referral services so that services for the child can be located.

(2) (A) To the extent that there are additional three- and four-year-old children with exceptional needs interested in enrolling beyond those already enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208, the second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold, described in Section 8213.

(B) Within this priority category, children with exceptional needs from families with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) (A) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213.

(B) (i) Within this priority category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child from a family in which the primary home language is a language other than English shall be enrolled first.

(iii) If there are no children from a family in which the primary home language is a language other than English, the child that has been on the waiting list for the longest time shall be admitted first.

(4) The fourth priority shall be given to eligible three-year-old children. This priority shall not include children eligible pursuant to subparagraph (E) of paragraph (1) of subdivision (a) of Section 8208 if they are from families with incomes above the income eligibility threshold, as described in Section 8213. Enrollment determinations within this priority category shall be made pursuant to subparagraph (B) of paragraph (3).

(5) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the income eligibility threshold, as described in Section 8213. Within this priority category, priority shall be given to three- and four-year-old children with an individualized family service plan or individualized education program, then four-year-old children before three-year-old children without an individualized family service plan or individualized education program.

(6) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:

(A) The contractor may enroll three- and four-year-old children from families that meet eligibility criteria pursuant to paragraph (4) of subdivision (d) of Section 8208. Within this priority, contractors shall enroll families in income ranking order, lowest to highest, and within income ranking order, enroll four-year-old children before three-year-old children.

(B) For California state preschool program sites operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, the contractor may enroll any three- and four-year-old children whose families reside within the attendance boundary of the qualified school without establishing eligibility or a need for services pursuant to paragraph (1) or (3) of subdivision (d) of Section 8208. These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest.

(b) The Superintendent shall set criteria for, and may grant specific waivers of, the priorities established in this section for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) (1) Children with exceptional needs enrolled in the percent of funded enrollment set aside pursuant to paragraph (1) of subdivision (c) of Section 8208 shall be enrolled without regard to the priorities listed in subdivision (a).

(2) Within this category, eligible children with the lowest income according to the income ranking on the most recent schedule of income ceiling eligibility table, as published by the Superintendent at the time of enrollment, shall be enrolled first.

(3) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, the child that has been on the waiting list for the longest time shall be admitted first.

**SEC. 4.** Section 8241.5 of the Education Code is amended to read:

**8241.5.** (a) It is the intent of the Legislature for the state preschool contractors, teachers, and staff to better understand the language and developmental needs of dual language learners enrolled in publicly funded preschool 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 Superintendent shall develop procedures for state preschool contractors to identify and report data on dual language learners enrolled in a preschool program administered pursuant to Article 2 (commencing with Section 8207).

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

(1) (A) The distribution and collection of a completed family language instrument developed by the Superintendent from a parent or guardian of each child enrolled in a preschool 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, which languages the child understands, and which languages the child is able to speak.

(B) Notwithstanding subparagraph (A), a state preschool 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 state preschool contractors to use to accurately identify dual language learners enrolled in their preschool 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 preschool 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 Superintendent shall develop the family language and interest interview to be used by teachers and designated staff for purposes of this subdivision.

(e) The reported data about dual language learners and a preschool program shall include, at a minimum, all of the following:

(1) A child's home language, the language the child uses most, 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 preschool 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 Superintendent shall use existing enrollment and reporting procedures for state preschool 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 state preschool contractors, the Superintendent shall develop clear implementation procedures and related guidance for state preschool contractors.

(2) The Superintendent 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 15, 2022, the Superintendent shall develop informal directives and bulletins 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 Superintendent 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 state preschool contractor. Family childcare providers shall not be responsible nor liable for the accuracy of data. The identification and reporting of dual language learners by state preschool contractors shall not impact the status of a provider within a family childcare home education network.

**SEC. 5.** Section 10271 of the Welfare and Institutions Code is amended to read:

**10271.** (a) (1) The department shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(A) A family is (i) a current aid recipient, (ii) income eligible, (iii) homeless, or (iv) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited.

(B) A family needs the child care services (i) because the child is identified by a legal, medical, or social services agency, a local educational agency liaison for homeless children and youths designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, a Head Start program, or an emergency or transitional shelter as (I) a recipient of protective services, (II) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (III) being homeless or (ii) because the parents are (I) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (II) engaged in an educational program for English language learners or to attain a high school diploma or general educational development certificate, (III) employed or seeking employment, (IV) seeking permanent housing for family stability, or (V) incapacitated.

(2) If only one parent has signed an application for enrollment in child care services, as required by this chapter or regulations adopted to implement this chapter, and the information provided on the application indicates that there is a second parent who has not signed the application, the parent who has signed the application shall self-certify the presence or absence of the second parent under penalty of perjury. The parent who has signed the application shall not be required to submit additional information documenting the presence or absence of the second parent.

(b) Except as provided in Chapter 21 (commencing with Section 10370), priority for federal and state subsidized child development services is as follows:

(1) First priority shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be given equally to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the department, shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first. If there is no family of the same priority with a child with exceptional needs, the family of the same priority in which the primary home language is a language other than English shall be admitted first. If there is no family of the same priority in which the primary home language is a language other than English, the family of the same priority that has been on the waiting list for the longest time shall be admitted first. For purposes of determining order of admission, grants of public assistance recipients shall be counted as income.

(3) The department shall set criteria for, and may grant specific waivers of, the priorities established in this subdivision for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) Notwithstanding any other law, in order to promote continuity of services, a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services in another state or federally funded child care and development program if the contractor is able to transfer the family's enrollment to another program for which the family is eligible before the date of termination of services or to exchange the family's existing enrollment with the enrollment of a family in another program, provided that both families satisfy the eligibility requirements for the program in which they are being enrolled. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded child care and development programs.

(d) A physical examination and evaluation, including age-appropriate immunization, shall be required before, or within six weeks of, enrollment. A standard, rule, or regulation shall not require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to the parent's or guardian's religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, if there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that the child is not suffering from that contagious or infectious disease.

(e) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Care Services relative to health care screening and the provision of health care services. The department shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of children who are ill or children with exceptional needs.

(f) The department shall establish guidelines for the collection of employer-sponsored child care benefit payments from a parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(g) The department shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(h) (1) Except as provided in paragraphs (2) and (3), upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.

(2) A family that establishes initial eligibility or ongoing eligibility on the basis of income shall report increases in income that exceed the threshold for ongoing income eligibility as described in subdivision (b) of Section 10271.5, and the family's ongoing eligibility for services shall at that time be recertified.

(3) A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.

(i) (1) Because a family that meets eligibility requirements at its most recent eligibility certification or recertification is considered eligible until the next recertification, as provided in subdivision (h), a payment made by a child development program for a child during this period shall not be considered an error or an improper payment due to a change in the family's circumstances during that same period.

(2) Notwithstanding paragraph (1), the department may seek to recover payments that are the result of fraud.

(j) (1) 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) and Section 33308.5 of the Education Code, until regulations are filed with the Secretary of State to implement subdivision (h), the department shall implement subdivision (h) through management bulletins or similar letters of instruction on or before October 1, 2017.

(2) The department shall initiate a rulemaking action to implement subdivision (h) on or before December 31, 2018. The department shall convene a workgroup of parents, advocates, department staff, child development program representatives, and other stakeholders to develop recommendations regarding implementing subdivision (h).

(k) Public funds shall not be paid directly or indirectly to an agency that does not pay at least the minimum wage to each of its employees.

**SEC. 5.5.** Section 10271 of the Welfare and Institutions Code is amended to read:

**10271.** (a) (1) The department shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(A) A family is (i) a current aid recipient, (ii) income eligible, (iii) homeless, or (iv) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited, or (v) one who has a member of its household who is certified to receive benefits from Medi-Cal, CalFresh, the California Food Assistance Program, the California Special Supplemental Nutrition Program for Women, Infants, and Children, the federal Food Distribution Program on Indian Reservations, Head Start, Early Head Start, or any other designated means-tested government program, as determined by the department. If a family is deemed eligible pursuant to clause (v), the family shall be prioritized by the income declared on the application for the means-tested government program.

(B) A family needs the childcare services (i) because the child is identified by a legal, medical, or social services agency, a local educational agency liaison for homeless children and youths designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, a Head Start program, or an emergency or transitional shelter as (I) a recipient of protective services, (II) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (III) being homeless or (ii) because the parents are (I) engaged in vocational training leading directly to a recognized trade, paraprofession, or

profession, (II) engaged in an educational program for English language learners or to attain a high school diploma or general educational development certificate, (III) employed or seeking employment, (IV) seeking permanent housing for family stability, or (V) incapacitated.

(2) If only one parent has signed an application for enrollment in childcare services, as required by this chapter or regulations adopted to implement this chapter, and the information provided on the application indicates that there is a second parent who has not signed the application, the parent who has signed the application shall self-certify the presence or absence of the second parent under penalty of perjury. The parent who has signed the application shall not be required to submit additional information documenting the presence or absence of the second parent.

(b) Except as provided in Chapter 21 (commencing with Section 10370), priority for federal and state subsidized child development services is as follows:

(1) First priority shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be given equally to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the department, shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first. If there is no family of the same priority with a child with exceptional needs, the family of the same priority in which the primary home language is a language other than English shall be admitted first. If there is no family of the same priority in which the primary home language is a language other than English, the family of the same priority that has been on the waiting list for the longest time shall be admitted first. For purposes of determining order of admission, grants of public assistance recipients shall be counted as income.

(3) The department shall set criteria for, and may grant specific waivers of, the priorities established in this subdivision for agencies that wish to serve specific populations, including children with exceptional needs or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) Notwithstanding any other law, in order to promote continuity of services, a family enrolled in a state or federally funded childcare and development program whose services would otherwise be terminated because the family no longer meets the program income, eligibility, or need criteria may continue to receive child development services in another state or federally funded childcare and development program if the contractor is able to transfer the family's enrollment to another program for which the family is eligible before the date of termination of services or to exchange the family's existing enrollment with the enrollment of a family in another program, provided that both families satisfy the eligibility requirements for the program in which they are being enrolled. The transfer of enrollment may be to another program within the same administrative agency or to another agency that administers state or federally funded childcare and development programs.

(d) A physical examination and evaluation, including age-appropriate immunization, shall be required before, or within six weeks of, enrollment. A standard, rule, or regulation shall not require medical examination or immunization for admission to a childcare and development program of a child whose parent or guardian files a letter with the governing board of the childcare and development program stating that the medical examination or immunization is contrary to the parent's or guardian's religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, if there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the childcare and development program is satisfied that the child is not suffering from that contagious or infectious disease.

(e) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Care Services relative to health care screening and the provision of health care services. The department shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of children who are ill or children with exceptional needs.

(f) The department shall establish guidelines for the collection of employer-sponsored childcare benefit payments from a parent whose child receives subsidized childcare and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of childcare and development services provided, notwithstanding the applicable fee based on the fee schedule.

(g) The department shall establish guidelines according to which the director or a duly authorized representative of the childcare and development program will certify children as eligible for state reimbursement pursuant to this section.

(h) (1) Except as provided in paragraphs (3), (4), and (5), upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family shall be considered to meet all eligibility and need requirements for those services for not less than 24 months, shall receive those services for not less than 24 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 24 months.

(2) In the event that the eligibility period as described in paragraph (1) ends before the end of a program year, eligibility shall be extended until the end of the program year, as long as applicable age-eligibility requirements are met, as specified in Section 10213.5.

(3) A family that establishes initial eligibility or ongoing eligibility on the basis of income shall report increases in income that exceed the threshold for ongoing income eligibility as described in subdivision (b) of Section 10271.5, and the family's ongoing eligibility for services shall at that time be recertified.

(4) A family may at any time voluntarily report income or other changes. This information shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of the family's eligibility before recertification.

(5) Notwithstanding paragraph (1), upon establishing initial eligibility or ongoing eligibility for services under this chapter, a family receiving services under a CalWORKs Stage 1, Stage 2, or Stage 3 program shall be considered to meet all eligibility and need requirements for those services for not less than 12 months, shall receive those services for not less than 12 months before having their eligibility or need recertified, and shall not be required to report changes to income or other changes for at least 12 months.

(i) (1) Because a family that meets eligibility requirements at its most recent eligibility certification or recertification is considered eligible until the next recertification, as provided in subdivision (h), a payment made by a child development program for a child during this period shall not be considered an error or an improper payment due to a change in the family's circumstances during that same period.

(2) Notwithstanding paragraph (1), the department may seek to recover payments that are the result of fraud.

(j) (1) 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) and Section 33308.5 of the Education Code, until regulations are filed with the Secretary of State to implement subdivision (h), the department shall implement subdivision (h) through management bulletins or similar letters of instruction on or before October 1, 2017.

(2) The department shall initiate a rulemaking action to implement subdivision (h) on or before December 31, 2018. The department shall convene a workgroup of parents, advocates, department staff, child development program representatives, and other stakeholders to develop recommendations regarding implementing subdivision (h).

(k) (1) 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) and Section 33308.5 of the Education Code, until regulations are filed with the Secretary of State, the department shall implement the changes made to subdivision (h) by the act that added this subdivision through management bulletins or similar letters of instruction on or before December 1, 2023.

(2) The department shall initiate a rulemaking action to implement the changes made to subdivision (h) by the act that added this subdivision on or before December 31, 2024.

(l) Public funds shall not be paid directly or indirectly to an agency that does not pay at least the minimum wage to each of its employees.

**SEC. 6.** Section 2.1 of this bill incorporates amendments to Section 8210 of the Education Code proposed by this bill and Assembly Bill 185. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 8210 of the Education Code, and (3) this bill is enacted after Assembly Bill 185, in which case Section 8210 of the Education Code, as amended by Assembly Bill 185, shall remain operative only until the operative date of this bill, at which time Section 2.1 of this bill shall become operative, and Sections 2 and 2.2 of this bill shall not become operative.

**SEC. 7.** Section 2.2 of this bill incorporates amendments to Section 8210 of the Education Code proposed by this bill and Senate Bill 185. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 8210 of the Education Code, and (3) this bill is enacted after Senate Bill 185, in which case Section 8210 of the Education Code, as amended by Senate Bill 185, shall remain operative only until the operative date of this bill, at which time Section 2.2 of this bill shall become operative, and Sections 2 and 2.1 of this bill shall not become operative.

**SEC. 8.** Section 3.1 of this bill incorporates amendments to Section 8211 of the Education Code proposed by this bill and Assembly Bill 185. That section shall only become operative if (1) both bills are enacted and become effective on or before

January 1, 2023, (2) each bill amends Section 8211 of the Education Code, and (3) this bill is enacted after Assembly Bill 185, in which case Section 8211 of the Education Code, as amended by Assembly Bill 185, shall remain operative only until the operative date of this bill, at which time Section 3.1 of this bill shall become operative, and Section 3 and 3.2 of this bill shall not become operative.

**SEC. 9.** Section 3.2 of this bill incorporates amendments to Section 8211 of the Education Code proposed by this bill and Senate Bill 185. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 8211 of the Education Code, and (3) this bill is enacted after Senate Bill 185, in which case Section 8211 of the Education Code, as amended by Senate Bill 185, shall remain operative only until the operative date of this bill, at which time Section 3.2 of this bill shall become operative, and Section 3 and 3.1 of this bill shall not become operative.

**SEC. 10.** Section 5.5 of this bill incorporates amendments to Section 10271 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1047. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 10271 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1047, in which case Section 5 of this bill shall not become operative.