

**California Department of Social Services  
Proposed Trailer Bill Language**

**Maximizing Child Care Subsidies: Defining Excessive Unexplained Absences**

Welfare and Institutions Code Section 10213.5 is amended as follows:

(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 decision making 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, medical and educational appointments, 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. For purposes of reimbursement, a contractor may claim attendance for days that the contractor or provider is required to hold a space for a child during the period that a family is assumed to have abandoned care or is engaging in the appeal process based on disenrollment for abandoning care.

(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) Follow up 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 rate setting 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.

**(am) “Excessive unexplained absences” means absences that are not considered excused as defined above in subsection (e) and exceed 30 days within a 12-month interval during the period of time between determinations and redeterminations. Excessive unexplained absences, for the purposes of reimbursement, include nonconsecutive and consecutive days of absence that are not considered excused as defined above in subsection (e).**

- (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), the department may implement and administer this subdivision by all-county letters, bulletins, or similar written instructions until regulations are adopted.
- (2) The department shall initiate a rulemaking action to adopt regulations to implement this subdivision no later than July 1, 2030.