



ASSEMBLY BILL 1808 TBL PROVISIONS FOR 2018-19 STATE BUDGET

SECTION 8 (PAGES 52-54): COMINGLE OF TRANSITIONAL KINDERGARTEN (TK) AND 4-YEAR-OLD PRESCHOOL STUDENTS IN A TK CLASSROOM

Sec.8. Section 8235 of the Education Code is amended to read:

8235. (a) The Superintendent shall administer all California state preschool programs. Those programs shall include, but not be limited to, part-day age and developmentally appropriate programs designed to facilitate the transition to kindergarten for three- and four-year-old children in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. Preschool programs for which federal reimbursement is not available shall be funded as prescribed by the Legislature in the Budget Act, and unless otherwise specified by the Legislature, shall not use federal funds made available through Title XX of the federal Social Security Act (42 U.S.C. Sec. 1397).

(b) Three- and four-year-old children are eligible for the part-day California state preschool program if the family meets at least one of the criteria specified in paragraph (1) of subdivision (a) of Section 8263.

(c) Notwithstanding any other law, a part-day California state preschool program may provide services to children in families whose income is no more than 15 percent above the income eligibility threshold, as described in Sections 8263 and 8263.1, after all eligible three- and four-year-old children have been enrolled. No more than 10 percent of children enrolled, calculated throughout the participating program's entire contract, may be filled by children in families above the income eligibility threshold.

(d) Notwithstanding any other law, after all otherwise eligible children have been enrolled, a part-day California state preschool program may provide services to three- and four-year-old children in families whose income is above the income eligibility threshold if those children have been identified as "children with exceptional needs" pursuant to subdivision (l) of Section 8208. Children receiving services pursuant to this subdivision shall not count towards the 10-percent limit of children from families above the income eligibility threshold as specified in subdivision (c).

(e) A part-day California state preschool program shall operate for a minimum of (1) three hours per day, excluding time for home-to-school transportation, and (2) a minimum of 175 days per year, unless the contract specifies a lower number of days of operation.

(f) Any agency described in subdivision (c) of Section 8208 as an "applicant or contracting agency" is eligible to contract to operate a California state preschool program.

(g) Part-day preschool services shall be reimbursed on a per capita basis, as determined by the Superintendent, and contingent on funding being provided for the part-day preschool services in the annual Budget Act.

(h) Federal Head Start funds used to provide services to families receiving California state preschool services shall be deemed nonrestricted funds.

(i) School districts and charter schools that administer a California state preschool program may place four-year-old children in a transitional kindergarten program classroom in accordance with subdivisions (h) to (j), inclusive, of Section 48000.

SECTION 9 (PAGES-54-56): UNIFORM COMPLAINT PROCEDURES (UCP) FOR STATE PRESCHOOL PROGRAMS

SEC. 9. Section 8235.5 is added to the Education Code, to read:

8235.5. (a) (1) A local educational agency exempt from licensing pursuant to subdivision (o) of Section 1596.792 of the Health and Safety Code shall use the uniform complaint process it has adopted as required by Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations, with modifications, as necessary, to resolve any deficiencies related to preschool health and safety issues for a California state preschool program pursuant to Section 1596.7925 of the Health and Safety Code.

(2) A complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Section 48985 is otherwise applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed. All complaints and responses are public records.

(3) The complaint form shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

(4) A complaint shall be filed with the preschool program administrator or his or her designee. A complaint about problems beyond the authority of the preschool program administrator shall be forwarded in a timely manner, but not to exceed 10 working days to the appropriate local educational agency official for resolution.

(b) The preschool program administrator or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. Investigations shall begin within 10 days of the receipt of the complaint. The preschool program administrator or designee of the district superintendent shall remedy a valid complaint within a reasonable time period, but not to exceed 30 working days from the date the complaint was received. The preschool program administrator or designee of the district superintendent shall report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the preschool program administrator makes this report, the preschool program administrator shall also report the same information in the same timeframe to the designee of the district superintendent.

(c) A complainant not satisfied with the resolution of the preschool program administrator or the designee of the district superintendent has the right to describe the complaint to the governing board or body, as applicable, of the local educational agency at a regularly scheduled hearing of the governing board or body, as applicable, of the local educational agency. A complainant who is not satisfied with the resolution proffered by the preschool program administrator or the designee of the district superintendent has the right to file an appeal to the Superintendent.

(d) A local educational agency shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board or body, as applicable, of the local educational agency. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board or body, as applicable, of the local educational agency. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

(e) In order to identify appropriate subjects of complaint, a notice shall be posted in each California state preschool program classroom in each school in the local educational agency notifying parents, guardians, pupils, and teachers of both of the following:

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- (1) The health and safety requirements under Title 5 of the California Code of Regulations that apply to California state preschool programs pursuant to Section 1596.7925 of the Health and Safety Code.
 - (2) The location at which to obtain a form to file a complaint. Posting a notice downloadable from the Internet Web site of the department shall satisfy this requirement.
 - (f) A local educational agency shall establish local policies and procedures, post notices, and implement this section.
 - (g) For purposes of this section, “local educational agency” means a school district, county office of education, or charter school.

SECTION 10 (PAGES 56-57): STANDARD REIMBURSEMENT RATE AT \$11,995 PLUS COLA AND REIMBURSEMENT RATE FOR FULL-DAY PRESCHOOL: \$12,070 PLUS COLA STARTING IN 2019-20

SEC. 10. Section 8265 of the Education Code is amended to read:

8265. (a) The Superintendent shall implement a plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

- (1) Parent fees shall be used to pay reasonable and necessary costs for providing additional services.
- (2) When establishing standards and assigned reimbursement rates, the Superintendent shall confer with applicant agencies.
- (3) The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.
- (4) The Superintendent may establish any regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) Commencing July 1, 2018, the standard reimbursement rate shall be eleven thousand nine hundred ninety-five dollars (\$11,995) and, commencing with the 2019–20 fiscal year, shall be increased by the cost-of-living adjustment granted by the Legislature annually pursuant to Section 42238.15. Commencing July 1, 2018, the full-day state preschool reimbursement rate shall be twelve thousand seventy dollars (\$12,070) and, commencing with the 2019–20 fiscal year, shall be increased by the cost-of-living adjustment granted by the Legislature annually pursuant to Section 42238.15.

(c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) (1) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

- (A) Loss of program resources from other sources.
- (B) Need of an agency to pay the same child care rates as those prevailing in the local community.
- (C) Increased costs directly attributable to new or different regulations.
- (D) Documented increased costs necessary to maintain the prior year’s level of service and ensure the continuation of threatened programs.

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- (2) Child care agencies funded at the lowest rates shall be given first priority for increases.
- (e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.
- (f) The Superintendent may reduce the percentage of reduction for a public agency that satisfies any of the following:
- (1) Serves more than 400 children.
 - (2) Has in effect a collective bargaining agreement.
 - (3) Has other extenuating circumstances that apply, as determined by the Superintendent.

SECTION 17 (PAGES 67—70): \$167 MILLION INCLUSIVE EARLY EDUCATION EXPANSION GRANTS

SEC. 17. Article 23.5 (commencing with Section 8492) is added to Chapter 2 of Part 6 of Division I of Title I of the Education Code, to read:

Article 23.5. Inclusive Early Education Expansion

8492. (a) The Legislature finds and declares all of the following:

- (1) Early childhood inclusion embodies the values, policies, and practices that support the right of every infant and young child and his or her family, regardless of ability, to participate in a broad range of activities and contexts as full members of families, communities, and society. The desired results of inclusive experiences for children with and without disabilities and their families include a sense of belonging and membership, positive social relationships and friendships, and development and learning to reach their full potential. The defining features of inclusion that can be used to identify high-quality early childhood programs and services are access, participation, and supports.
- (2) In accordance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), all young children with exceptional needs should have access to inclusive high-quality early care and education programs where they are able to learn alongside children who do not have exceptional needs and are provided with individualized and appropriate supports to enable them to meet high expectations.
- (3) Inclusive early care and education programs can improve a child's developmental progress and educational outcomes, especially for children with exceptional needs.
- (4) Interventions provided to children with exceptional needs, including children who are at risk of requiring services for pupils with exceptional needs, can be more effective when a child is younger.
- (5) Access to inclusive early care and education programs benefits communities and families, especially when programs are coordinated with public elementary and secondary education systems to create a developmental and educational continuum of support.

(b) The Inclusive Early Education Expansion Program is hereby established for the purpose of increasing access to inclusive early care and education programs.

(c) The sum of one hundred sixty-seven million two hundred forty-two thousand dollars (\$167,242,000) is hereby appropriated from the General Fund to the Superintendent for allocation to local educational agencies for the Inclusive Early Education Expansion Program pursuant to this section. Funds shall be available for encumbrance until June 30, 2023.

(d) The department's Special Education Division and Early Education and Support Division shall work collaboratively to administer the program, including developing criteria for the selection of grantees.

(e) At a minimum, an applicant shall be a local educational agency and shall include all of the following information in its grant application:

(1) A proposal to increase access to subsidized inclusive early care and education programs for children up to five years of age, including those defined as "children with exceptional needs" pursuant to Section 8208, in low-income and high-need communities. "High-need" shall be defined pursuant to the county child care needs assessment specified in Section 8499.5. The proposal shall quantify the number of additional subsidized children proposed to be served, including children with exceptional needs.

(2) A plan to fiscally sustain subsidized spaces or programs created by grant funds beyond the grant period. Subsidies may be funded with private, local, state, or federal funds, but shall be able to demonstrate a reasonable expectation of sustainability.

(3) The identification of local resources to contribute 33 percent of the total award amount. The total award amount shall include state and local resources. Local resources may include in-kind contributions.

(4) The identification of resources necessary to support lead agency professional development to allow staff to develop the knowledge and skills required to implement effective inclusive practices and fiscal sustainability.

(5) A description of the special education expertise that will be used to ensure the funds are used in a high-quality, inclusive manner.

(f) Nothing in this section shall prohibit a local educational agency from applying on behalf of a consortium of providers within the local educational agency's program area, including public and private agencies that will provide inclusive early care and education programs on behalf of the applicant.

(g) Grants shall be awarded on a competitive basis. Priority shall be given to all of the following:

(1) Applicants with a demonstrated need for expanded access to inclusive early care and education.

(2) Applicants in low-income communities and applicants that represent a consortium of local partners, including local special education partners and those with expertise in inclusive early learning and care environments.

(3) Applicants who demonstrate the ability to serve a broad range of disabilities.

(4) Applicants who do or plan to serve children with disabilities in proportion to their rate of identification similar to local educational agencies in their region.

(h) Grants may be used for one-time infrastructure costs only, including, but not limited to, adaptive and universal design facility renovations, adaptive equipment, and professional development. Funds shall not be used for ongoing expenditures.

(i) A grant recipient shall commit to provide program data and participate in overall program evaluation to ensure expanded access to inclusive environments, as specified by the department, as a condition of the receipt of grant funding.

(j) The department may reserve up to 1 percent of the program funds to support an evaluation to address improved access, participation, and supports to inclusive early learning and care programs and program and child outcomes.

(k) Commencing in the 2018–19 fiscal year, the department shall convene a stakeholder workgroup that includes, but is not limited to, representatives from the relevant divisions in the department, the State Department of Developmental Services, the State Interagency Coordinating Council on Early Intervention, local educational agencies, appropriate county agencies, regional centers, and resource and referral agencies. The workgroup shall be maintained through June 30, 2023, with the goal of providing continuous improvement in the inclusion of children with exceptional needs in early care and education settings. The department shall include representatives of local educational agencies participating in the Inclusive Early Education Expansion Program established in this section and county offices of education participating in the Inclusive Early Care Pilot Program, established pursuant to Section 136 of the act adding this section, in this workgroup, when appropriate, to share challenges, barriers, and best practices.

(l) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the amount appropriated in subdivision (c) shall be deemed to be “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the 2017–18 fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for the 2017–18 fiscal year.

SECTION 21 (PAGES 77-80) \$100 M FULL-DAY KINDERGARTEN FACILITIES GRANT PROGRAM

SEC. 21. Article 7 (commencing with Section 17375) is added to Chapter 3 of Part 10.5 of Division I of Title I of the Education Code, to read:

Article 7. Full-Day Kindergarten Facilities Grant Program

17375. (a) For the 2018–19 fiscal year, the sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund to the State Allocation Board to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten classrooms pursuant to Section 8973. Funds appropriated pursuant to this subdivision shall be deposited in the Full-Day Kindergarten Facilities Account, hereby created in the State Treasury, administered by the State Allocation Board. The grant program shall be administered by the State Allocation Board.

(b) (1) The State Allocation Board shall award grants to school districts that lack the facilities to provide full-day kindergarten as required for eligibility pursuant to Sections 17071.25 and 17072.10 or that lack facilities that satisfy the design requirements required for new kindergarten classrooms as specified in paragraph (2) of subdivision (h) of Section 14030 of Title 5 of the California Code of Regulations.

(2) Priority for grants shall be given to school districts that meet either of the following criteria:

(A) The school district is financially unable to contribute a portion of, or all of, the local matching share required pursuant to paragraph (3), and meets the requirements for financial hardship pursuant to Section 17075.10.

(B) The school district is located in an underserved community with a high population of pupils who are eligible for free or reduced-price meals pursuant to Section 42238.01.

(3) Except for school districts that meet the requirements for financial hardship pursuant to Section 17075.10, a school district that applies for a grant pursuant to this section for new construction shall provide 50 percent of the cost of the project, and a school district that applies for a grant pursuant to this section for a retrofit project shall provide 40 percent of the cost of the project.

(c) (1) The State Allocation Board shall release disbursements of grant funds to school districts with approved applications for new construction, to the extent funds are available for the state's 50 percent matching share, if the school district has provided its 50 percent local matching share, unless the school district meets the requirements for financial hardship pursuant to Section 17075.10, and upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(2) The State Allocation Board shall release disbursements of grant funds to school districts with approved applications for retrofit projects, to the extent funds are available for the state's 60 percent matching share, if the school district has provided its 40 percent local matching share, unless the school district meets the requirements for financial hardship pursuant to Section 17075.10, and upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(d) The State Allocation Board shall allocate funds to school districts using the same maximum grant eligibility amounts that are used for purposes of the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Sections 17072.10 and 17072.11 for new construction, and as set forth in Section 17074.10 for retrofit projects.

(e) As a condition of receiving grant funds pursuant to this section, and before the release of those funds, the school district shall execute and submit a grant agreement consistent with the applicable sections of the grant agreement specified in Section 1859.90.4 of Title 2 of the California Code of Regulations.

(f) (1) A school district may use grant funds awarded for new construction on costs necessary to adequately house kindergarten pupils in an approved project, which may include only the following:

(A) The costs of design, engineering, testing, inspections, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, landscaping, necessary utility costs, utility connections and other related fees, equipment including telecommunication equipment to increase school security, furnishings, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

(B) The costs of acquiring an existing government-owned or privately owned building, or a privately financed school building, and the necessary costs of converting the government-owned or privately owned building for public school use.

(2) (A) A school district may use grant funds awarded for a retrofit project to retrofit an existing school facility to adequately house kindergarten pupils, which may only include the costs of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, necessary utility costs, utility connection and other related fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, the upgrading of electrical systems, and the wiring or cabling of classrooms in order to accommodate educational technology.

(B) Grant funds awarded for a retrofit project shall not be used for costs associated with acquisition and development of real property or for routine maintenance and repair.

(g) The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(h) Notwithstanding any other law, a school district shall be subject, with regard to this section, to audit conducted pursuant to Section 41024.

(i) The Office of Public School Construction shall report to the Director of Finance, and shall post on its Internet Web site, information regarding the use of grant funds that have been made available to school districts during the fiscal year pursuant to this section.

(j) The Department of General Services may charge its administrative costs against the Full-Day Kindergarten Facilities Account, which shall be subject to the approval of the Department of Finance and which shall not exceed 2.5 percent of the account.

(k) Funds made available to school districts pursuant to this article shall supplement, not supplant, existing funds available for school facilities construction.

SECTION 46 (PAGES 157-160) CONDITIONS FOR COMINGLING OF 4-YEAR-OLD PRESCHOOL STUDENTS IN A TK CLASSROOM

SEC. 46. Section 48000 of the Education Code is amended to read:

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year, if the child will have his or her fifth birthday on or before one of the following dates:

(1) December 2 of the 2011–12 school year.

(2) November 1 of the 2012–13 school year.

(3) October 1 of the 2013–14 school year.

(4) September 1 of the 2014–15 school year and each school year thereafter.

(b) The governing board of the school district of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board of the school district determines that the admittance is in the best interests of the child.

(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Section 46300, and Chapter 3 (commencing with Section 47610) of Part 26.8, as applicable, a school district or charter school shall ensure the following:

(1) In the 2012–13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.

(2) In the 2013–14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.

(3) (A) In the 2014–15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.

(B) (i) For the 2015–16 school year and each school year thereafter, a school district or charter school may, at any time during a school year, admit a child to a transitional kindergarten program who will have his or her fifth birthday after December 2 but during that same school year, with the approval of the parent or guardian, subject to the following conditions:

(I) The governing board of the school district or the governing body of the charter school determines that the admittance is in the best interests of the child.

(II) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(ii) Notwithstanding any other law, a pupil admitted to a transitional kindergarten program pursuant to clause (i) shall not generate average daily attendance for purposes of Section 46300, or be included in the enrollment or unduplicated pupil count pursuant to Section 42238.02, until the pupil has attained his or her fifth birthday, regardless of when the pupil was admitted during the school year.

(d) For purposes of this section, “transitional kindergarten” means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

(f) It is the intent of the Legislature that transitional kindergarten curriculum be aligned to the California Preschool Learning Foundations developed by the department.

(g) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to Section 46300, a school district or charter school shall ensure that credentialed teachers who are first assigned to a transitional kindergarten classroom after July 1, 2015, have, by August 1, 2020, one of the following:

(1) At least 24 units in early childhood education, or childhood development, or both.

(2) As determined by the local educational agency employing the teacher, professional experience in a classroom setting with preschool age children that is comparable to the 24 units of education described in paragraph (1).

(3) A child development teacher permit issued by the Commission on Teacher Credentialing.

(h) A school district or charter school may place four-year-old children, as defined in subdivision (aj) of Section 8208, enrolled in a California state preschool program into a transitional kindergarten program classroom. A school district or charter school that commingles children from both programs in the same classroom shall meet all of the requirements of the respective programs in which the children are enrolled, and the school district or charter school shall adhere to all of the following requirements, irrespective of the program in which the child is enrolled:

(1) An early childhood environment rating scale, as specified in Section 18281 of Title 5 of the California Code of Regulations, shall be completed for the classroom.

(2) All children enrolled for 10 or more hours per week shall be evaluated using the Desired Results Developmental Profile, as specified in Section 18272 of Title 5 of the California Code of Regulations.

(3) The classroom shall be taught by a teacher that holds a credential issued by the Commission on Teacher Credentialing in accordance with Section 44065 and subdivision (b) of Section 44256 and who meets the requirements set forth in subdivision (g).

(4) The classroom shall be in compliance with the adult-child ratio as specified in subdivision (c) of Section 8264.8.

(5) Contractors of a school district or charter school commingling children enrolled in the California state preschool program with children enrolled in a transitional kindergarten program classroom shall report the services, revenues, and expenditures for the California state preschool program children in accordance with Section 18068 of Title 5 of the California Code of Regulations. Those contractors are not required to report services, revenues, and expenditures for the children in the transitional kindergarten program.

(i) Until July 1, 2019, a transitional kindergarten classroom that has in attendance children enrolled in a California state preschool program shall be licensed pursuant to Chapters 3.4 (commencing with Section 1596.70) and 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

(j) A school district or charter school that chooses to place California state preschool program children into a transitional kindergarten program classroom shall not also include children enrolled in transitional kindergarten for a second year or children enrolled in kindergarten in that classroom.

SECTION 125-126 (PAGES 308-313) PRESCHOOL EXEMPTION FROM TITLE 22; NEW HEALTH/SAFETY REGULATIONS

SEC. 125. Section 1596.792 of the Health and Safety Code is amended to read:

1596.792. This chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 20 hours per week.

(B) For a total of 14 weeks or less during a 12-month period. This total applies to any 14 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections and Rehabilitation that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in paragraph (17) of subdivision (a) of Section 1502.

(o) (1) Commencing with the adoption of emergency regulations pursuant to paragraph (3), or no later than July 1, 2019, whichever comes first, a California state preschool program operated by a local educational agency under contract with the State Department of Education and that operates in a school building, as defined by Section 17283 of the Education Code, that meets all of the following conditions:

(A) The program is operated in a local educational agency facility that meets the requirements of the Field Act, as specified in Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5 of Division 1 of Title 1 of, and Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of Division 7 of Title 3 of, the Education Code.

(B) The local educational agency facility is constructed consistent with California Building Standards Code pursuant to Title 24 of the California Code of Regulations.

(C) The local educational agency facility meets the requirements for kindergarten classrooms in accordance with Chapter 13 (commencing with Section 14000) of Division 1 of Title 5 of the California Code of Regulations.

(D) The program meets all other requirements of California state preschool programs pursuant to Chapter 19 (commencing with Section 17906) of Division 1 of Title 5 of the California Code of Regulations.

(2) A California state preschool program exempt under this subdivision shall be considered licensed under Division 12 (commencing with Section 101151) of Title 22 of the California Code of Regulations for purposes of establishing a rating on an early learning quality rating and improvement system matrix pursuant to Section 8203.1 of the Education Code.

(3) (A) No later than October 1, 2017, the Legislative Analyst shall convene a stakeholder process for the purpose of ensuring state preschools operated by local educational agencies are maintaining all existing necessary health and safety requirements.

(B) The stakeholder process shall identify and make recommendations on any health and safety requirements currently required under Title 22 of the California Code of Regulations, but not included in Title 5 of the California Code of Regulations, the Field Act, Title 24 of the California Code of Regulations, the California Plumbing Code, the Education Code, or this code, including, but not limited to, all of the following:

(i) Adequate outdoor shade structures.

(ii) Access to age and developmentally appropriate bathroom and drinking water facilities.

(iii) Appropriate processes for parent notification and resolution of code and regulation violations.

(C) The stakeholder process participants shall include experts on early childhood education health and safety issues from local educational agency and nonlocal educational agency state preschool program providers, and representatives from the State Department of Education, State Department of Social Services, Department of Finance, and legislative staff.

(D) No later than March 15, 2018, the Legislative Analyst shall report to the appropriate fiscal and policy committees of the Legislature, the Department of Finance, and the State Department of Education on recommendations or observations as a result of the stakeholder process. These recommendations or observations shall consider the fiscal impact on the state. No sooner than 30 days after the report is provided, the State Department of Education shall commence a process to adopt emergency regulations pursuant to Section 11346.1 of the Government Code to satisfy the requirements of this paragraph. The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(4) For purposes of this subdivision, the following terms have the following meanings:

(A) "California state preschool program" means any classroom that is funded, in whole or in part, by funds received pursuant to Section 8235 of the Education Code.

(B) "Local educational agency" means a school district, county office of education, or charter school.

SEC. 126: NEW HEALTH/SAFETY REGULATIONS FOR PRESCHOOL

SEC. 126. Section 1596.7925 is added to the Health and Safety Code, immediately following Section 1596.792, to read:

1596.7925. (a) On or before July 1, 2019, the State Department of Education shall adopt new health and safety regulations under Title 5 of the California Code of Regulations that apply to California state preschool programs that meet the conditions specified in subdivision (o) of Section 1596.792. The regulations shall require those programs to have all of the following:

(1) Outdoor shade that is safe and in good repair.

(2) Drinking water that is accessible and readily available throughout the day.

(3) Safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children.

(4) Restroom facilities that are only available for preschoolers and kindergartners.

(5) Visual supervision of children at all times.

(6) Indoor and outdoor space that is properly contained or fenced and provides sufficient space for the number of children using the space at any given time. Playground equipment must be safe, in good repair, and age appropriate.

(b) The State Department of Education may adopt emergency regulations pursuant to Section 11346.1 of the Government Code to satisfy the requirements of this section. The adoption of emergency regulations shall be

deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(c) A violation of regulations adopted pursuant to subdivision (a) or (b) shall not be subject to Section 1596.890.

SEC. 136: \$10 MILLION INCLUSIVE EARLY CARE PILOT PROGRAM

Section 136 (pages 323-326) \$10 M Inclusive Early Care Pilot Program

SEC. 136. (a) The Inclusive Early Care Pilot Program is hereby established for the purpose of increasing access to inclusive early care and education programs.

(b) Subject to an appropriation in the annual Budget Act or another statute for purposes of this section, the Superintendent of Public Instruction, in consultation with the State Department of Developmental Services and the State Interagency Coordinating Council on Early Intervention, shall develop a grant program for county offices of education to support the inclusion of children with exceptional needs, including children with severe disabilities, in early care and education settings pursuant to Parts B and C of the federal Individuals with Disabilities Education Act (Subchapter II (commencing with Section 1411) and Subchapter 3 (commencing with Section 1431) of Chapter 33 of Title 20 of the United States Code).

(c) At a minimum, an applicant shall be a county office of education and shall include all of the following information in its grant application:

- (1) A description of the efforts currently underway by the county office of education to ensure children with exceptional needs, including children with severe disabilities, have access to inclusive early care and education programs.
- (2) A description of a plan to use the grant to increase access to subsidized inclusive early care and education programs for children up to five years of age, including children with exceptional needs as defined in Section 8208 of the Education Code, and children with severe disabilities, which has the same meaning as severely disabled children as defined in Section 8208 of the Education Code, in low-income and high-need communities. "High need" shall be determined pursuant to the county child care needs assessments specified in Section 8499.5 of the Education Code and the determination of high need shall be made by the Superintendent of Public Instruction. The proposal shall quantify the number of additional subsidized children proposed to be served within the county, including children with exceptional needs and children with severe disabilities.
- (3) A description of how the applicant will partner, coordinate, and collaborate with local entities, including, but not limited to, other county agencies, local educational agencies, regional centers, publicly funded early care and education providers, resource and referral agencies, local quality rating and improvement system consortia, and private child care settings, as needed, to serve all children with exceptional needs, including children with severe disabilities.
- (4) A description of how the applicant will coordinate and leverage other state and federal investments directed towards supporting children with exceptional needs, including children with severe disabilities.

(d) Grants shall be awarded on a competitive basis. Priority shall be given to applicants with a demonstrated need for expanded access to inclusive early care and education within their county, particularly within low-income and high-need communities. Positive consideration shall be given to applications that demonstrate any of the following:

- (1) The ability to increase access to care for children representing a broad range of disability types and different levels of severity.

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- (2) The ability to increase access to care for children with disabilities to the rate that is consistent with the countywide average of children identified with disabilities.
- (3) Past initiatives for, and a history of working on, expansion of early care and education for children with exceptional needs, including children with severe disabilities, or past barriers in working on expansion of early care and education for this population and how funding will be used to overcome these barriers.
- (4) The willingness and capacity to share resources developed through the pilot program on a statewide basis.
- (e) Grants may be used for building local and regional capacity to support increased access for children with exceptional needs, including children with severe disabilities, to inclusive early care and education programs, including, but not limited to, outreach coordinators, placement navigators, coordination and provision of resources, adaptive equipment, professional learning, assessment or evaluation tools and licenses, training for parents and families, and specialists including behavioral or mental health professionals.
- (f) All grant recipients shall commit to providing program data and participating in overall program evaluation to ensure expanded access to inclusive environments, as specified by the Superintendent of Public Instruction, as a condition of receiving of grant funding.
- (g) The Superintendent of Public Instruction shall create an evaluation plan that addresses all of the following:
- (1) The degree to which the grant funds improved access, participation, and supports to inclusive early care and education programs.
 - (2) The number and percentage of additional children with exceptional needs, including children with severe disabilities, served in inclusive and early care and education programs.
 - (3) The extent to which the program increased compliance with the timelines and continuity of care requirements contained in Part B of the federal Individuals with Disabilities Education Act (Subchapter II (commencing with Section 1411) of Chapter 33 of Title 20 of the United States Code) for children in preschool, and Part C of the federal Individuals with Disabilities Education Act (Subchapter 3 (commencing with Section 1431) of Chapter 33 of Title 20 of the United States Code) for infants and toddlers.
 - (4) The implementation and use of evidence-based practices to improve child outcomes for children with exceptional needs, including children with severe disabilities.
 - (5) Program identification and training in the use of evidence-based practices, implementation with fidelity, and sustainability over time.
- (h) The Superintendent of Public Instruction, in consultation with the State Department of Developmental Services and the State Interagency Coordinating Council on Early Intervention, shall review grant applications, and select grant recipients. The Superintendent of Public Instruction shall award grants, collect data, and report outcomes to the chairpersons and vice chairpersons of the budget committees of each house of the Legislature, the Legislative Analyst's Office, and the Department of Finance by October 1 of each year.

For additional information or questions, contact:
MARTHA ALVAREZ, ACSA Legislative Advocate, malvarez@acsa.org