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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 2827 **Hearing Date:** June 29, 2022  
**Author:** Quirk-Silva  
**Version:** April 7, 2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** Child daycare facilities

## SUMMARY

This bill requires the Department of Social Services (DSS) to revise its regulations, by January 1, 2024, to allow children with exceptional needs who are enrolled in separate programs or classrooms from non-disabled children to use outdoor play spaces simultaneously with non-disabled children without first seeking a waiver of existing regulations.

## BACKGROUND

Existing law:

- 1) Establishes the federal Individuals with Disabilities Education Act (IDEA), which ensures that children with exceptional needs and the families of such children have access to a free appropriate public education, in the least restrictive environment, and to improve educational results for children with exceptional needs. (United States Code, Title 20, § 1400, et seq.)
- 2) Establishes the California Child Daycare Facilities Act, which creates a separate licensing category for child daycare centers and family daycare homes within DSS's existing licensing structure. (Health and Safety Code § 1596.70 et seq.)
- 3) Defines "child daycare facility" to mean a facility that provides nonmedical care to children under 18 years of age, as specified, including daycare centers, employer-sponsored childcare centers, and family daycare homes. (Health and Safety Code § 1596.750)
- 4) Defines "children with exceptional needs" to mean either of the following:
  - a) 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, including an infant or toddler with a developmental delay, or an established risk condition, or who is at high risk of having a substantial developmental disability;
  - b) Children, three to 21 years of age, who have been determined to be eligible for special education and related services by an individualized education program team, including children with intellectual disabilities, autism, hearing and other impairments as specified, who need special education and related

services. (Welfare and Institutions Code § 10213.5(l))

- 5) Requires DSS to set criteria for, and permits DSS to grant specific waivers of, the prioritization categories for agencies that wish to serve specific populations, including children with exceptional needs, as specified. (Welfare and Institutions Code § 10271(b)(3))
- 6) Establishes regulations for licensed child care centers. (California Code of Regulations, Title 22, § 101238 et seq.)
- 7) Requires the outdoor activity space of a child care facility to meet specified requirements. (22 CCR § 101238.2)
- 8) Authorizes DSS to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects, as specified. Existing law requires the applicant or licensee to submit a written request for a waiver or an exception and substantiating evidence supporting the request to CDSS, as provided. (22 CCR § 101175)

## ANALYSIS

This bill requires DSS to revise its regulations, by January 1, 2024, to allow children with exceptional needs who are enrolled in separate programs or classrooms from non-disabled children to use outdoor play spaces simultaneously with non-disabled children without first seeking a waiver of existing regulations. Specifically, this bill:

- 1) Requires DSS, by January 1, 2024, to revise its regulations to meet both of the following requirements:
  - a) Permit children with exceptional needs who are enrolled in separate programs or classrooms from non-disabled children to use outdoor play spaces simultaneously with non-disabled children without first seeking a waiver of existing regulations.
  - b) Specify any health and safety requirements that are to be met when simultaneous use of outdoor play spaces occurs.
- 2) Authorizes DSS to implement this bill by means of an all-county letter or similar instruction, and require the all-county letter or similar instruction to be issued on or before January 1, 2024.

## STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "... as an elementary school teacher for over 30 years, I think it is important that every child has the opportunity to learn in a diverse environment in order for them to be exposed and develop an understanding and respect for each other's differences as well as similarities. As a State, we should be able to foster that without barriers or processes that hinder students or programs. Instead of requiring a waiver, clear standards should be in

place for all programs to adhere to in order to ensure the health and safety of all children.”

- 2) *Existing licensing requirements.* The Community Care Licensing Division within DSS is responsible for the licensing of care facilities, and investigating complaints against such facilities, including residential care facilities for the elderly, child care facilities, and placements for foster youth, among others. The Community Care Licensing Division is also responsible for ensuring these facilities comply with all applicable laws and regulations, including criminal background checks, as well as overseeing any necessary corrective actions in the event of noncompliance.

Pursuant to existing regulations, if a child care facility wishes to implement changes to their program, such as provide new or alternate program concepts, or make changes to the services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects, the facility would need to first request a waiver or an exception from DSS and be approved before any changes can occur.

This bill requires DSS to revise its child daycare facility regulations to allow children with exceptional needs who are enrolled in separate programs or classrooms from non-disabled children to use outdoor play spaces simultaneously with non-disabled children, without first seeking a waiver of existing regulations.

- 3) *Heard by Senate Human Services Committee.* This bill passed the Human Services Committee on June 13, on a 5-0 vote.
- 4) *Fiscal impact.* According to the Assembly Appropriations Committee, this bill would impose estimated costs of \$170,000 (General Fund) in the first year, and \$150,000 (GF) ongoing, to DSS to revise its regulations, provide instructions to counties and provide ongoing policy and technical support.

## **SUPPORT**

Santa Clara County Office of Education (sponsor)  
First 5 Association of California  
Los Angeles County Office of Education  
Silicon Valley Community Foundation

## **OPPOSITION**

None received

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