
SENATE COMMITTEE ON HUMAN SERVICES

Senator Hurtado, Chair

2021 - 2022 Regular

Bill No: AB 321
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Consultant: Bridgett Hankerson
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Fiscal: Yes

Subject: Childcare services: enrollment priority

SUMMARY

This bill creates a prioritization for placement into specified federal and state subsidized child development services programs for children who come from a family in which the primary language spoken at home is a language other than English.

ABSTRACT

Existing Law:

- 1) Establishes the Early Education Act, and requires the California State Preschool Program (CSPP) to provide an inclusive, cost-effective program that provides high-quality learning experiences, coordinated services, and referrals for families to access health and social-emotional support services through full- and part-day programs. (*EDC 8200 et seq.; 8201 et seq.; 8201(e)*)
- 2) Establishes the “Child Care and Development Services Act” to provide child care and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents, including a full range of supervision, health, and support services through full- and part-time programs. (*WIC 10207 et seq.*)
- 3) States Legislative intent that preschool programs provide fully inclusive early learning experiences that contribute to closing the school readiness gap, especially for children from low-income families, children with exceptional needs, and children who are dual language learners, and partner with elementary schools to support smooth transitions and sustain early learning gains. (*EDC 8202(j)*)
- 4) Provides that families, including those with three- and four-year-old children seeking part-day CSPP services, must meet at least one requirement in each of the following areas to be eligible for state preschool:

- a) Be a family that: is a current aid recipient, income eligible, or homeless; 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,
- b) Be a family that needs the child care services because the parents are engaged in vocational training leading directly to a recognized trade, para-profession, or profession, engaged in an educational program for English language learners or to attain a high school diploma or general educational development certificate, employed or seeking employment, seeking permanent housing for family stability, or incapacitated. (*EDC 8235; EDC 8208*)

5) Requires priority for services for part-day CSPP be given in the following order:

- a) First priority 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, as specified;
 - b) Second priority to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program. Within this priority category, eligible children with the lowest income, as specified, shall be enrolled first. If two or more families have the same income ranking, a child with exceptional needs shall be enrolled first. If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first;
 - c) Third priority to eligible three-year-old children with similar income, exceptional needs, and waiting-list duration determinations as four-year-olds;
 - d) Fourth priority to children from families whose income is no more than 15 percent above the eligibility income threshold. Within this category, priority shall be given to four-year-old children before three-year-old children;
 - e) Fifth priority to children with exceptional needs whose family's income is above the income eligibility threshold. Within this category, priority shall be given to four-year-old children before three-year-old children; and,
 - f) After all otherwise eligible children have been enrolled, a CSPP site operating within the attendance boundaries of a qualified free and reduced priced meals school 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. (*EDC 8210(a)*)
- a) Requires priority for services for full-day CSPP be given at the same priority levels as part day CSPP, except there is no priority provided to children whose family's income is no more than 15 percent above the income eligibility threshold. Contractors are permitted to enroll in income ranking order, lowest to highest, and within income ranking order, enroll four-year-old children before three-year-old children. (*EDC 8211(a)*)

- 6) Requires families to establish initial income eligibility for CSPP services. Defines “income eligible” to mean that a family’s adjusted monthly income is at or below 85 percent of the state median income, adjusted for family size, and further provides that receipt of certain benefits are not counted as income, as specified (*EDC 8213 et seq.*)
- 7) Requires priority for federal and state subsidized child development services be given in the following order:
 - a) First priority 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. Further, requires an agency, if it is unable to enroll a child in the first priority category, to refer the family to local resource and referral services to locate services for the child.
 - b) Second priority given equally to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority category, families with the lowest gross monthly income in relation to family size 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 same priority family that has been on the waiting list for the longest time shall be admitted first. (*WIC 10271(b)*)
- 8) Provides that, for purposes of determining order of admission, grants of public assistance recipients shall be counted as income. (*WIC 10271(b)(2)*)
- 9) Requires the California Department of Social Services (CDSS) to set criteria for, and authorizes CDSS to grant specific waivers of, the prioritization categories for agencies that wish to serve specific populations, as specified. (*WIC 10271(b)(3)*)

This Bill:

- 1) Makes various legislative findings and declarations pertaining to literacy in the English language and language development in early childhood education.
- 2) Makes changes to the existing priority categories for enrollment in part- and full-day CSPP and federal and state subsidized child development services by requiring, 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 be enrolled first. Further requires that 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 be admitted first.

FISCAL IMPACT

According to an analysis prepared by the Assembly Committee on Appropriations, this bill will likely have the following fiscal impact:

- CDE estimates one-time costs of \$188,000 (GF) in the first year, and \$188,000 (GF) in the second year, to write regulations and provide guidance to the field. These costs include one position for responding to questions from the field, developing and conducting ongoing trainings and providing technical assistance necessary to reconcile this bill's provisions with the implementation of AB 1363 (*Luz Rivas, Chapter 498, Statutes of 2021*), which requires providers to identify and report data on dual language.
- CDE also notes potential costs, unknown at this time, for updating the Child Development Management Information System.
- Negligible costs to CDSS.

BACKGROUND AND DISCUSSION

Purpose of the Bill:

According to the author, “the prolonged closure of California’s public schools has devastated our children, causing severe learning loss and mental health issues. Particularly impacted by distance learning are English learners, who face significant barriers to education, even during normal school years. The existing inequities between English learners and their English-speaking peers will worsen if not addressed. By expanding priority enrollment eligibility for state childcare services and preschool to students whose primary home language is not English, AB 321 offers one meaningful way to help low-income English learners acquire English language proficiency before they enter K-12.”

California State Preschool Program (CSPP)

CSPP is a program designed to provide age and developmentally appropriate educational programming to help facilitate the transition to kindergarten for three- and four-year old children. The program also provides health services, social services, nutritional services, parent education, and encourages parent participation. The program is the largest state-funded preschool program in the nation and is administered through LEAs, child care centers, family child care network homes, colleges, community-action agencies, and private nonprofit agencies.

CSPP offers both part-day (3 hours) and full-day (6.5 hours) programs, and provides meals and snacks to children. The program focus is on number skills, social development, literacy, and the health and safety of the children served. The CSPP also helps families with accessing community resources and services referral, as appropriate.

To be eligible for the CSPP a child must enroll in a Head Start program, be age eligible (three to five years old), and qualify under the state’s income guidelines. They can also be eligible if they:

are in foster care; are experiencing homelessness; or their family is receiving public assistance benefits (Supplemental Security Income or CalWORKs). A child's eligibility for the CSPP program is determined each school year for continued enrollment in a CSPP classroom.

Subsidized Child Care

The cost of child care is often a large portion of a family's household budget. The United States Department of Health and Human Services (HHS) deems early care and education affordable for families if it consumes seven percent or less of a family's income. According to a 2019 article from the Economic Policy Institute, the typical California family spends about 25 percent of their income to obtain center-based care for an infant. A 2020 HHS study found that households with incomes just above the poverty line (100-200 percent of the federal poverty limit (FPL)) are the most likely to face cost burdens over 20 percent. Seventeen percent of households with incomes 100-200 percent of FPL spent over 20 percent of their income on child care, compared to 11 percent of households in the other three income groups (above and below the poverty line).¹ Subsidizing child care is one way to alleviate the heavy economic burden of child care while also facilitating employment opportunities for low-income families.

California's subsidized child care system is designed to provide assistance for income eligible parents and guardians who are working, in training, seeking employment, incapacitated, or in need of respite. This child care is available through a number of programs. The states' largest subsidized child care programs are: General Child Care, which includes contracted centers and family child care homes; CSPP, which provides developmentally, culturally, and linguistically appropriate curriculum to eligible three- and four-year olds; Alternative Payment Programs, which provide vouchers that can be used to obtain child care in a center, family child care home, or from a license-exempt provider; and CalWORKs child care for parents who receive or have received CalWORKs. CalWORKs child care can be provided in centers, family child care homes, or license-exempt settings and is paid for using vouchers.

Certain eligibility and prioritization rules apply to subsidized child care in California. Families are eligible for non-CalWORKs subsidized child care if they meet at least one requirement in each of two areas: eligibility and need. First, they must meet one of the eligibility criteria, which include currently receiving aid, being income-eligible, experiencing homelessness, or having children who are recipients of protective services or who have been identified as being, or at risk of being, abused, neglected, or exploited. Second, the family must meet one of the "need" requirements, which are either that the child has been identified by a legal, medical, or social services agency, or Head Start program, or emergency shelter as a recipient of protective services or being, or at risk of being, abused, neglected or exploited, or the parents need to be employed or seeking employment, engaged in vocational training, seeking permanent housing for family stability, or are incapacitated.

Priority Enrollment in CSPP and Subsidized Child Care

Children are enrolled in CSPP or in federal and state subsidized child care on a priority basis. The first priority category, for both CSPP and subsidized child care, is three- or four-year olds

¹ <https://www.acf.hhs.gov/opre/report/2019-nsece-snapshot-child-care-cost-burden-us-households-children-under-age-5>

receiving child protective services, or who are identified as at-risk of abuse, neglect or exploitation. The programs differ in priority categories after that; however, they are generally based on age, income level in relation to family size (lowest to highest), and how long a child has been on the waitlist, with CSPP priority categories being more extensive.

Under current law, when two or more families are in the same priority in relation to income, the family that has a child with an exceptional need² would be admitted first, followed by a child who has been on the waitlist the longest. CSPP contracting agencies may also enroll age eligible children with exceptional needs whose family income is above the income eligibility threshold after all otherwise eligible children have been enrolled. This bill would change the current priority structure by adding children who are dual language learners. Specifically, this bill would require in part- and full-day CSPP and state and federally subsidized child care programs enrollment priorities, a child from a family in which the primary home language is a language other than English be enrolled first, if there are no families with a child with exceptional needs. The bill would also require that 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 be admitted first.

Dual Language Learners and English Learners

Nearly 60 percent of children in California under the age of six speak a language other than or in addition to English in their homes. These children are commonly referred to as “dual language learners.”³ Most of the children in the surveyed families who were dual language learners lived in Spanish-speaking families, followed by families speaking an Asian language. Ten percent of respondents spoke only another language in the home, excluding Spanish. More than 60 percent of the parents said they spoke English well or very well, and 37 percent said they spoke English “not well” or “not at all.” Of the parents in dual language learner families, 70 percent were Latinx, 10.2 percent were white, 17.9 percent were Asian, and 2.2 percent were other races (including African-American). About two-thirds of the parents in these families were born outside the U.S., and 23.4 percent had been naturalized.⁴ The data also show that dual language learner families are not a homogenous population. They differ in household income and education levels, and this heterogeneity could have implications for programs and policy.

A study by First 5 California reviewing licensed childcare and dual language learners found that, “98 percent of licensed center-based programs and 70 percent of licensed family child care homes served at least one dual language learner in 2019. Most family child care homes that enroll dual language learners serve both age groups (74 percent) or only infants and toddlers (17 percent), similar to patterns seen for all children regardless of their status.”⁵

² Children with exceptional needs are children who have an individualized family service plan or an individualized education plan, receive early intervention and related services or appropriate special education, and require the special attention of adults in a childcare setting.

³ <https://pubmed.ncbi.nlm.nih.gov/28570037/>

⁴ *Id.*

⁵ https://californiadllstudy.org/sites/default/files/2020-10/Quick%20Facts_The%20Landscape%20of%20Early%20Learning%20and%20Care%20Programs%20Serving%20DLLs%20in%20CA.pdf

Once children enter K-12 education, students who are not yet proficient in English are usually described as “English learners.” English learners are students who come from a home in which a language other than English is spoken, and who have been assessed as non- or limited-English proficient. CDE offers several ways for these students to learn English, including the Dual-Language Immersion Program, the Transitional or Developmental Program, and Structured English Immersion, among others. According to CDE’s website, in the 2021–22 school year, there were approximately 1.13 million English learners in California public schools—more than the 2020–21 school year—constituting 18.1 percent of the total enrollment. A report from the National Center on Immigration Integration Policy states that for dual-language learners, “the quality, type, and amount of care outside of the home can make a significant difference in kindergarten readiness, including measures of math and literacy skills,” and found that “early educational interventions can often lead to later academic successes.”⁶

This bill would add dual language learner children to existing eligibility priorities for CSPP, and federal and state childcare enrollment. Families in this category would be given priority if there are no other families with a child with exceptional needs, and the family meets all other eligibility requirements.

COVID-19 Impact on California’s Early Childhood System

Prior to the disruptions caused by COVID-19, more than 1.2 million children in California were enrolled in early learning and care programs across the state. In the early days of the pandemic, more than 1/3 of early learning and care programs were closed for in-person care and those open were operating at reduced enrollment. Those programs that re-opened, or remained open, faced a variety of challenges, including increased costs and meeting increased health and safety protocols, such as increased cleaning and sanitization procedures, decreased classroom sizes, social distancing, and mask requirements, which were required for their continued operation. Additionally, many providers report changes to enrollment due to parents’ safety concerns resulting in them opting-out of in person care for periods of time. After things seemed to be improving, many programs faced additional temporary closures during the winter months of 2021 and early 2022, as a result of the Omicron variant increasing exposure rates and illness among children and staff, and subsequent periods of quarantine and closure.

From the start of the pandemic in March 2020 through the end of October 2020, CDSS estimates approximately 2,030 family child care homes and 390 child care centers closed permanently. When looking at numbers over the entirety of the pandemic, a lesser impact is reported. Data suggests that between March 2020 and December 2021 there was only a 0.7 percent decrease in the number of licensed child care providers, the chart below further details this. Yet reporting and anecdotal evidence suggest periodic temporary closures during various points of the pandemic had a much greater impact on overall statewide capacity and made it difficult for families to obtain child care while parents work, attend school, and perform other necessary activities.

Recognizing these challenges, the 2020-21 and 2021-22 budgets made numerous investments, utilizing state and federal dollars, to: provide temporary emergency vouchers; provide cleaning supplies and personal protective equipment; provide temporary supplemental rates to providers;

⁶ <https://www.migrationpolicy.org>

offer one-time funding for infrastructure grants for the building of new facilities or renovation, repair, or expansion of existing facilities; suspend family fee contributions for subsidized child care; and provide reimbursement flexibility for providers accepting vouchers.

Related/Prior Legislation:

AB 1363 (L. Rivas, Chapter 498, Statutes of 2021) requires the State’s Superintendent of Public Instruction to develop procedures for providers to identify and report data on dual language learners enrolled in the CSPP.

AB 1012 (Reyes, 2019) would have required, upon an appropriation, the CDE to provide grants to local educational agencies for, among other purposes, professional learning for child development providers to support the development of dual language learners. AB 1012 was held in the Assembly Appropriations Committee.

AB 123 (McCarty, 2019) would have established the Pre-K for All Act; expanded the eligibility for CSPP; increased the reimbursement rate for the CSPP and required a portion of the increase to be used to increase teacher pay; required CSPP lead teachers to hold a bachelor’s degree by a specified date; and established a program to provide financial support to childcare workers pursuing a bachelor’s degree. AB 123 was held in the Senate Appropriations Committee.

SB 217 (Portantino, 2019) would have created the Early Intervention Grant Program to increase inclusive access to early education programs for children with exceptional needs and expand eligibility for transitional kindergarten to include children with exceptional needs turning 5-years-old at any time during the school year. SB 217 was amended to include content unrelated to early education.

AB 1754 (McCarty, 2018) would have required the state to provide all eligible low-income 4-year-old children with access to early care and education programs. AB 1754 was held in the Senate Appropriations Committee.

PRIOR VOTES

Senate Education Committee:	6 - 0
Assembly Floor:	68 - 0
Assembly Appropriations Committee:	15 - 0
Assembly Human Services Committee:	7 - 0

POSITIONS

Support:
California School Employees Association

Opposition:
None received

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