

# Early Care and Education



## California Foster Youth Education Task Force

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### CALIFORNIA EARLY CARE AND EDUCATION PROGRAMS

Early education is recognized as a key to children's later education success and a stabilizing force for families. California's Early Care and Education (ECE) system consists of a patchwork of public, private non-profit, and private for-profit ECE service providers. The California Department of Social Services (CDSS), Child Care and Development Division funds ECE through voucher-based programs and center-based programs. CDSS contracts with public and private non-profit agencies called Alternative Payment Programs (APPs) to administer vouchers that allow families to pay ECE private providers at a cost that is more affordable to them. APPs determine a family's eligibility for vouchers, and whether and at what level of priority the family must be placed on a waiting list to receive a voucher. Families whose children receive child protective services or who are at risk of abuse, neglect, or exploitation have top priority. After that, the waitlist is in order of lowest income first. If two families have the same income, a family whose child has a disability (exceptional needs) has priority. Starting January 1, 2023, if no child has a disability, a family whose primary home language is not English has priority. *SB 1047 (Limón), WIC 10271(b)*.

The APP assesses what family fee (share of cost), if any, is owed. Qualifying parents, resource families and caregivers may use their child care voucher to help pay for child care in a family child care home, child care center, or with a family, friend, or neighbor (FFN care). The APP then pays the selected ECE provider directly or the parent who pays the provider. The use of vouchers is intended to provide families access to the many types of child care and allow them to choose the type most suited to their needs. *WIC 10225-10234*. If paid with state or federal funding, unless a close relative, the FFN provider must pass a criminal background check (e.g., see *CA Health & Safety Code 1596.792, 1596.66, 1596.67*). If the child is under the jurisdiction of the county, the resource parent must check with the social worker about whether they are allowed to use FFN in that county.

CDSS also funds center-based programs through contracts with child care centers, groups of licensed family child care providers called family child care home education networks (FCCHENs), and with public agencies

that subcontract with centers. Families apply directly to these child care centers, which individually determine eligibility for and placement on any wait lists for the individual program, and any family fee for participation.

Families may find voucher-based, center-based, and private-pay ECE programs through their local child care resource and referral agency (R&R). R&Rs, located in every county, help families find child care that best fits their needs. Families seeking child care should contact their local R&R for assistance finding child care at <http://www.rrnetwork.org>. Most agencies that act as an R&R also act as an APP to administer voucher-based programs. R&R agencies can help families find licensed child care providers who will accept the vouchers. They also know what stand-alone center-based programs exist in the community.



Families of children receiving protective services through the county child welfare department or who are identified as abused, neglected, or exploited or at risk thereof are eligible for publicly funded child care without income or other need requirements, and these families receive top priority on child care waiting lists. *WIC 10271(a)-(b)(1)*. To qualify for child care under this category, families must receive a written referral from a legal, medical, or social services agency; an LEA liaison for homeless children and youth, designated pursuant to *42 USC 11432(g)(1)(J)(ii)*; a Head Start program; or an emergency or transitional shelter. *WIC 10271(b)(1)*. Families also automatically qualify for child care if they are experiencing homelessness. *WIC 10271(a)(1)(A)(iii) & (a)(1)(B)(i)*. If the child does not meet these requirements, families also qualify if they earn below 85% of the state median income or receive cash assistance and have a need for child care such as working, attending school, or searching for a home or job. *WIC 10271(a)-(b)*. Children up to age 13 and children with severe disabilities up to age 21 may receive state and

federally funded child care. *WIC 10213.5(i), 10260(b), (d)(2)*. Many programs streamline enrollment for children receiving child welfare services.

Starting January 1, 2023, once a family has established initial eligibility for child care, they have 24-month continuous eligibility. *SB 1047 (Limón), WIC 10271(h)*. This means that they are considered to meet all eligibility and need criteria for at least the next 24 months and will not have to recertify for at least 24 months. Even if the family's circumstances change, such as their work hours or income, they do not need to report those changes within the 24-month period. The only exception to this is if the family's income exceeds 85% of the state median income (SMI) and they qualified for child care based on their income, then they must report this change. If the agency determines they earn over 85% of SMI, they no longer qualify for child care funding. *WIC 10271(h)*.

California made several temporary changes to the child care rules through the 2022-23 state budget in response to COVID-19. Child care family fees are waived until June 30, 2023. [Child Care Bulletin \(CCB\) 22-14](#). Child care providers are also paid based on a family's maximum certified hours of care, including days that the child does not attend care, until June 30, 2023. [CCB 22-15](#).

### California State Preschool Program

The California Department of Education's Early Education Division funds California State Preschool Program (state preschool) centers for 3- and 4-year-olds through local educational agencies (LEAs), colleges, community-action agencies, and private nonprofit agencies. State preschool offers both part-day and full-day services that provide a core class curriculum that is developmentally, culturally, and linguistically appropriate for children ages 3 and 4. The program also provides meals and snacks to children, parent education, referrals to health and social services for families, and staff development opportunities to employees. Families must meet the same eligibility requirements as for other CDSS child care programs (like the previous section) but the income eligibility limit is different. For state preschool, families who qualify based on income must make at or below 100% of the state median income. *EC 8213*. Families can also qualify for state preschool if they receive cash assistance, experience homelessness, have a

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child who receives child protective services or experiences or is at risk of abuse, neglect, or exploitation, or has a disability. These families qualify regardless of income. *EC 8208(a)-(b)*. Families in state preschool are not required to have a “need” for part-day care. *EC 8208(a)*. For example, the parents do not need to work or attend school to enroll their child in a state preschool program. But they do need to show a need for child care to have full-day care. *EC 8208(d)*. The 24-month eligibility rules and similar waiting list rules described in the previous section also apply to California State Preschool. *EC 8208(e)*.

## Other Early Education Options Include the Following:

- **California Work Opportunity and Responsibility for Kids (CalWORKs) Child Care**

CDSS also administers CalWORKs child care, which has three stages. Families, resource parents, and caregivers who receive CalWORKs cash assistance are entitled to immediate, continuous CalWORKs Stage 1 child care for 12 months or until transfer to the CalWORKs Stage 2 child care program. *WIC 11323.2(a)(1)(B)*. To qualify, the family, resource parent, or caregiver must be working or engaging in a Welfare-to-Work (WTW) activity such as attending parenting classes; education-related appointments for their child; domestic violence, substance use or mental health counseling; court and medical appointments; or searching for a job or home. *WIC 11323.2(c)*. Because Stage 1 is an entitlement, qualifying parents and caregivers should not be placed on a child care waiting list. They have good cause for not participating in their WTW activity if they cannot find suitable child care. The County Welfare Office is the starting point for families seeking CalWORKs assistance, including child care.

Families, resource parents, and caregivers who received CalWORKs cash assistance or a diversion payment within the past two years are eligible to receive assistance paying for child care under the CalWORKs Stage 2 program, which is also considered an entitlement program. Just like with Stage 1 CalWORKs child care, families should not be put on a waitlist for Stage 2 CalWORKs child care either. In order to qualify for Stage 2, families must have received cash assistance or a diversion payment within the past two years *and* fall into one of the following eligibility categories. One eligibility category is for families with a child who receives protective services through the county or who has been identified as abused, neglected, or

exploited or is at risk thereof. To qualify for child care under this category, families must receive a written referral from a legal, medical, or social services agency; an LEA liaison for homeless children and youth, designated pursuant to *42 USC 11432(g)(1)(J)(ii)*; a Head Start program; or an emergency or transitional shelter. Families also qualify for Stage 2 child care if they are experiencing homelessness. *WIC 10271(a)*. Families who qualify based on the at-risk category or the homelessness category do not need to show that they need child care in order to work, go to school, or any other reason. If the child does not meet these requirements of the homelessness or at-risk categories, families can still qualify for Stage 2 child care if they meet the following three requirements: (1) they received cash assistance or diversion within the past 2 years; (2) they earn below 85% of the state median income or currently receive cash assistance; *and* (3) they have a need for child care such as working, attending school, or searching for a home or job. *WIC 10271(a)-(b)*. Families should be seamlessly transferred between the CalWORKs child care stages without a break in services. *WIC 10370(b)-(c)*. Depending on sufficient funding, families, resource parents, and caregivers are transferred from CalWORKs Stage 2 in the 24th month to Stage 3 child care.

CalWORKs child care is provided for children through age 12, and up to age 21 for children who have disabilities. *WIC 11323.2(a)(1)*. CalWORKs child care payments are in the form of a voucher that CalWORKs participants can use to pay the child care provider or center of their choice. The local Child Welfare Agency or Alternative Payment Program paying for CalWORKs child care usually makes the voucher payment directly to the family child care provider, child care center, or family, friend, or neighbor providing child care. *WIC 10370-10376.5, 11323.1-11323.8*.

CalWORKs Stages 2 & 3 child care also have 12-month eligibility. That means that once a family is certified for CalWORKs child care, they are considered to meet all eligibility and need requirements for not less than 12 months. They do not need to report any changes to income or schedule unless they qualified based on being at or under 85% of the state median income and their income exceeds 85% of the state median income. Families who qualified for CalWORKs child care based on other eligibility categories, such as homelessness, at-risk status, or being in receipt of aid, do not need to report changes in income and would not lose their child care if their income exceeded 85% of the state median income. *WIC 10271(h)*.



- **Early Head Start and Head Start**

Early Head Start and Head Start are federally funded and administered programs promoting school readiness by enhancing social and cognitive development. Early Head Start provides family-centered services that facilitate child development, support parental roles, and promote self-sufficiency for children from birth to age 3. It also serves pregnant women with low incomes. Head Start provides part-day preschool programs for children ages 3 to 4, as well as educational, social, health, and other services, with a particular focus on early reading and math skills. Children in foster care are eligible and have a priority for admission in both programs, regardless of their family’s income. To receive funding, all new Head Start programs must have a plan to meet the needs of children in foster care, including transportation. *42 USC 9831, 9840a; 45 CFR 1302.20-1302.24, 1305.2*.

Children of families who are experiencing homelessness, receiving public assistance such as TANF or SSI, or who have incomes below the federal poverty guidelines also qualify for Early Head Start and Head Start. *45 CFR 1302.12*. The local R&R can help families locate Early Head Start and Head Start programs in their community.

- **Emergency Child Care Bridge Program for Foster Children and Parenting Foster Youth (Bridge Program)**

Adopted in 2017, the Bridge Program helps foster families and parenting foster youth access high-quality child care for foster children by providing (1) an emergency, time-limited voucher to help them pay for child care for up to 6 months, with an extension to 12 months, as needed, and over 12 months for a compelling reason; (2) child care navigation support, with navigators helping them to immediately access child care and then working continuously with them to transition or stabilize the children in long-term, high-quality child care; and (3) training for the child care workforce in trauma-

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responsive best practices to better meet the unique needs of abused and neglected children. *WIC 10219(a)(5), 11461.6.* Foster families and parenting foster youth can receive the Bridge Program voucher for foster children through age 12, and if the child has a disability, they may qualify to receive child care vouchers until age 21. Families obtain Bridge Program vouchers through the local Child Welfare Agency.

## PART C OF IDEA & THE CA EARLY INTERVENTION SERVICES ACT

To be eligible for federal funding for early intervention programs under the Individuals with Disabilities Education Act, reauthorized under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), states must ensure that appropriate early intervention services are available to all infants and toddlers with developmental delays or at risk of developing such delays who are in foster care or in the custody of a child welfare agency. *34 CFR 303.101(a)(1).*

In addition, states receiving funding under Child Abuse and Prevention Treatment Act (CAPTA) must establish procedures to refer every child under the age of 3 who has been involved in a substantiated case of abuse or neglect to early intervention services funded under Part C of the IDEA. *42 USC 5106a(b)(2)(B)(xxi).*

## California's Early Start Program for Children Ages 0 to 3

The California Early Intervention Services Act was California's response to federal legislation requiring early intervention services. It created the Early Start Program designed to ensure that infants and toddlers with developmental delays or at risk of developing such delays and their families receive early intervention services in a coordinated, family-centered system that is available statewide through the state's 21 regional centers. Regional centers are private, independent non-profit organizations that contract with the California Department of Developmental Services to coordinate and procure services for eligible individuals. *WIC 4620.* These include individuals eligible for early intervention services under Part C of the IDEA. *GC 95014(b)(1) et seq.*

## Early Start Eligibility

The Early Start program serves children under the age of 3 years old. To be eligible for services, the regional center must conduct a

developmental evaluation to determine eligibility in five developmental domains including cognition, physical/motor, communication, social/emotional, and adaptive behavior, and conduct comprehensive multidisciplinary assessments to determine the need for services (e.g., speech and language assessment, occupational therapy assessment, physical therapy assessment). The evaluation and assessment(s) are also used to establish baselines from which to draft "outcomes" (i.e., goals) in an eligible child's Individualized Family Service Plan (IFSP). *GC 95020.* Children can be eligible for services under the following categories (*GC 95014*):

- **Category 1: Developmental Delay**

Children qualify for Early Start if they have a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social/emotional development; or adaptive development. A developmental delay is defined as "a significant difference between the expected level of development for their age and their current level of functioning," and must be determined by a qualified evaluator. A difference between expected and actual levels of development is significant if the child is delayed by 25% in one or more developmental areas. *GC 95014(a)(1).*

- **Category 2: Established Risk**

Children may be eligible for Early Start services if they have a condition diagnosed by a qualified individual that has a high probability of resulting in developmental delay. *GC 95014(a)(2).*

- **Category 3: High Risk**

Children are also eligible for Early Start services if they are at high risk of having substantial developmental disabilities due to biomedical risk factors, such as significant prematurity or prenatal substance exposure. *GC 95014(a)(3).*

## Responsibility for Services

Infants and toddlers who have only hearing, vision, or severe orthopedic impairments (or a combination of these) are served by LEAs through coordination with the Special Education Local Plan Area (SELPA). All other children qualifying for Early Start will receive services through one of California's regional centers. The LEA or regional center will assign all children and families referred for evaluation and assessment or determined eligible for Early Start services a service coordinator approved by the

Department of Developmental Services to coordinate the services provided. *GC 95018 and 17 CCR 52120(a).*

## Early Start Referrals

After receiving a referral to Early Start, the regional center has 45 days to complete an evaluation and assessments, hold a meeting to determine eligibility, and develop an Individualized Family Service Plan (IFSP). *GC 95020; 17 CCR 52086.*

## The Individualized Family Service Plan (IFSP)

The family, including the child's educational rights holder, service coordinator, and service providers must meet at least every six months, or more often if necessary, to determine whether the child is making progress and whether any changes need to be made to the IFSP. An IFSP should include:

1. A statement of the infant's or toddler's present levels of physical development including vision, hearing, and health status, cognitive development, communication development, social and emotional development, and adaptive developments;
2. A statement of the family's concerns, priorities, and resources related to meeting the special developmental needs of the child;
3. A statement of the major outcomes expected to be achieved for the infant or toddler and family;
4. The criteria, procedures and timelines used to determine progress towards achieving the outcomes and whether modifications or revisions are necessary;
5. The services to be provided, including the duration, location, and frequency of services to be provided (e.g., one hour per week of speech and language therapy provided in home);
6. The agency responsible for providing the identified services;
7. The name of the child and family's service coordinator;
8. The steps that will be taken to ensure the child and family receive appropriate services once the child reaches age 3 (and potentially transfers to IEP services by an LEA); and
9. The projected dates for the initiation of services provided and the anticipated duration of those services. *GC 95020(d).*

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## Available Services, Including ECE

Services and supports paid for through the Early Start program may include, where appropriate, ECE in integrated community-based programs, and therapies and support services in those community ECE program settings. Among the many specified supports are family training, health services (includes catheterization, tracheostomy care, tube feeding, changing of dressings and colostomy bags, and physician consultation), nursing services, occupational therapy, physical therapy, psychological services, service coordination services, sign language and cued language services, social work services, special instruction, speech and language services, transportation and related costs, and respite and other family support services. *20 USC 1432(4)(E); 34 CFR 303.13 & 303.16; 17 CCR 52000(b)(23).*

They further include group and individual activities that are developmentally appropriate and specially designed, based on the infant's exceptional needs, to enhance the infant's development; and opportunities for infants to socialize and participate in play and exploration activities. *EC 56426.2(a)(2)-(3).*

The state must provide these services, to the maximum extent appropriate, in natural environments, which means settings that are natural or typical for a same-aged infant or toddler without a disability and may include the home or community settings. *34 CFR 303.13(a)(8), 303.26, & 303.126.* Since July 2009, the regional center must consider the purchase of neighborhood preschool services and needed qualified personnel, in lieu of infant development programs. *GC 95020(d)(5)(B)(ii).*

## Transition Requirements

For all children receiving early intervention services, the state must ensure a smooth and effective transition to preschool or other appropriate services (for toddlers with disabilities), or to exiting the program. That includes the responsibility to develop and implement an Individualized Education Program (IEP) by the child's third birthday, if the child is eligible for IDEA Part B preschool services. *34 CFR 303.209(b)(1)(i), 300.101(b), 300.124(a) & (b); EC 56426.9.*

## Due Process Procedures

Most SELPAs throughout California utilize a conflict resolution support process referred to as Alternative Dispute Resolution (ADR). Any educational rights holder who believes the LEA is not appropriately assessing or serving a child

may request ADR support from the SELPA. This first level of collaborative problem-solving preserves relationships, ensures a focus on the needs of the child, and supports ongoing teamwork focused on the resources available for the child.

If a child's educational rights holder disagrees with the services offered by the IFSP, or if the LEA or regional center refuses to evaluate or offer services to a child, the educational rights holder can request mediation or file for a due process hearing with the Office of Administrative Hearings (OAH). OAH Complaints should be filed at: Office of Administrative Hearings, Attention: Early Start Intervention Section, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833; phone (800) 515-2229, fax (916) 376-6318.

If anyone believes that the agency responsible for providing services written in the child's IFSP is not meeting its obligations, they can file a complaint with the Department of Developmental Services (DDS). DDS Complaints should be filed at: Department of Developmental Services, Attention: Appeals, Complaints and Projects Section, 1215 O Street, MS 8-30, Sacramento, CA 95814; phone (916) 651-6309, fax (916) 654-3641.

All complaints, mediation requests, and due process hearing requests should include:

1. The name, address, and phone number of the person filing the complaint;
2. A statement that the regional center or a service provider receiving funds under Part C of the Individuals with Disabilities Education Act has violated a state or federal law or regulation regarding early intervention services;
3. A statement of facts upon which the violation is based;
4. The party responsible; and
5. A description of the voluntary steps taken to resolve the complaint (if any).

Once the Department receives a complaint, it has 60 days to investigate and issue a written decision. *17 CCR 52170-52171.* A mediation must be held within 30 days of request. *17 CCR 52172.* An administrative law judge will hear both sides and make a decision within 30 days of a due process complaint being filed. *17 CCR 52174.*

## Regional Center Transfers

When a foster child changes home placements, and this results in a change in regional center or LEA, their social worker must immediately send

a Notice of Relocation to the child's sending regional center (the regional center where the child received services before they changed homes). The Notice of Relocation must include the child's name, date of birth, new address, caregiver and ERH names and contact information, and court of jurisdiction.

Upon receiving a Notice of Relocation, the sending regional center must immediately send to the receiving regional center (the regional center that will serve the child in their new home) a Notice of Transfer and all records needed to provide services for the child in the new placement, including assessments. The Notice of Transfer must include the same information as the Notice of Relocation, plus a copy of the current IFSP and the contact information of the child's social worker.

The sending regional center is responsible for funding services for the child in their new placement until the receiving regional center has effectively assumed responsibility over the case. Throughout the entire transfer process, services must be provided to the child with no breaks or delays. To aid in this, the receiving regional center must provide information about available service providers to the sending regional center within 14 days of receiving the Notice of Transfer.

A receiving regional center has effectively assumed responsibility when all the following occurs: (1) a new service coordinator has been assigned to the child's case; (2) the IFSP from the sending regional center is adopted or, if changes to the sending regional center's IFSP are necessary to meet the child's needs or services are not available in the new location, a new or revised IFSP has been developed within 30 days of the Notice of Transfer; and (3) the child is receiving the services and supports in the adopted, new, or revised IFSP.

If the child has been found eligible for Early Intervention by the sending regional center but does not yet have an IFSP, the receiving regional center must also consider the child eligible and must develop an initial IFSP within 30 days of the Notice of Transfer. If all services in the child's IFSP have not started in their new location within 30 days of the Notice of Transfer, the sending regional center must report in writing to the court, social worker, and the child's ERH, regardless of which regional center is at fault. The report must state what services are being provided to the child and the steps being undertaken to secure any services identified in the child's IFSP but not yet provided. The sending regional center must continue reporting at 30-day intervals until all

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services in the child's IFSP have started. 17 CCR 52111; WIC 4643.5; Dept. of Developmental Services, [Inter-Regional Center Transfer Guidelines, Dec. 8, 1998](#).

## PRESCHOOL SERVICES FOR CHILDREN WITH DISABILITIES AGES 3 TO 5

All LEAs are required to provide special education services for eligible children with disabilities between the ages of 3 and 5 years old. *EC 56001(b) and 56440(c)*. These services are documented in an Individualized Education Program (IEP).

### Eligibility

To be eligible for preschool special education services under IDEA Part B, a child must meet one of the 13 special education eligibility criteria. Additionally, the child must also need specially designed instruction and services, and must have needs that cannot be met by modifying a regular environment in the home or school (or both) without ongoing monitoring and support. A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and their educational needs are primarily due to:

1. Unfamiliarity with the English language;
2. Temporary physical disabilities;
3. Social maladjustment; or
4. Environmental, cultural, or economic factors. *EC 56441.11(b)-(c)*.



## Availability of Preschool Services in Integrated, Community-Based ECE Programs

A child who is eligible for IDEA preschool services may receive them at a regular public or private nonsectarian preschool program, state center-based ECE program (child development center), a family day care home, the child's regular environment that may include the home, a special site where preschool programs for both children with disabilities and children who are not disabled are located close to each other and have an opportunity to share resources and programming, a special education preschool program with children who are not disabled attending and participating for all or part of the program, or a Head Start program under contract with the state. *EC 56441.4, 56443(a)*. The preschool services site must meet "least restrictive environment" (LRE) requirements. *34 CFR 300.116(a)(2)*. If the LEA does not generally offer preschool programs to children without disabilities, meeting LRE requirements might involve the LEA paying for supplemental special education services while the child attends a public center-based preschool program serving typically developing children, such as a CDSS-contracted center or Head Start. Or it might be met through the LEA paying for the child to attend and receive special education services at a private preschool. *EC 56441.4 & 56443(a)*. How the LRE requirement should be met is determined through the IEP.

## Transition Services

Prior to transitioning a child receiving preschool special education services to grade school (kindergarten or first grade), an appropriate reassessment of the child must be conducted by the LEA to determine if the child is still in need of special education services. *EC 56445(a)*.

***For more special education information, please refer to the Special Education Fact Sheet.***