

CDE Changes in Policies and Need Regulations September 2008

For the purposes of this chapter, the following definitions shall apply:

- (a) "Adjusted monthly income" means the total countable income as defined in subdivision (q) below, minus verified child support payments paid by the parent whose child is receiving child development services, excluding the non-countable income listed below:
- (1) Earnings of a child under age 18 years;
 - (2) Loans;
 - (3) Grants or scholarships to students for educational purposes other than any balance available for living costs;
 - (4) Food stamps or other food assistance;
 - (5) Earned Income Tax Credit or tax refund;
 - (6) GI Bill entitlements, hardship duty pay, hazardous duty pay, hostile fire pay, or imminent danger pay;
 - (7) Adoption assistance payments received pursuant to Welfare and Institutions Code section 16115 et seq.;
 - (8) Non-cash assistance or gifts;
 - (9) All income of any individual counted in the family size who is collecting federal Supplemental Security Income (SSI) or State Supplemental Program (SSP) benefits;
 - (10) Insurance or court settlements including pain and suffering and excluding lost wages and punitive damages;
 - (11) Reimbursements for work-required expenses such as uniforms, mileage, or per diem expenses for food and lodging;
 - (12) Business expenses for self-employed family members;
 - (13) When there is no cash value to the employee, the portion of medical and/or dental insurance documented as paid by the employer and included in gross pay; and
 - (14) Disaster relief grants or payments, except any portion for rental assistance or unemployment.
- (b) "Certify eligibility" means the formal process the contractor goes through to collect information and documentation to determine that the family and/or child meets the criteria for receipt of subsidized child development services as specified in Education Code sections 8263(a)(1) and 8263(a)(2). The signature of the contractor's authorized representative on an application for services attests that the criteria have been met.
- (c) "Child protective services" means children receiving protective services through the local county welfare department as well as children identified by a legal, medical, social service agency or emergency shelter as abused, neglected or exploited or at risk of abuse, neglect or exploitation.
- (d) "Declaration" means a written statement signed by a parent under penalty of perjury attesting that the contents of the statement are true and correct to the best of his or her knowledge.
- (e) "Displace families" means to disenroll families in order to reduce service levels due to insufficient funding or inability of a contractor to operate one or more sites because of reasons stated in Education Code section 8271.
- (f) "Family" means the parents and the children for whom the parents are responsible, who comprise the household in which the child receiving services is living. For purposes of income eligibility and family fee determination, when a child and his or her siblings are living in a family that does not include their biological or adoptive parent, "family" shall be considered the child and related siblings.
- (g) "Fee schedule" means the "Family Fee Schedule," issued by the department pursuant to Education Code section 8447(e). The "fee schedule" is used by child development contractors to assess fees for families utilizing child care and development services.
- (h) "Homeless" means a person or family that lacks a fixed, regular, and adequate night-time residence and has a primary night time residence that is:
- (1) A supervised publicly or privately operated shelter, transitional housing, or homeless support program designed to provide temporary living accommodations; or
 - (2) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- (i) "Income eligible" means for the purpose of child care and development services that a family's adjusted monthly income is at or below 75 percent of the state median income, adjusted for family size.
- (j) "Income fluctuation" means income that varies due to:
- (1) Migrant, agricultural, or seasonal work;
 - (2) Intermittent earnings or income, bonuses, commissions, lottery winnings, inheritance, back child support payment, or net proceeds from the sale of real property or stock;
 - (3) Unpredictable days and hours of employment, overtime, or self-employment.
- (k) "Legally qualified professional" means a person licensed under applicable laws and regulations of the State of California to perform legal, medical, health or social services for the general public.
- (l) "Parent" means a biological parent, adoptive parent, stepparent, foster parent, caretaker relative, legal guardian, domestic partner of the parent as defined in Family Code section 297, or any other adult living with a child who has responsibility for the care and welfare of the child.
- (m) "Parental Incapacity" means the temporary or permanent inability of the child's parent(s) to provide care and supervision of the child(ren) for part of

the day due to a physical or mental health condition.

- (n) "Recipients of service" means families and/or children enrolled in a child care and development program subsidized by the California Department of Education.
- (o) "Self-Certification of Income" means a declaration signed by the parent under penalty of perjury identifying:
 - (1) To the extent known, the employer and date of hire and stating the rate and frequency of pay, total amount of income received for the preceding month(s), the type of work performed, and the hours and days worked, when an employer refuses or fails to provide requested employment information or when a request for documentation would adversely affect the parent's employment; or
 - (2) The amount and frequency of sources of income for which no documentation is possible.
- (p) "State median income" means the most recent median income for California families as determined by the State Department of Finance.
- (q) "Total countable income" means all income of the individuals counted in the family size that includes, but is not limited to, the following:
 - (1) Gross wages or salary, advances, commissions, overtime, tips, bonuses, gambling or lottery winnings;
 - (2) Wages for migrant, agricultural, or seasonal work;
 - (3) Public cash assistance;
 - (4) Gross income from self-employment less business expenses with the exception of wage draws;
 - (5) Disability or unemployment compensation;
 - (6) Workers compensation;
 - (7) Spousal support, child support received from the former spouse or absent parent, or financial assistance for housing costs or car payments paid as part of or in addition to spousal or child support;
 - (8) Survivor and retirement benefits;
 - (9) Dividends, interest on bonds, income from estates or trusts, net rental income or royalties;
 - (10) Rent for room within the family's residence;
 - (11) Foster care grants, payments or clothing allowance for children placed through child welfare services;
 - (12) Financial assistance received for the care of a child living with an adult who is not the child's biological or adoptive parent;
 - (13) Veterans pensions;
 - (14) Pensions or annuities;
 - (15) Inheritance;
 - (16) Allowances for housing or automobiles provided as part of compensation;
 - (17) Portion of student grants or scholarships not identified for educational purposes as tuition, books, or supplies;
 - (18) Insurance or court settlements for lost wages or punitive damages;
 - (19) Net proceeds from the sale of real property, stocks, or inherited property; or
 - (20) Other enterprise for gain.
- (r) "Update the application" means the process of revising the application for services between recertifications as specified in section 18103 of this chapter. The application shall be revised by inserting the latest family information that documents the continued need and eligibility for child care and development services.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8203, 8208, and 8261, Education Code.

Article 2. Family Data File

§ 18081. Contents of Family Data File.

- (a) Contractors shall establish and maintain a family data file for each family receiving child care and development services.
- (b) The family data file shall contain a completed and signed application for services and the following records as applicable to determine eligibility and need in accordance with Education Code section 8263 (a)(1) and (a)(2):
 - (1) Documentation of income eligibility, including an income calculation worksheet;
 - (2) Documentation of employment;
 - (3) Documentation of seeking employment;
 - (4) Documentation of training;
 - (5) Documentation of parental incapacity;
 - (6) Documentation of child's exceptional needs;
 - (7) Documentation of homelessness;
 - (8) Documentation of seeking permanent housing for family stability;
 - (9) Written referral from a legally qualified professional from a legal, medical, or social services agency, or emergency shelter for children at risk of abuse, neglect, or exploitation.
 - (10) Written referral from a county welfare department, child welfare services worker, certifying that the child is receiving protective services and the

family requires child care and development services as part of the case plan.

(11) If the parent of the child was on cash assistance, the date the parental cash aid was terminated.

(c) A signed Child Care Data Collection Privacy Notice and Consent Form CD 9600A (Rev. 01/04) shall be included.

(d) Notice of Action, Application for Services and/or Recipient of Services shall be included.

(e) The family data file shall contain all child health and current emergency information required by California Code of Regulations, title 22, Social Security, Division 12, Community Care Facilities Licensing Regulations with the following exception. Immunization records are not required to be in the family data file for children attending a public or private elementary school or for children receiving care in licensed facilities and reimbursed pursuant to Education Code sections 8220 and 8350.

NOTE: Authority cited: Sections 8261, 8261.5, 8263 and 8269, Education Code. Reference: Sections 8261, 8261.5, 8263 and 8269, Education Code; and Sections 16500.5 and 16506, Welfare and Institutions Code.

§18084. Documentation of Income Eligibility.

The parent is responsible for providing documentation of the family's total countable income and the contractor is required to verify the information, as described below:

(a) The parent(s) shall document total countable income for all the individuals counted in the family size as follows:

(1) If the parent is employed, provide:

(A) A release authorizing the contractor to contact the employer(s), to the extent known, that includes the employer's name, address, telephone number, and usual business hours, and

(B) All payroll check stubs, a letter from the employer, or other record of wages issued by the employer for the month preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

(2) When the employer refuses or fails to provide requested documentation or when a request for documentation would adversely affect the parent's employment, provide other means of verification that may include a list of clients and amounts paid, the most recently signed and completed tax returns, quarterly estimated tax statements, or other records of income to support the reported income, along with a self-certification of income.

(3) If the parent is self-employed, provide a combination of documentation necessary to establish current income eligibility for at least the month preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services. Documentation shall consist of as many of the following types of documentation as necessary to determine income:

(A) A letter from the source of the income,

(B) A copy of the most recently signed and completed tax return with a statement of current estimated income for tax purposes, or

(C) Other business records, such as ledgers, receipts, or business logs.

(4) Provide copies of the documentation of all non-wage income pursuant to section 18078 (q), self-certification of any income for which no documentation is possible, and any verified child support payments pursuant to section 18078(a) of this chapter.

(b) The contractor:

(1) Shall retain copies of the documentation of total countable income and adjusted monthly income in the family data file.

(2) When the parent is employed, shall, as applicable, verify the parent's salary/wage; rate(s) of pay; potential for overtime, tips or additional compensation; hours and days of work; variability of hours and days of work; pay periods and frequency of pay, start date for the employee. If the employer refuses or is non-responsive in providing requested information or a request for employer documentation would adversely affect the parent's employment, and if the information provided pursuant to subdivision (a)(3) is inconsistent with the contractor's knowledge or community practice, shall request clarification in the self-certification of income, additional income information or a reasonable basis for concluding that the employer exists.

(3) When the parent is self-employed, shall obtain and make a record of independent verification regarding the cost for services provided by the parent that may be obtained by contacting clients, reviewing bank statements, or confirming the information in the parent's advertisements or website. If the income cannot be independently verified, the contractor shall assess whether the reported income is reasonable or consistent with the community practice for this employment.

(4) May request additional documentation to verify total countable income to the extent that the information provided by the parent or the employer is insufficient to make a reasonable assessment of income eligibility.

(5) To establish eligibility, shall, by signing the application for services, certify to the contractor's reasonable belief that the income documentation obtained and, if applicable, the self-certification, support the reported income, are reliable and are consistent with all other family information and the contractor's knowledge, if applicable, of this type of employment or employer.

(c) If the family is receiving child care and development services because the child(ren) is/are at risk of abuse, neglect, or exploitation or receiving child protective services, and the written referral required by sections 18081(b)(9) and (b)(10) specifies that it is necessary to exempt the family from paying a fee, then the parent will not be required to provide documentation of total countable income.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

§18085. Documentation of Public Assistance.

If the basis of eligibility as specified in Education Code section 8263(a)(1) is a current aid recipient, the parent shall provide documentation of public cash assistance, unless the contractor has and elects to use other means of obtaining verification.

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

§18085.5. Documentation of Need Based on Employment, Seeking Employment, Training, Seeking Housing, and Incapacity; In General.

(a) Families who are eligible for subsidized child care and development services based on income, public assistance, or homelessness must document that each parent in the family, pursuant to section 18078(f) meets a need criterion, as specified in Education Code section 8263(a)(2)(B). The need criteria are: vocational training leading directly to a recognized trade, paraprofession, or profession; employment or seeking employment; seeking permanent housing for family stability; and incapacitation.

(b) Subsidized child care and development services shall only be available to the extent to which:

- (1) The parent meets a need criterion as specified in subdivision (a) that precludes the provision of care and supervision of the family's child for some of the day;
- (2) There is no parent in the family capable of providing care for the family's child during the time care is requested; and
- (3) Supervision of the family's child is not otherwise being provided by school or another person or entity.

NOTE: Authority cited: Sections 8261, 8263, and 8265, Education Code. Reference: Sections 8206, 8261, and 8263, Education Code.

§18086. Documentation of Employment.

(a) If the basis of need as stated on the application for services is employment of the parent, the documentation of the parent's employment shall include the days and hours of employment.

(b) If the parent has an employer, the documentation of need based on employment shall consist of one of the following:

- (1) The pay stubs provided to determine income eligibility that indicate the days and hours of employment;
- (2) When the provided pay stubs do not indicate the days and hours of employment, the contractor shall verify the days and hours of employment by doing one of the following:
 - (A) Secure an independent written statement from the employer;
 - (B) Telephone the employer and maintain a record;
 - (C) If the provided pay stubs indicate the total hours of employment per pay period and if the contractor is satisfied that the pay stubs have been issued by the employer, specify on the application for services the days and hours of employment to correlate with the total hours of employment and the parent's need;
 - (D) If the variability of the parent's employment is unpredictable and precludes the contractor from verifying specific days and hours of employment or work week cycles, specify on the application for services that the parent is authorized for a variable schedule for the actual hours worked, identifying the maximum number of hours of need based on the week with the greatest number of hours within the preceding four weeks and the verification pursuant to subdivisions (A), (B), or (C) above. Until such time as the employment pattern becomes predictable, need for services shall be updated at least every four months and shall be based on the requirements of subdivision (b) and the child care services utilized;
 - (E) If the employer refuses or is non-responsive in providing the requested information, record the contractor's attempts to contact the employer, and specify and attest on the application for services to the reasonableness of the days and hours of employment based on the description of the employment and community practice; or
 - (F) If the parent asserts in a declaration signed under penalty of perjury that a request for employer documentation would adversely affect the parent's employment, on the application for services:
 - (i) Attest to the reasonableness of the parent's assertion; and
 - (ii) Specify and attest to the reasonableness of the days and hours of employment based on the description of the employment and community practice.

(3) When the employed parent does not have pay stubs or other record of wages from the employer and has provided a self-certification of income, as defined in section 18078(o), the contractor shall assess the reasonableness of the days and hours of employment, based on the description of the employment and the documentation provided pursuant to section 18084(a)(3), and authorize only the time determined to be reasonable.

(c) If the parent is self-employed, the documentation of need based on employment shall consist of the following:

- (1) Parent provided information that includes:
 - (A) A declaration of need under penalty of perjury that includes a description of the employment and an estimate of the days and hours worked per week;

- (B) To demonstrate the days and hours worked, a copy of one or more of the following: appointment logs, client receipts, job logs, mileage logs, a list of clients with contact information, or similar records; and
 - (C) As applicable, a copy of a business license, a workspace lease, or a workspace rental agreement.
- (2) A statement by the contractor assessing the reasonableness of the total number of days and hours requested per week based on the description of the employment and the documentation provided pursuant to this section and section 18084. If the parent has unpredictable hours of employment, the contractor shall authorize the parent for a variable schedule not to exceed the number of hours determined to be needed per week. Need for services for unpredictable hours shall be updated at least every four months and shall be based on the requirements of subdivision (c). If the contractor has been unable to verify need based on the documentation provided, the contractor shall take additional action to verify self-employment that includes any one or more of the following:
- (A) If the self-employment occurs in a rented space, contacting the parent's lessor or other person holding the right of possession to verify the parent's renting of the space;
 - (B) If the self-employment occurs in variable locations, independently verifying this information by contacting one or more clients whose names and contact information have been voluntarily provided by the parent; or
 - (C) Making other reasonable contacts or requests to determine the amount of time for self-employment.
- (3) If the contractor is unable to make a reasonable assessment of the hours needed for self-employment after attempting to verify such hours and documenting the attempts, the contractor may divide the parent's self-employment income, as defined in section 18078(q)(4), by the applicable minimum wage. The resulting quotient shall be the maximum hours needed for employment per month.
- (d) For the instances identified in subdivision (b)(2)(A) through (E) and (c), the parent shall provide a release to enable the contractor to obtain the information it deems necessary to support the parent's asserted days and hours worked per week.
- (e) If additional services are requested for travel time or sleep time to support employment, the contractor shall determine, as applicable, the time authorized for:
- (1) Travel to and from the location at which services are provided and the place of employment, not to exceed half of the daily hours authorized for employment to a maximum of four hours per day; or
 - (2) Sleep, if the parent is employed anytime between 10:00 p.m. and 6:00 a.m., not to exceed the number of hours authorized for employment and travel between those hours.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

§ 18086.1. Documentation of Employment in the Home or a Licensed Family Day Care Home; Service Limitations.

- (a) The requirements of this section are in addition to those stated in section 18086.
- (b) If the parent's employment is in the family's home or on property that includes the family's home, the parent must provide justification for requesting subsidized child care and development services based on the type of work being done and its requirements, the age of the family's child for whom services are sought, and, if the child is more than five years old, the specific child care needs. The contractor shall determine and document whether the parent's employment and the identified child care needs preclude the supervision of the family's child.
- (c) If the parent is a licensed family day care home provider pursuant to Health and Safety Code section 1596.78 or an individual license-exempt provider pursuant to Health and Safety Code section 1596.792, subdivisions (d) or (f), the parent is not eligible for subsidized services during the parent's business hours because the parent's employment does not preclude the supervision of the family's child.
- (d) If the parent is employed as an assistant in a licensed large family day care home, pursuant to Health and Safety Code section 1596.78(b), and is requesting services for the family's child in the same family day care home, the parent shall provide documentation that substantiates all of the following:
 - (1) A copy of the family day care home license indicating it is licensed as a large family day care home;
 - (2) A signed statement from the licensee stating that the parent is the assistant, pursuant to the staffing ratio requirement of California Code of Regulations, title 22, section 102416.5(c);
 - (3) Proof that the parent's fingerprints are associated with that licensed family day care home as its assistant, which the contractor may verify with the local community care licensing office; and
 - (4) Payroll deductions withheld for the assistant by the licensee, which may be a pay stub.

NOTE: Authority cited: Sections 8261, 8263, and 8265, Education Code. Reference: Sections 8206, 8261, and 8263, Education Code.

§ 18086.5. Documentation of Seeking Employment; Service Limitations.

- (a) If the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development services is limited to 60 working days during the contract period, except as specified in subdivisions (d) and (e). Services shall occur on no more than five days per week and for less than 30 hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.
- (b) Documentation of seeking employment shall include a written parental declaration signed under penalty of perjury stating that the parent is seeking

employment. The declaration shall include the parent's plan to secure, change, or increase employment and shall identify a general description of when services will be necessary.

- (c) The contractor shall determine the number of working days available for seeking employment and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, a description of the activities he or she has undertaken during the previous week to seek employment and, as appropriate, may require additional documentation.
- (d) If the Governor declares a state of emergency and if the factual basis for the Governor's declaration indicate that opportunities for employment have temporarily diminished to such a degree that parents cannot be reasonably expected to find employment within 60 working days of diligent searching, the State Superintendent of Public Instruction (SSPI) may investigate to determine whether the 60-working-days limitation described in paragraph (a) should be suspended. If the SSPI determines that it is in the public interest to do so, he or she may, by order, suspend the 60-working-days limitation on eligibility during the period of the emergency or for a lesser time. The scope of the suspension, including the geographic areas and the persons affected, and its duration, shall be no more than necessary to respond to the emergency as determined in the SSPI's investigation, and shall be specifically described in the SSPI's order. If a parent's services for seeking employment were exhausted after an emergency was declared and before the SSPI suspends the eligibility limitation, the contractor may re-authorize services for seeking employment in accordance with the conditions specified in the SSPI's order.
- (e) If the parent has concurrently received services based on employment or vocational training for at least 20 working days while receiving services for seeking employment, eligibility for seeking employment may be extended for an additional 20 working days. For such a parent, services for this purpose shall not exceed 80 working days during the contract period.
- (f) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.
- (g) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

NOTE: Authority cited: Sections 8261, 8263, and 8265, Education Code. Reference: Sections 8206, 8261, and 8263, Education Code.

§18087. Documentation of Training toward Vocational Goals; Service Limitations.

- (a) If the basis of need as stated on the application for services is vocational training leading directly to a recognized trade, paraprofession, or profession, child care and development services shall be limited, except as specified in subdivision (l), to whichever expires first:
 - (1) Six years from the initiation of services pursuant to this section; or
 - (2) Twenty four semester units, or its equivalent, after the attainment of a Bachelor's Degree.
- (b) The parent shall provide documentation of the days and hours of vocational training to include:
 - (1) A statement of the parent's vocational goal;
 - (2) The name of the training institution that is providing the vocational training;
 - (3) The dates that current quarter, semester, or training period, as applicable, will begin and end;
 - (4) A current class schedule that is either an electronic print-out from the training institution of the parent's current class schedule or, if unavailable, a document that includes all of the following:
 - (A) The classes in which the parent is currently enrolled;
 - (B) The days of the week and times of day of the classes; and
 - (C) The signature or stamp of the training institution's registrar.
 - (5) The anticipated completion date of all required training activities to meet the vocational goal; and
 - (6) Upon completion of a quarter, semester, or training period, as applicable, a report card, a transcript, or, if the training institution does not use formal letter grades, other records to document that the parent is making progress toward the attainment of the vocational goal in accordance with subdivision (f).
- (c) A parent shall report any change in his or her class schedule related to the days and times of any class, including a withdrawal from a class, within five calendar days of requesting the change from the institution.
- (d) Services may be provided for classes related to the General Education Development (GED) test or English language acquisition if such courses support the attainment of the parent's vocational goal.
- (e) On-line or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation and, as applicable, the Web address of the on-line program. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.
- (f) Continuation of services based on training is contingent upon making adequate progress. To make progress each quarter, semester, or training period, as applicable, the parent shall, in the college classes, technical school, or apprenticeship for which subsidized care is provided:
 - (1) In a graded program, earn a 2.0 grade point average; or

- (2) In a non-graded program, pass the program's requirements in at least 50 percent of the classes or meet the training institution's standard for making adequate progress.
- (g) The first time the parent does not meet the condition in subdivision (f), the parent may continue to receive services for one additional quarter, semester, or training period, as applicable, to improve the parent's progress. At the conclusion of that session, the parent shall, in the classes for which subsidized care was provided, have made adequate progress pursuant to subdivision (f). If the parent has not made adequate progress pursuant to subdivision (f), services for this purpose shall be:
- (1) Terminated; and
 - (2) Available to the parent, to the extent provided by subdivision (a), after six months from the date of termination.
- (h) No later than ten calendar days after the training institution's release of progress reports for the quarter, semester, or vocational training period, as applicable, the parent shall provide the contractor with a copy of the parent's official progress report. As it deems appropriate, the contractor may require the parent to:
- (1) Have an official copy of a progress report sent directly from the training institution to the contractor; or
 - (2) Provide a release, as may be required by the training institution, to enable the contractor to verify the parent's progress with the institution.
- (i) A parent may change his or her vocational goal, but services shall be limited to the time or units remaining from the initiation of the provision of services for vocational training as specified in subdivision (a).
- (j) The contractor shall determine the days and hours needed per week, and whether the parent is making progress, based on the documentation. The contractor may request that the parent provide a publication from the training institution describing the classes required to complete the parent's vocational goal.
- (k) If additional services are requested for study time or travel time to support the vocational training, the contractor shall determine, as appropriate, the amount of services needed for:
- (1) Travel to and from the location at which services are provided and the training location, not to exceed half of the weekly hours authorized for training to a maximum of four hours per day; or
 - (2) Study time, including study time for on-line and televised instructional classes, according to the following:
 - (A) Two hours per week per academic unit in which the parent is enrolled;
 - (B) On a case-by-case basis and as may be confirmed with the class instructor, additional time not to exceed one hour per week per academic unit in which the parent is enrolled; and
 - (C) On a case-by-case basis, no more than the number of class hours per week for non-academic or non-unit bearing training.
- (l) The service limitations specified in subdivision (a) shall not apply to a parent who demonstrates he or she is:
- (1) As of June 27, 2008, receiving services for vocational training and has attained a Bachelor's Degree;
 - (2) Receiving services from a program operating pursuant to Education Code section 66060;
 - (3) Attending vocational training when the parent has been deemed eligible for rehabilitation services by the California Department of Rehabilitation; or
 - (4) Attending retraining services available through the Employment Development Department of the State or its contractors due to a business closure or mass layoff.

NOTE: Authority cited: Sections 8261, 8263, and 8265, Education Code. Reference: Sections 8206, 8261, and 8263, Education Code.

§18088. Documentation of Parental Incapacity; Service Limitations.

- (a) If the basis of need as stated on the application for services is parental incapacity, child care and development services shall not exceed 50 hours per week.
- (b) Documentation shall include a release signed by the incapacitated parent authorizing a legally qualified health professional to disclose information necessary to establish that the parent meets the definition of incapacity, pursuant to section 18078, and needs services.
- (c) The documentation of incapacitation provided by the legally qualified health professional shall include:
- (1) A statement that the parent is incapacitated, that the parent is incapable of providing care and supervision for the child for part of the day, and, if the parent is physically incapacitated, that identifies the extent to which the parent is incapable of providing care and supervision;
 - (2) The days and hours per week that services are recommended to accommodate the incapacitation, taking into account the age of the child and the care needs. This may include time for the parent's regularly scheduled medical or mental health appointments;
 - (3) The probable duration of the incapacitation; and
 - (4) The name, business address, telephone number, professional license number, and signature of the legally qualified health professional who is rendering the opinion of incapacitation and, if applicable, the name of the health organization with which the professional is associated.
- (d) The contractor may contact the legally qualified health professional for verification, clarification, or completion of the provided statement.
- (e) The contractor shall determine the days and hours of service based on the recommendation of the health professional and consistent with the provisions of this article.

NOTE: Authority cited: Sections 8261, 8263, and 8265, Education Code. Reference: Sections 8261 and 8263, Education Code.

§18089. Documentation of the Child's Exceptional Needs.

The family data file shall contain documentation of the child's exceptional needs if the contractor is claiming adjustment factors pursuant to Education Code section 8265.5(b)(4) or (b)(5), the child with exceptional needs is 13 through 21 years of age, or the contractor is operating a program pursuant to Education Code section 8250(d). The documentation of exceptional needs shall include:

- (a) A copy of the portion of the active individual family service plan (IFSP) or the individualized education program (IEP) that includes the information as specified in Education Code section 56026 and California Code of Regulations, title 5, sections 3030 and 3031; and
- (b) A statement signed by a legally qualified professional that:
 - (1) The child requires the special attention of adults in a child care setting; and
 - (2) Includes the name, address, license number, and telephone number of the legally qualified professional who is rendering the opinion.

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8208, 8250, 8261, 8263 and 56026, Education Code.

§18090. Documentation of Homelessness.

If the basis of eligibility as specified in Education Code section 8263(a)(1) is homelessness, the family data file shall include documentation of homelessness. The documentation of homelessness shall include:

- (a) A written referral from an emergency shelter or other legal, medical or social service agency; or
- (b) A written parental declaration that the family is homeless and a statement describing the family's current living situation.

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

§18091. Documentation of Seeking Permanent Housing; Service Limitations.

- (a) If the basis of need as stated on the application for services is seeking permanent housing for family stability, the parent's period of eligibility for child care and development services is limited to 60-working-days during the contract period, except as specified in subdivision (d). Services shall occur on no more than five days per week and for less than 30 hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.
- (b) Documentation of seeking permanent housing shall include a written parental declaration signed under penalty of perjury that the family is seeking permanent housing. The declaration shall include the parent's search plan to secure a fixed, regular, and adequate residence and shall identify a general description of when services will be necessary. If the family is residing in a shelter, services may also be provided while the parent attends appointments or activities necessary to comply with the shelter participation requirements.
- (c) The contractor shall determine the number of weeks available for seeking permanent housing and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, either a declaration signed under penalty of perjury describing the activities the parent has undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program regarding the parent's search progress to date.
- (d) If the parent does not expect to secure housing prior to the end of the eligibility period:
 - (1) The parent may request an extension in a declaration of need signed under penalty of perjury that includes an update of the parent's search plan and either a description of the activities undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program indicating the parent's continued need for services; and
 - (2) The contractor may authorize an extension of search eligibility for up to 20 additional working days.
- (e) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.
- (f) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

§18096. Calculation of Income.

The contractor shall calculate total countable income based on income information reflecting the family's current and on-going income:

- (a) Using an income calculation worksheet that specifies the frequency and amount of the payroll check stubs provided by the parent and all other sources of income pursuant to section 18078(q).
- (b) When income fluctuates because of:
 - (1) Agricultural work as referenced in section 18078(j)(1), by averaging income from the 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.
 - (2) Intermittent income as referenced in section 18078(j)(2), by averaging the intermittent income from the preceding 12 months by dividing by 12 and add this amount to the other countable income.

- (3) Unpredictable income as referenced in section 18078(j)(3), by averaging the income from at least three consecutive months and no more than 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

Article 3. Enrollment

§18100. Documentation and Determination of Family Size.

- (a) A parent shall provide the names of the parents and the names, gender and birthdates of the children identified in the family. This information shall be documented on a confidential application for child care and development services and used to determine family size. The parent shall provide supporting documentation regarding the number of children and parents in the family.
- (1) The number of children shall be documented by providing at least one of the following documents, as applicable:
- (A) Birth certificates;
 - (B) Court orders regarding child custody;
 - (C) Adoption documents;
 - (D) Records of Foster Care placements;
 - (E) School or medical records;
 - (F) County welfare department records; or
 - (G) Other reliable documentation indicating the relationship of the child to the parent.
- (2) When only one parent has signed the application and the information provided pursuant to subdivision (a)(1) indicates the child(ren) in the family has another parent whose name does not appear on the application, then the presence or absence of that parent shall be documented by providing any one of the following documents, as applicable:
- (A) Records of marriage, divorce, domestic partnership or legal separation;
 - (B) Court-ordered child custody arrangements;
 - (C) Evidence that the parent signing the application is receiving child support payments from that person, has filed for child support with the appropriate local agency, or has executed documents with that agency declining to file for child support;
 - (D) Rental receipts or agreements, contracts, utility bills or other documents for the residence of the family indicating that the parent is the responsible party; or
 - (E) Any other documentation, excluding a self-declaration except as provided in subdivision (a)(3), to confirm the presence or absence of a parent of a child in the family.
- (3) If, due to the recent departure of a parent from the family, the remaining applicant parent cannot provide any documentation pursuant to subdivision (a)(2), the applicant parent may submit a self-declaration signed under penalty of perjury explaining the absence of that parent from the family. Within six months of applying or reporting this change in family size, the parent must provide documentation pursuant to subdivision (a)(2).
- (b) If the information provided by the parent is insufficient, the contractor shall request any additional documentation necessary from subdivision (a) above to verify the family composition and family size.
- (c) For income eligibility and family fee purposes, when a child and his or her siblings are living in a family that does not include their biological or adoptive parent, only the child and related siblings shall be counted to determine family size. In these cases, the adult(s) must meet a need criterion as specified in Education Code section 8263(a)(2).
- (d) Upon the transfer of a family from CalWORKs Stage 1 to CalWORKs Stage 2 or Stage 3, the CalWORKs Stage 2 or Stage 3 contractor shall accept the CalWORKs Stage 1 agency's determination of family size until the family is re-certified.

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8263, Education Code.

§18102. Notice to Families of Their Responsibility to Notify Contractor of Changes to Family Circumstances.

At the time the contractor certifies or recertifies eligibility of a family/child for child care and development services, the contractor shall inform the family of the family's responsibility to notify the contractor within five calendar days of any changes in family income, family size, or need for services as specified in Education Code section 8263(a)(2).

NOTE: Authority cited: Sections 8261, 8263, and 8265, Education Code. Reference: Sections 8206, 8261, and 8263, Education Code.

§18104. Limited Term Service Leave Requirements.

- (a) If the family will temporarily not have a need for subsidized child care and development services as specified in Education Code section 8263(a)(2), the contractor may grant the family a limited term service leave. Reasons for a limited term service leave shall include medical leave and family leave, and may include, but are not limited to, break in employment, school break, the child's visit with the non-custodial parent that is not ordered by the court, or family vacation in excess of best interest days as specified in section 18066(f). Family leave means a leave:
- (1) For the birth and care of the newborn child of the parent,

- (2) For placement with the parent of a child for adoption or foster care, and
 - (3) To care for the parent's child, spouse, or parent who has a health condition.
- (b) If the contractor offers limited term service leaves, the contractor:
- (1) Shall provide equal access to limited term service leaves; and
 - (2) May set a limit on the number of leaves to be granted in a contract year based on an assessment of contract resources pursuant to section 18054.
- (c) If the contractor grants a limited term service leave:
- (1) The family shall not be disenrolled from the program;
 - (2) The service agreement with the parent shall indicate that no services will be provided during the limited term service leave; and
 - (3) The contractor shall not report the child as enrolled nor claim reimbursement from the California Department of Education while the child is on a limited term service leave.
- (d) A limited term service leave shall not exceed 12 consecutive weeks in duration, except as specified in subdivisions (e) and (f).
- (e) A limited term service leave from employment or training shall not exceed 16 consecutive weeks in duration if the leave is for:
- (1) A medical or family leave; or
 - (2) A period when the vocational training program is not in spring, fall, or winter sessions.
- (f) A limited term service leave may be granted for any portion of the contract period in which a child is attending an After School Education and Safety Program, pursuant to Education Code sections 8482 et seq., or a federal 21st Century Community Learning Centers program, as referenced in Education Code sections 8484.7 et seq.

NOTE: Authority cited: Sections 8261, 8263, 8265, and 8269, Education Code. Reference: Sections 8206, 8261, 8263, and 8265, Education Code.

Article 4. Admission Policies and Procedures

§ 18107. Residency Requirements.

- (a) In addition to other applicable eligibility requirements as specified elsewhere in this Division, to be eligible for child care and development services the child must live in the State of California while services are being received.
- (b) Any evidence of a street address or post office address in California will be sufficient to establish residency. A person identified as homeless pursuant to section 18078(h)(2) is exempted from this requirement and shall submit a declaration of intent to reside in California.
- (c) The governing board of any school district, community college or county superintendent of schools may accommodate children residing outside its district boundaries in accordance with Education Code section 8322(a).
- (d) The determination of eligibility for child care and development services shall be without regard to the immigration status of the child or the child's parent(s), unless the child or the child's parent(s) are under a final order of deportation from the United States Department of Justice.

NOTE: Authority cited: Section 8263, Education Code. Reference: Section 8263, Education Code.

Subchapter 4. State Preschool Programs

Article 2. Enrollment Priorities

§ 18131. Enrollment Priorities for State Preschool Programs.

- (a) The first priority for services shall be given to four-year-old or three-year-old neglected or abused children who are recipients of child protective services or recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency, without regard to income.
- (b) The second priority shall be given to eligible four-year-old children in the following order:
 - (1) Children who were enrolled in the State Preschool Program as a three-year-old, without regard to income ranking.
 - (2) Children whose families have the lowest income ranking based on the most recent income ranking schedule adopted by the State Superintendent of Public Instruction (SSPI) at the time of enrollment. The Child Care and Development Income Rankings (revised 12/2007) is hereby incorporated by reference.
 - (3) When two or more families have the same income ranking, according to the most recent income ranking schedule, the child with exceptional needs as defined in Education Code section 8208(l) shall be admitted first.
 - (4) If there are no families with children with exceptional needs, the contractor may establish the following priorities in an order determined by the contractor.
 - (A) Children who are identified as limited English or non-English proficient.
 - (B) Children from families whose special circumstances may diminish the children's opportunities for normal development.
- (c) After all eligible four-year-old children are enrolled, three-year-old children may be enrolled based on the priorities described in subdivision 18131(b)(2) through (4).

(d) The family data file shall include documentation to support the determination that the child meets the priority for service. If the priority for service is the child's exceptional need, the family data file shall include documentation as specified in section 18089 of this division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235, 8236, 8263, and 56443, Education Code.

§ 18131.1 Collaborative Full-Day Services.

(a) When collaborative full-day services are provided with State Preschool contract funds, when the State Preschool contractor is also a Head Start grantee or delegate agency or has a signed collaboration agreement with a Head Start grantee or delegate agency, the State Preschool contractor shall:

(1) Search the county centralized eligibility list (CEL) for eligible children whose family income is at or below the Head Start income guidelines, who need full-day services, and, if the information is included in the CEL, the Head Start enrollment priorities;

(2) Give first priority for services to eligible children based on section 18131(a); and

(3) Give second priority for services to children drawn from the CEL search and any other eligible children from families with incomes not to exceed the exceptions specified

in section 18133, who meet Head Start enrollment priorities, as these children shall be deemed as meeting the priorities specified in section 18131(b) and (c).

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235, and 56443, Education Code.

§ 18134. Exceptions to Calculation of Adjusted Monthly Income (as Defined in Section 18078) for Military Personnel.

Program vacancies shall be filled first by children pursuant to all statutorily mandated priorities. For programs located on or in close proximity to a military base or base housing, for purposes of determining eligibility and income ranking for families when an individual counted in the family size is on federal active duty, state active duty, active duty for special work, or Active Guard and Reserve duty in the military, and the families reside on a military base or in military housing, the contractor may, with prior written approval from the State Superintendent of Public Instruction or his or her designee, exclude the amount of the basic allowance for housing provided to the individual pursuant to 37 USC 403.

Note: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8235, 8236, 8263 and 8263.1, Education Code.

Revised March 5, 2009