

Title 5. EDUCATION
Division 1. California Department of Education
Chapter 19. Child Care and Development Programs
Subchapter 3. General Child Care Programs
Article 1. General Provisions

§18078. Definitions.

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 8208(k), 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.

§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.

§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.

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.

§ 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.