

INSERT ON YOUR LETTERHEAD

DATE

The Honorable (Insert Name)
State Capitol
Sacramento, CA 94249

Dear (Senator or Assemblymember _____):

On behalf of (INSERT AGENCY) that supports working families in (INSERT COUNTY) with information and access to child care, I respectfully ask that an immediate legislative remedy be identified to remove the application of a recent court ruling be applied to child care providers. If a legislative remedy is not secured, then at least a half to two-thirds of the allocated 192,000 child care slots that were just funded in the 2018-2019 budget package will need to be eliminated.

Specifically, on April 30, 2018, the Supreme Court issued *Dynamex Operations West v. Superior Court* to reclassify independent contractors as employees. The ruling was focused on addressing the misclassification of independent contractors in “gig” economies; however it appears to apply to our independent child care providers that support working poor families.

Further, The *Dynamex* decision applied a new “ABC¹” test that could be interpreted as applying to these independent child care providers. If this test is applied then the over 50,000 plus child care providers must immediately be made employees of either their local county welfare department, the California Department of Social Services or the California Department of Education, the community based nonprofits or an employee of the parent. Whichever entity is deemed as the employer, they too must pay back four years of back pay. Regardless of the scenario, an immediate cut in the allocated child care slots will have to be made and families will be forced into the untenable situation of choosing work or taking care of their child.

For fiscal year 2018-2019, the California Legislative Women’s Caucus (LWC) made it the top priority to secure more child care slots for working families to access². As justification in making child care the priority, the LWC noted a recent report estimated that six out of seven children eligible for subsidized child care in California did not receive services from state programs; the estimated number of children eligible for subsidized childcare is 1,479,000³. *Dynamex* takes away all of the gains made in recent years.

California’s child care delivery system is not a “gig” economy and therefore the *Dynamex* decision ought not to apply. Further, the funding of child care and the determination of the Regional Market Rates paid to providers is separate from other industries. The California legislature must immediately act and remedy or risk the harm that will befall on tens of thousands of working families that will lose their child care.

Sincerely,

¹ <https://law.justia.com/cases/california/supreme-court/2018/s222732.html>

² <http://womenscaucus.legislature.ca.gov/sites/womenscaucus.legislature.ca.gov/files/PDF/LTR%20-%20LWC%20budget%20Gov%205.7.18%20Final.pdf>

³ <https://calbudgetcenter.org/resources/1-2-million-california-children-eligible-subsidized-child-care-not-receive-services-state-programs-2015/>