



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

June 6, 2016

Rachel Schumacher, Director
Office of Child Care
Administration for Children and Families
Mary E. Switzer Building
330 C Street South West, Room 4502
Washington, DC 20201

Dear Director Schumacher:

Subject: Re-Submission of Written Extension/Waiver Request for California's Child Care and Development Fund 2016–2018 State Plan

As the designated Lead Agency for the Child Care and Development Fund (CCDF) in California, the California Department of Education (CDE) formally requests extension/waiver as required by the Child Care and Development Block Grant Act (the Act).

California currently meets the majority of the requirements of the Act, however many of the new policies established by the Act will require state legislative and gubernatorial action. Since November 2014 when the Act was reauthorized, the CDE has met regularly with Legislative leadership and the California Department of Finance to notify them of the changes at the Federal level. The CDE has considered carefully the public comments and recommendations from contractors, advocates and members of the public. The CDE has shared them with Legislative leadership and the California Department of Finance to help inform their decision making of how to best meet the requirements outlined in the Act.

As the designated Lead Agency for the CCDF in California, the CDE formally requests, on behalf of California, relief from the following provisions:

Section 3.1.5 Graduated Phase-Out of Assistance	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	a. graduated phase-out of assistance
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	Granting a waiver to defer the implementation of graduated phase-out will not compromise the health and safety of children. California has always been the leader, through its current laws and regulations, in putting the health, safety and well-being of children first and CDE certifies that this waiver will not harm that goal.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a state legislature to enact legislation to implement the provision of the Act	It is anticipated that the proposed CCDF regulations will become final in the summer of 2016. In August 2016 the CDE will begin to assess the alignment between statute resulting from the California Budget Act of 2016 and the final adopted federal regulations. Once the CDE can refer to those two policy resources, implementation of graduated phase out can likely begin. A detailed timeline can be found in California's 2016-18 CCDF State Plan.

Section 3.1.6 Fluctuation in Earnings	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	a. Process to take irregular fluctuations in earnings into account
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this waiver will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	California has always been the leader, through its current laws and regulations, in putting the health, safety and well-being of children first and certifies that this waiver/extension will not harm that goal, but allow California time to implement a policy for fluctuation in earnings as outlined in the timeline of Implementation Plan for Section 3.1.6 of California's State Plan.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act	As of the date of submission of this letter one piece of legislation was introduced on February 17, 2016, related to protection for working families: Assembly Bill (AB) 2150 (Santiago and Weber). Information regarding AB 2150 can be found on the California Legislative Information Web site at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2150 . The CDE believes if AB 2150 is adopted as proposed, it will satisfy the fluctuation of earnings requirement.

	<p>The CDE plans to wait until federal regulations are adopted, and wait for the signing of AB 2150 to move forward with the timeline outlined in Section 3.1.6 of the State Plan, which includes promulgating new state regulations.</p>
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Section 3.3.1 Twelve-Month Eligibility	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	a. Minimum 12-month eligibility and redetermination period.
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	Granting a waiver to defer the implementation of twelve-month eligibility will not compromise the health and safety of the children served in California's CCDF funded services. California has always been the leader, through its current laws and regulations, in putting the health, safety and well-being of children first and certifies that this extension will not harm that goal.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver;	As of the submission date of this letter, one piece of legislation was introduced on February 17, 2016, related to protection for working families: Assembly Bill (AB)

<p>extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act</p>	<p>2150 (Santiago and Weber) Information regarding AB 2150 can be found on the California Legislative Information Web site at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2150</p> <p>The CDE believes if AB 2150 is adopted as proposed, it will satisfy the 12-month eligibility requirement.</p> <p>The CDE plans to wait until federal regulations are adopted, and wait for the signing of AB 2150 to move forward with the timeline outlined in Section 3.1.6 of the State Plan, which includes promulgating new state regulations.</p>
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Section 3.3.3 Prevent Disruption of Work	
<p>Request</p>	<p>A waiver for one year upon the approval from the Secretary of the Administration for Children and Families</p>
<p>Unmet requirement(s)</p>	<p>a. Procedures to not unduly disrupt employment, education or job training activities.</p>
<p>Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory</p>	<p>The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.</p>
<p>Certify that the health, safety, and well-being of children served through assistance received through CCDF will</p>	<p>California has always been the leader, through its current laws and regulations, in putting the health, safety and well-being of</p>

<p>not be compromised as a result of the waiver</p>	<p>children first and certifies that this extension will not harm that goal. Preventing work disruption and meeting the Act requirements will not compromise the health and safety of children.</p>
<p>Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act</p>	<p>Lacking final federal guidance on prevention of disruption to work, it is unclear if California’s current law and regulation fully complies with the definition of prevention of disruption of work included in the Act. The CDE sought input from stakeholders, professionals, and experts about the regulatory and statutory changes that would need to be made for the current State system to be better aligned with federal law. Assembly Bill 104, Section 49 charged program contractors in consultation with State Agencies to develop recommendations that streamlined reporting and documentation requirements including minimizing reporting and documentation on behalf of families to prevent disruption of work. Final recommendations will be posted on the CDE’s Stakeholder Group Web page at http://www.cde.ca.gov/sp/cd/ce/approgram.s.asp.</p> <p>A change to California’s current policy of the prevention of disruption of work would require legislative and gubernatorial approval. Assembly Bill 2150 was introduced by members Santiago and Weber on February 17, 2016. The CDE will promulgate regulations once the CCDF regulations are final and adopted, a detailed timeline of the implementation is located in Section 3.3.3 of the State Plan.</p>

4.4.2 Does the State/Territory certify that payment rates are sufficient to ensure equal access either based on the current Market Rate Survey or alternative

methodology?	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	a. Payment rates are sufficient to ensure equal access.
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	California has always been the leader in health, safety and well-being of children through its laws and regulations and CDE certifies that the health, safety and well-being of children will not be comprised as a result of this waiver being granted.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act	The CDE conducts a valid and reliable market rate survey every two years, however, reimbursement rates for subsidized child care in California, supported by CCDF, are established by the Legislature and Governor. Ensuring that payment rates are sufficient to provide equal access to child care has long been recognized as a need. The CDE is currently working with child care advocacy organizations and legislators to identify possible approaches to addressing child care rate reform in California. There has been a call from the State Superintendent of Public Instruction, many

	<p>legislators, and the advocate and provider community to both raise the reimbursement ceilings and the percentile of the market accessed by eligible families. It is within the authority of the Legislature and Governor to adopt the most recently conducted survey (2014), and a percentile high enough to ensure equal access.</p>
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Section 4.5.1 Payment Practices and Timeliness of Payments	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	<p>a. Payment practices for CCDF providers reflect generally accepted payment practices.</p> <p>b. Implement enrollment and eligibility policies that support the fixed costs to the extent practicable.</p>
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	<p>The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.</p>
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	<p>California has always been the leader, through its current laws and regulations, in putting the health, safety and well-being of children first and concludes that this extension will not harm that goal. The CDE certifies that granting a waiver to delay implementation of payment practices and timeliness of payments will not</p>

	compromise the health, safety and well-being of children.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act	The CDE requires alternative payment contractors that issue vouchers at the local level to establish agency policies that support timeliness of payments and generally accepted payment practices. Those policies must include: a schedule of payment signed by providers, and a provider grievance procedure. The CDE will await final federal guidance, as it is unclear if California's current law and regulation comply with the definition of Payment Practices and Timeliness of Payments in the reauthorization of the Act.

5.1.3 Child care standards related to ratios, providers and group size	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	Child care standards for license exempt providers related to group size
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	Approximately 400,000 children in California are served in the subsidized child care system, supported in part through assistance received through CCDF. It is anticipated that these services will continue uninterrupted until the

	<p>Legislature takes action to change the current policy. California has always been the leader in health, safety and well0being of children through its laws and regulations and CDE certifies that the health, safety and well-being of children will not be comprised as a result of this waiver being granted.</p>
<p>Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act</p>	<p>California has long established ratios and capacity standards equivalent to group size for licensed child care settings, but does not have these standards in place for license exempt settings. Granting a waiver will allow the Legislature to consider how it will establish group sizes for exempt providers.</p> <p>As of the submission date of this letter no legislative proposals have been introduced.</p>

Section 5.1.6 (a) Health and Safety Requirements, requirements c, d, e, g, and h.	
<p>Request</p>	<p>A waiver for one year upon the approval from the Secretary of the Administration for Children and Families</p>
<p>Unmet requirement(s)</p>	<ul style="list-style-type: none"> c. Administration of medication, consistent with standards for parental consent d. Prevention of and response to emergencies due to food and allergic reactions e. Building and physical premises safety g. Emergency preparedness and response planning h. Handling and storage of hazardous materials
<p>Describe how a waiver from that</p>	<p>The CDE is seeking a waiver to extend the</p>

<p>sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory</p>	<p>amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.</p> <p>The CDE has contracted with Merced County Office of Education to develop online health and safety training modules for child care providers on topics beyond what California currently offers as a term of licensure. The CDE needs additional time to meet this requirement. This will allow the modules to be completed and offered to providers.</p> <p>Additionally the California Department of Social Services (CDSS) will be implementing some of these requirements January 1, 2018, due to new legislation that will include ongoing provider training for the following topics:</p> <ol style="list-style-type: none"> 1. Safe Sleep Practices 2. Dangers of shaking a child – which may include “Prevention of abusive head trauma” 3. Mandated Child Abuse Reporter training
<p>Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver</p>	<p>The CDE certifies that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver. California has always been the leader,</p>

	through its current laws and regulations, in putting the safety and welfare of children first and concludes that this extension will not harm that goal.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act	A change to this policy will require Legislative and Gubernatorial action. As of the submission date of this letter no legislative proposals have been introduced.

5.2.1 The State/Territory certifies that the State/Territory has in effect policies and practices to ensure that providers for children receiving assistance and their facilities comply with applicable State or local licensing and health and safety requirements. (658E(c)(2)(J))	
Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	a. Ensure CCDF providers and facilities comply with licensing and health and safety requirements
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the	The CDE certifies health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of a waiver of

<p>waiver</p>	<p>658E(c)(2)(J) of the Act. California has always been the leader, through its current laws and regulations, in putting the safety and welfare of children first and certifies that this waiver/extension will not harm that goal.</p>
<p>Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act</p>	<p>For licensed facilities, providers are regulated by the California Child Day Care Act commencing with <i>California Health and Safety Code</i> Sections 1596.70 through 1597.71 and Division 12 of the <i>California Code of Regulations</i>, Title 22.</p> <p>License-exempt providers must comply with some state for facilities (<i>California Code of Regulations</i>, Title 5 (5 CCR) Section 18020), background checks (5 CCR Section 18227) and certification of meeting health and safety standards (<i>Education Code</i> Section 8358). However, changes to most of the current requirements would State legislation.</p> <p>As of the submission date of this letter no legislative proposals have been introduced.</p>

<p>5.2.2 Monitoring</p>	
<p>Request</p>	<p>A waiver for one year upon the approval from the Secretary of the Administration for Children and Families</p>
<p>Unmet requirement(s)</p>	<p>b. Inspections for Licensed CCDF Providers</p> <p>c. Inspections for License–Exempt CCDF Providers (except those serving relatives)</p>
<p>Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care</p>	<p>The CDE is seeking a waiver.</p> <p>California has approved legislation to</p>

<p>services for children in the State/Territory</p>	<p>increase monitoring of licensed child care facilities which would otherwise occur at least once every five years. Effective January 1, 2017, all licensed child care facilities that are not inspected annually due to non-compliance will receive an inspection at least once every three years.</p> <p>If annual inspections for the approximate 45,000 licensed facilities in California were enacted through new legislation, it would require roughly 103 additional permanent staff positions and new infrastructure.</p> <p>If enacted California would phase-in implementation to allow sufficient time for staffing, training, expansion of program facilities and other logistics necessary to reach annual inspections. The estimated phase-in approach and cost would be:</p> <ul style="list-style-type: none">• Phase One –<ul style="list-style-type: none">○ Beginning January 2018○ \$2 million○ Implementation of inspections at least once every two years• Phase Two –<ul style="list-style-type: none">○ Beginning January 2019○ Implementation of annual inspections○ \$14 million○ Implementation of annual inspections• Ongoing Annual –<ul style="list-style-type: none">○ \$16 million○ 103.5 permanent positions○ Maintains annual inspections indefinitely <p>For license-exempt facilities, providers are not subject to monitoring regulation and state legislation would be necessary to implement this objective. Granting</p>
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	<p>California additional time to meet this requirement will allow the Legislature to consider taking action and enact laws for license-exempt providers, without disruption to the current delivery system for subsidized child care.</p>
<p>Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver</p>	<p>The CDE certifies that health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of this extension/waiver because California has always been the leader, through its current laws and regulations, in putting the safety and welfare of children first and concludes that this extension will not harm that goal.</p>
<p>Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act</p>	<p>Beginning January 1, 2017, all child care facilities that are not inspected annually due to non-compliance will receive a licensing inspection at least once every three years. If annual inspections were enacted through new legislation, the cost would exceed \$16 million for approximately 45,000 licensed facilities located in California. A phased-in approach over a period of years would be necessary to allow sufficient time for staffing, training, expansion of program facilities and other logistics of implementation.</p> <p>Effective January 1, 2017, child care facilities that are not subject to annual inspections will be visited at least once every three years.</p> <p>For license-exempt facilities, providers are not subject to regulation and state legislation would be necessary to implement this objective.</p> <p>As of the submission date of this letter no</p>

	legislative proposals have been issued.
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Section 6.2.3 Provider business practices.	
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Request	A waiver for one year upon the approval from the Secretary of the Administration for Children and Families
Unmet requirement(s)	a. Policies and practices are in place to strengthen provider's business practices
Describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory	The CDE is seeking a waiver to extend the amount of time needed for California to enact legislation to implement the provision of the Act. Granting this extension will allow California to improve services by continuing to fully serve the 400,000 children currently being served in the subsidized child care system with CCDF's assistance, as a penalty would only serve to impede California's ability to serve this important and underserved population.
Certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver	The implementation of this waiver will not compromise the health, safety and well-being of children served through CCDF. California has always been the leader, through its current laws and regulations, in putting the safety and welfare of children first and certifies that this extension will not harm that goal.
Describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act	California currently provides training for family child care providers, but not for all CCDF providers. Additional funding will need to be allocated in order to support a broadening of California's ability to provide training related to improving provider business practices. The Child Care Initiative Project meets the requirements for family child care providers. The Business

Rachel Schumacher, Director
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	Administration Scale and the Program Administrative Scale (McCormick) are a component of the QRIS.
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Please note that most of the above requirements will require legislative and gubernatorial approval. By granting this request for waivers, thus allowing California additional time to meet the requirements listed, the CDE can continue to work with the Legislature and Governor's Office to understand the requirements of the Act and introduce legislation to move toward compliance. Any sanctions related to the full administrative portion of the grant would result in a disruption of services to children and families. Of the five percent administrative allowance for the CCDF, the CDE is only authorized to spend about one and a half percent by the State of California. Once the CCDF regulations become final, the CDE will begin to promulgate regulations in order to move California toward compliance.

If you have questions regarding this subject, please contact Marguerite Ries, Education Administrator, Policy Office, Early Education and Support Division, by phone at 916-445-7349 or by e-mail at statepln@cde.ca.gov.

Sincerely,

/s/

(in lieu of the original signature assurance page in hard copy)
Debra McMannis, Director
Early Education and Support Division

DM:kb

cc: Abby J. Cohen, JD, Regional Program Manager, Region 9, Office of Child Care