

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1673**

---

---

**Introduced by Assembly Member Mitchell**

February 14, 2012

---

---

An act to amend Sections 8231, 8235, 8237, 8239, 8263, and 66060 of the Education Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1673, as amended, Mitchell. Child care: eligibility.

(1) Existing law, the Child Care and Development Services Act, administered by the State Department of Education, requires the Superintendent of Public Instruction to administer child care and development programs that offer a full range of services for eligible children from infancy to 13 years of age. Existing law also requires the Superintendent to administer all migrant child care and development programs which are available to children of migrant agricultural worker families, as defined.

This bill would require that once a child of a migrant agricultural worker family is enrolled in a migrant child care and development program that the child be deemed eligible for these services for a period of 12 months unless the child no longer resides in the state or the child is deceased.

(2) Existing law requires the Superintendent to administer all California state preschool programs, including full-day California state preschool program services for 3- and 4-year-old children.

This bill would require that once a 3- or 4-year-old child is certified as eligible for full-day California state preschool program services that

the child remain eligible for these services for a period of 12 months unless the child no longer resides in the state or the child is deceased.

(3) Existing law requires the Superintendent to administer all California state preschool programs, including part-day California state preschool program services for 3- and 4-year-old children. Existing law also provides that once a child is enrolled in a part-day California state preschool program that the child be deemed eligible for this program for the remainder of the program year.

This bill would *instead* require that once a child is enrolled in a part-day California state preschool program that the child be deemed eligible for this program for a period of 12 months unless the child no longer resides in the state or the child is deceased.

(4) Existing law requires the Superintendent to encourage state preschool program applicants or contracting agencies to offer full-day services through a combination of part-day preschool slots and part-day general child care and development programs. Existing law also provides that subsequent to enrollment, a child shall be deemed eligible for part-day care as long as the child is enrolled in a preschool program.

This bill would *instead* require that subsequent to enrollment, a child shall be deemed eligible for part-day care for a period of 12 months unless the child no longer resides in the state or the child is deceased.

(5) Existing law requires the Superintendent to adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement the Child Care and Development Services Act. Existing law requires families to meet at least one of the specified requirements in order to be eligible for federal and state subsidized child development services. Existing law also requires the Superintendent to establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement. The provisions related to eligibility apply to alternative payment programs, general child care and development programs, and the 3 stages of child care services available to recipients of aid under the California Work Opportunity and Responsibility to Kids Act.

This bill would require that, subsequent to certification of eligibility for federal and state subsidized child development services *and subject to a specified exception*, a child be deemed eligible for these services for a period of 12 months unless the child no longer resides in the state or the child is deceased.

(6) Existing law authorizes higher educational institutions to establish and maintain child development programs on or near their respective campuses. Existing law also requires that first priority for service be given to children of students of each campus operating a child development program.

This bill would require that, subsequent to enrollment, a child be deemed eligible for these services for ~~an~~ *one* academic year unless the child no longer resides in the state or the child is deceased.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Child care is critical to the healthy physical, cognitive, social,  
4 and emotional growth and development of children.

5 (b) Child care assistance not only enables parents to work but  
6 also allows parents to be more productive knowing that their  
7 children are in safe and stable settings.

8 (c) During difficult economic times it is particularly important  
9 to maintain continuity and consistency of stable child care  
10 environments for employed families.

11 (d) Adopting 12-month eligibility for federal and state subsidized  
12 child care and development programs, with limited interim  
13 reporting requirements, can promote sustained access to subsidies  
14 and continuous care arrangements for children.

15 (e) Adopting 12-month eligibility for federal and state subsidized  
16 child care and development programs will benefit child care  
17 providers who contribute to the education and nurturance of  
18 children and our economy, and simplify the administration of  
19 subsidies.

20 SEC. 2. Section 8231 of the Education Code is amended to  
21 read:

22 8231. (a) ~~For the purpose~~ *purposes* of this article, a “migrant  
23 agricultural worker family” means a family that has earned at least  
24 50 percent of its total gross income from employment in fishing,  
25 agriculture, or agriculturally related work during the 12-month  
26 period immediately preceding the date of application for child care  
27 and development services.

1 (b) Children of migrant agricultural worker families shall be  
2 enrolled in child care and development programs on the basis of  
3 the following priorities:

4 (1) The family moves from place to place.

5 (2) The family has qualified under paragraph (1) within the past  
6 five years and is currently dependent for its income on agricultural  
7 employment, but is currently settled near agricultural areas.

8 (3) The family resides in a rural agricultural area and is  
9 dependent upon seasonal agricultural work.

10 (4) Eligibility and priority for services for the federally funded  
11 Migrant Child Development Program shall be in accordance with  
12 the applicable federal regulations.

13 (c) Subsequent to enrollment, a child of a migrant agricultural  
14 worker family shall be deemed eligible for child care and  
15 development programs for a period of 12 months unless the child  
16 no longer resides in the state, or the child is deceased.

17 SEC. 3. Section 8235 of the Education Code is amended to  
18 read:

19 8235. (a) The Superintendent shall administer all California  
20 state preschool programs. Those programs shall include, but not  
21 be limited to, part-day and full-day age and developmentally  
22 appropriate programs for three- and four-year-old children in  
23 educational development, health services, social services,  
24 nutritional services, parent education and parent participation,  
25 evaluation, and staff development. Preschool programs for which  
26 federal reimbursement is not available shall be funded as prescribed  
27 by the Legislature in the Budget Act, and unless otherwise specified  
28 by the Legislature, shall not utilize federal funds made available  
29 through Title XX of the Social Security Act (42 U.S.C. Sec. 1397).

30 (b) Three- and four-year-old children are eligible for the part-day  
31 California state preschool program if the family meets at least one  
32 of the criteria specified in paragraph (1) of subdivision (a) of  
33 Section 8263.

34 (c) Notwithstanding any other law, a part-day California state  
35 preschool program may provide services to children in families  
36 whose income is no more than 15 percent above the income  
37 eligibility threshold, as described in Sections 8263 and 8263.1,  
38 after all eligible three- and four-year-old children have been  
39 enrolled. No more than 10 percent of children enrolled, calculated

1 throughout the participating program’s entire contract, may be  
2 filled by children in families above the income eligibility threshold.

3 (d) A part-day California state preschool program shall operate  
4 for a minimum of (1) three hours per day, excluding time for  
5 home-to-school transportation, and (2) a minimum of 175 days  
6 per year, unless the contract specifies a lower number of days of  
7 operation.

8 (e) Three- and four-year-old children are eligible for full-day  
9 California state preschool program services if the family meets at  
10 least one of the criteria specified in paragraph (1) of subdivision  
11 (a) of Section 8263, and the parents meet at least one of the criteria  
12 specified in paragraph (2) of subdivision (a) of Section 8263.  
13 Notwithstanding any other law, and subsequent to certification of  
14 eligibility, a three- or four-year-old child shall be deemed eligible  
15 for full-day California state preschool program services for a period  
16 of 12 months unless the child no longer resides in the state, or the  
17 child is deceased.

18 (f) A full-day California state preschool program shall operate  
19 (1) full time, determined by the number of hours necessary to meet  
20 the child care and development needs of families, and (2) a  
21 minimum of 246 days per year, unless the contract specifies a  
22 lower number of days of operation.

23 (g) Fees shall be assessed and collected for families with  
24 children in the full-day California state preschool program pursuant  
25 to subdivisions (g) and (h) of Section 8263. Fees shall not be  
26 assessed for families whose children are enrolled in the part-day  
27 California state preschool program.

28 (h) ~~Any~~ An agency described in subdivision (c) of Section 8208  
29 as an “applicant or contracting agency” is eligible to contract to  
30 operate a California state preschool program.

31 SEC. 4. Section 8237 of the Education Code is amended to  
32 read:

33 8237. A part-day California state preschool program contracting  
34 agency has 120 calendar days before the first day of the beginning  
35 of the new preschool year to certify eligibility and enroll families  
36 into ~~their~~ its program. Subsequent to enrollment, a child shall be  
37 deemed eligible for a part-day California state preschool program  
38 for a period of 12 months unless the child no longer resides in the  
39 state, or the child is deceased.

1 SEC. 5. Section 8239 of the Education Code is amended to  
2 read:

3 8239. The Superintendent shall encourage state preschool  
4 program applicants or contracting agencies to offer full-day  
5 services through a combination of part-day preschool slots and  
6 part-day general child care and development programs. In order  
7 to facilitate a full-day of services, all of the following shall apply:

8 (a) Part-day preschool programs provided pursuant to this  
9 section shall operate between 175 and 180 days.

10 (b) Part-day general child care and development programs  
11 provided pursuant to this section may operate a minimum of 246  
12 days per year unless the child development contract specified a  
13 lower minimum days of operation. Part-day general child care and  
14 development programs may operate a full-day for the remainder  
15 of the year after the completion of the preschool program.

16 (c) Full-day services provided under this section shall be  
17 reimbursed at no more than the standard reimbursement rate with  
18 adjustment factors.

19 (d) Notwithstanding any ~~provision of~~ *other* law, to be eligible  
20 for part-day child care, a child who is enrolled in a preschool  
21 program shall be required to meet the eligibility requirements  
22 specified in paragraph (4) of subdivision (a) of Section 8238.4 and  
23 the requirements pursuant to Sections 8263 and 8263.1 at the time  
24 of enrollment in a preschool. Subsequent to enrollment, a child  
25 shall be deemed eligible for part-day care for a period of 12 months  
26 unless the child no longer resides in the state, or the child is  
27 deceased.

28 SEC. 6. Section 8263 of the Education Code is amended to  
29 read:

30 8263. (a) The Superintendent shall adopt rules and regulations  
31 on eligibility, enrollment, and priority of services needed to  
32 implement this chapter. In order to be eligible for federal and state  
33 subsidized child development services, families shall meet at least  
34 one requirement in each of the following areas:

35 (1) A family is (A) a current aid recipient, (B) income eligible,  
36 (C) homeless, or (D) one whose children are recipients of protective  
37 services, or whose children have been identified as being abused,  
38 neglected, or exploited, or at risk of being abused, neglected, or  
39 exploited.

1 (2) A family needs the child care services (A) because the child  
2 is identified by a legal, medical, social services agency, or  
3 emergency shelter as (i) a recipient of protective services or (ii)  
4 being neglected, abused, or exploited, or at risk of neglect, abuse,  
5 or exploitation, or (B) because the parents are (i) engaged in  
6 vocational training leading directly to a recognized trade,  
7 paraprofession, or profession, (ii) employed or seeking  
8 employment, (iii) seeking permanent housing for family stability,  
9 or (iv) incapacitated.

10 (b) Except as provided in Article 15.5 (commencing with Section  
11 8350), priority for federal and state subsidized child development  
12 services is as follows:

13 (1) (A) First priority shall be given to neglected or abused  
14 children who are recipients of child protective services, or children  
15 who are at risk of being neglected or abused, upon written referral  
16 from a legal, medical, or social services agency. If an agency is  
17 unable to enroll a child in the first priority category, the agency  
18 shall refer the family to local resource and referral services to  
19 locate services for the child.

20 (B) A family who is receiving child care on the basis of being  
21 a child at risk of abuse, neglect, or exploitation, as defined in  
22 subdivision (k) of Section 8208, is eligible to receive services  
23 pursuant to subparagraph (A) for up to three months, unless the  
24 family becomes eligible pursuant to subparagraph (C).

25 (C) A family may receive child care services for up to 12 months  
26 on the basis of a certification by the county child welfare agency  
27 that child care services continue to be necessary or, if the child is  
28 receiving child protective services during that period of time, and  
29 the family requires child care and remains otherwise eligible. This  
30 time limit does not apply if the family's child care referral is  
31 recertified by the county child welfare agency.

32 (2) Second priority shall be given equally to eligible families,  
33 regardless of the number of parents in the home, who are income  
34 eligible. Within this priority, families with the lowest gross monthly  
35 income in relation to family size, as determined by a schedule  
36 adopted by the Superintendent, shall be admitted first. If two or  
37 more families are in the same priority in relation to income, the  
38 family that has a child with exceptional needs shall be admitted  
39 first. If there is no family of the same priority with a child with  
40 exceptional needs, the same priority family that has been on the

1 waiting list for the longest time shall be admitted first. For purposes  
2 of determining order of admission, the grants of public assistance  
3 recipients shall be counted as income.

4 (3) The Superintendent shall set criteria for and may grant  
5 specific waivers of the priorities established in this subdivision for  
6 agencies that wish to serve specific populations, including children  
7 with exceptional needs or children of prisoners. These new waivers  
8 shall not include proposals to avoid appropriate fee schedules or  
9 admit ineligible families, but may include proposals to accept  
10 members of special populations in other than strict income order,  
11 as long as appropriate fees are paid.

12 (c) Notwithstanding any other law, in order to promote  
13 continuity of services, a family enrolled in a state or federally  
14 funded child care and development program whose services would  
15 otherwise be terminated because the family no longer meets the  
16 program income, eligibility, or need criteria may continue to  
17 receive child development services in another state or federally  
18 funded child care and development program if the contractor is  
19 able to transfer the family's enrollment to another program for  
20 which the family is eligible before the date of termination of  
21 services or to exchange the family's existing enrollment with the  
22 enrollment of a family in another program, provided that both  
23 families satisfy the eligibility requirements for the program in  
24 which they are being enrolled. The transfer of enrollment may be  
25 to another program within the same administrative agency or to  
26 another agency that administers state or federally funded child  
27 care and development programs.

28 (d) In order to promote continuity of services, the Superintendent  
29 may extend the 60-working-day period specified in subdivision  
30 (a) of Section 18086.5 of Title 5 of the California Code of  
31 Regulations for an additional 60 working days if he or she  
32 determines that opportunities for employment have diminished to  
33 the degree that one or both parents cannot reasonably be expected  
34 to find employment within 60 working days and granting the  
35 extension is in the public interest. The scope of extensions granted  
36 pursuant to this subdivision shall be limited to the necessary  
37 geographic areas and affected persons, which shall be described  
38 in the Superintendent's order granting the extension. It is the intent  
39 of the Legislature that extensions granted pursuant to this  
40 subdivision improve services in areas with high unemployment

1 rates and areas with disproportionately high numbers of seasonal  
2 agricultural jobs.

3 (e) A physical examination and evaluation, including  
4 age-appropriate immunization, shall be required before, or within  
5 six weeks of, enrollment. A standard, rule, or regulation shall not  
6 require medical examination or immunization for admission to a  
7 child care and development program of a child whose parent or  
8 guardian files a letter with the governing board of the child care  
9 and development program stating that the medical examination or  
10 immunization is contrary to his or her religious beliefs, or provide  
11 for the exclusion of a child from the *child care and development*  
12 program because of a parent or guardian having filed the letter.  
13 However, if there is good cause to believe that a child is suffering  
14 from a recognized contagious or infectious disease, the child shall  
15 be temporarily excluded from the *child care and development*  
16 program until the governing board of the child care and  
17 development program is satisfied that the child is not suffering  
18 from that contagious or infectious disease.

19 (f) Regulations formulated and promulgated pursuant to this  
20 section shall include the recommendations of the State Department  
21 of Health Care Services relative to health care screening and the  
22 provision of health care services. The Superintendent shall seek  
23 the advice and assistance of these health authorities in situations  
24 where service under this chapter includes or requires care of  
25 children who are ill or children with exceptional needs.

26 (g) (1) The Superintendent shall establish a fee schedule for  
27 families utilizing child care and development services pursuant to  
28 this chapter, including families receiving services under paragraph  
29 (1) of subdivision (b). Families receiving services under  
30 subparagraph (B) of paragraph (1) of subdivision (b) may be  
31 exempt from these fees for up to three months. Families receiving  
32 services under subparagraph (C) of paragraph (1) of subdivision  
33 (b) may be exempt from these fees for up to 12 months. The  
34 cumulative period of time of exemption from these fees for families  
35 receiving services under paragraph (1) of subdivision (b) shall not  
36 exceed 12 months.

37 (2) The income of a recipient of federal supplemental security  
38 income benefits pursuant to Title XVI of the federal Social Security  
39 Act (42 U.S.C. Sec. 1381) and state supplemental program benefits  
40 pursuant to Title XVI of the federal Social Security Act (42 U.S.C.

1 Sec. 1381) and Chapter 3 (commencing with Section 12000) of  
2 Part 3 of Division 9 of the Welfare and Institutions Code shall not  
3 be included as income for the purposes of determining the amount  
4 of the family fee.

5 (h) The family fee schedule shall include, but not be limited to,  
6 the following restrictions:

7 (1) Fees shall not be assessed for families whose children are  
8 enrolled in the state preschool program.

9 (2) A contractor or provider may require parents to provide  
10 diapers. A contractor or provider offering field trips either may  
11 include the cost of the field trips within the service rate charged  
12 to the parent or may charge parents an additional fee. Federal or  
13 state money shall not be used to reimburse parents for the costs of  
14 field trips if those costs are charged as an additional fee. A  
15 contractor or provider that charges parents an additional fee for  
16 field trips shall inform parents, before enrolling the child, that a  
17 fee may be charged and that no reimbursement will be available.  
18 A contractor or provider may charge parents for field trips or  
19 require parents to provide diapers only under the following  
20 circumstances:

21 (A) The provider has a written policy that is adopted by the  
22 agency's governing board that includes parents in the  
23 decisionmaking process regarding both of the following:

24 (i) Whether or not, and how much, to charge for field trip  
25 expenses.

26 (ii) Whether or not to require parents to provide diapers.

27 (B) The maximum total of charges per child in a contract year  
28 does not exceed twenty-five dollars (\$25).

29 (C) A child shall not be denied participation in a field trip due  
30 to the parent's inability or refusal to pay the charge. Adverse action  
31 shall not be taken against a parent for that inability or refusal.

32 Each contractor or provider shall establish a payment system  
33 that prevents the identification of children based on whether or  
34 not their parents have paid a field trip charge.

35 Expenses incurred and income received for field trips pursuant  
36 to this section shall be reported to the department. The income  
37 received for field trips shall be reported specifically as restricted  
38 income.

39 (i) The Superintendent shall establish guidelines for the  
40 collection of employer-sponsored child care benefit payments from

1 a parent whose child receives subsidized child care and  
2 development services. These guidelines shall provide for the  
3 collection of the full amount of the benefit payment, but not to  
4 exceed the actual cost of child care and development services  
5 provided, notwithstanding the applicable fee based on the fee  
6 schedule.

7 (j) The Superintendent shall establish guidelines according to  
8 which the director or a duly authorized representative of the child  
9 care and development program will certify children as eligible for  
10 state reimbursement pursuant to this section.

11 (k) Notwithstanding any other law, and subsequent to  
12 certification of eligibility, a child shall be deemed eligible for  
13 federal and state subsidized child care and development services  
14 pursuant to this chapter, *except for the first stage of child care*  
15 *services provided pursuant to Section 8351*, for a period of 12  
16 months unless the child ~~on~~ no longer resides in the state, or the  
17 child is deceased.

18 (l) Public funds shall not be paid directly or indirectly to an  
19 agency that does not pay at least the minimum wage to each of its  
20 employees.

21 SEC. 7. Section 66060 of the Education Code is amended to  
22 read:

23 66060. (a) Notwithstanding any law to the contrary, higher  
24 educational institutions may establish and maintain child  
25 development programs on or near their respective campuses. Those  
26 higher educational institutions under contract with the State  
27 Department of Education for child care and development services  
28 pursuant to this chapter or Chapter 2 (commencing with Section  
29 8200) of Part 6 of Division 1 of Title 1 are subject to the rules and  
30 regulations adopted by the Superintendent.

31 (b) Children of students of each campus operating a child  
32 development program shall have first priority for service in that  
33 program, in accordance with the priorities established in  
34 subdivision (b) of Section 8263.

35 (c) Subsequent to enrollment, a child of a student at a campus  
36 operating a child development program shall be deemed eligible  
37 for child development program services for a period of one  
38 academic year unless the child no longer resides in the state, or  
39 the child is deceased.

1 (d) The higher educational institutions may institutionalize child  
2 development programs on their respective campuses for the purpose  
3 of incorporating child development programs into the missions  
4 and functions of the respective campuses.

5 (e) The Superintendent, in cooperation with higher educational  
6 institutions, shall establish rules and regulations governing *child*  
7 *development* programs operated pursuant to this section.

8 (f) It is the intent of the Legislature that a consortium composed  
9 of higher educational institutions be established by the institutions  
10 to improve communication and cooperation and to advise and  
11 assist the Superintendent in the development of rules and  
12 regulations and policies and procedures affecting child care and  
13 development programs. The Superintendent, in cooperation with  
14 the consortium, shall be responsible for ongoing communication  
15 with and dissemination of information to all campus child care  
16 and development agencies under contract with the State Department  
17 of Education.