# Report to the Legislature: Recommendations from the Individualized County Child Care Subsidy Pilot Program Flexibilities

**Prepared by the**

**California Department of Education**

Early Education Division

&

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Child Care and Development Division

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*Description:* Recommendations from the Individualized County Child Care Subsidy Pilot Program on which flexibilities should be adopted statewide and which flexibilities are no longer justified

*Authority*: Section 2 of Assembly Bill 1294 (Chapter 497, Statutes of 2021), California *Education Code* Section 8282.6

*Recipient(s)*:The California State Legislature

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## Executive Summary

This report is submitted in compliance with *Education Code* (*EC*) Section 8282.6, which was codified through the passage of Assembly Bill (AB) 1294 (Chapter 497, Statutes of 2021). The statute requires the California Department of Education (CDE) and the California Department of Social Services (CDSS), hereafter referred to collectively as the Departments, to review the existing individualized county childcare subsidy (pilot) plans and submit a report to the California State Legislature.

The Pilot Program was authorized by the Legislature to allow certain counties to adopt local policies (flexibilities) that supersede specified areas of statute or regulations. These flexibilities allowed pilot counties to overcome statutory and regulatory barriers to addressing local needs, thereby increasing access to care for vulnerable children and families and reducing unspent contract funds. This report includes recommendations on which pilot flexibilities should be adopted statewide and which are no longer justified given statewide policy changes.

The CDSS identified the following policy, given its success as a pilot flexibility, that the Legislature may wish to consider the policy implications of for adoption as state law:

1. Instituting 24-month eligibility for all CDSS-administered childcare programs, except the California Work Opportunity and Responsibility to Kids (CalWORKs) Stage 1 program

The CDE is not recommending any pilot flexibilities for adoption for the California State Preschool Program (CSPP).

Additionally, both the CDSS and the CDE identified the pilot flexibilities that are no longer justified due to the following changes in state policy:

* An increase in the income eligibility threshold, a change in the definition of a three-year-old, and elimination of the enrollment quota for four-year-old children were codified by AB 2626 (Chapter 945, Statutes of 2018).
* Process of rate reform to create a unified reimbursement rate structure for all early learning and care programs was initiated by AB 131 (Chapter 116, Statutes of 2021).
* 24-month eligibility for most childcare programs was codified by AB 210 (Chapter 62, Statutes of 2022) and Senate Bill (SB) 1047 (Chapter 923, Statutes of 2022).
* Changes to the threshold for full-time reimbursement were enacted by SB 140 (Chapter 193, Statutes of 2023), removing the need for pilot flexibilities that increase service hours for families who are subject to service limitations.

This report is available on the CDE Individualized County Child Care Subsidy Plan web page at <https://www.cde.ca.gov/sp/cd/ci/pilotprogram.asp> and the CDSS Individualized County Child Care Subsidy (Pilot) Program: Answers to Frequently Asked Questions (FAQ) web page at <https://www.cdss.ca.gov/inforesources/child-care-and-development/individualized-county-child-care-subsidy-program>.

## Background

### Authorization

Section 2 of AB 1294 (Chapter 497, Statutes of 2021), codified in *EC* Section 8282.6, requires the Departments to review the existing individualized county childcare subsidy (pilot) plans and submit a report to the Legislature with recommendations on which pilot flexibilities[[1]](#footnote-2) should be adopted statewide and which are no longer justified given statewide policy changes. This report is submitted to fulfill the requirements outlined in this bill.

While the CDE continues to operate the California State Preschool Program (CSPP), the Early Childhood Development Act of 2020 (SB 98, Chapter 24, Statutes of 2020) authorized the transfer of many childcare programs from the CDE to the CDSS effective July 1, 2021. Due to this transfer of programs, and as pilot plans include both CSPP and non-CSPP contracts, the Departments now jointly administer the Pilot Program and are required to coauthor this report.

### History of the Pilot Project

As Table 1: History of Pilot Legislation shows, the current pilot programs are the result of significant legislation over the years that shaped the intent, scope, and impact of the programs. Beginning in the early 2000s, San Mateo and San Francisco were authorized as the first two counties in California to implement pilot plans by AB 1326 (Chapter 691, Statutes of 2003) and SB 701 (Chapter 725, Statutes of 2005). Beginning in 2015, subsequent legislation, chronicled in the timeline below, authorized 11 additional counties to develop pilot plans, bringing the total to 13.

AB 1326, the San Mateo pilot bill, originated with local early learning and care (ELC) advocates and providers, and SB 701, the San Francisco pilot bill, originated with the City and County of San Francisco. The sponsors of both bills asserted that because San Mateo and San Francisco are high-cost counties, state policies for subsidized ELC programs did not reflect local differences in living costs; unemployment; and ELC demand, shortages, and costs, and were in some cases hindering access to ELC for working families in their counties. The legislation highlighted the example of eligibility based on a family’s income relative to the State Median Income (SMI) as being an inequitable benchmark for high-cost counties. Additional barriers cited included ELC providers struggling to fill subsidized slots due to the state subsidy being significantly lower than the actual cost of care, effectively reducing access to care, as well as resulting in unearned contract funds being returned to the State.

Subsequent legislation, detailed in the timeline below, ultimately authorized both San Mateo and San Francisco to continue their pilot plans indefinitely, indicating preliminary success in the form of increases in access to care as demonstrated by an increase in child days of enrollment[[2]](#footnote-3) as well as more efficient use of funds as demonstrated by reductions in unspent ELC funds returned to the State.

The success of the Pilot Program in San Mateo and San Francisco set a precedent, and 11 other counties were subsequently authorized to develop pilot plans using the same justification provided by San Mateo and San Francisco; specifically, that pilot flexibilities would increase both access to care and the efficient use of funds for these counties. State Senate and Assembly analyses of the bills that authorized these 11 counties cite state-centered, income-based eligibility as a barrier to accessing ELC programs and state-centered reimbursement rates inhibiting contractors’ ability to cover the cost of care.

The timeline below chronicles the legislation that authorized and modified the Pilot Project in the aforementioned 13 counties from 2003 to the present day.

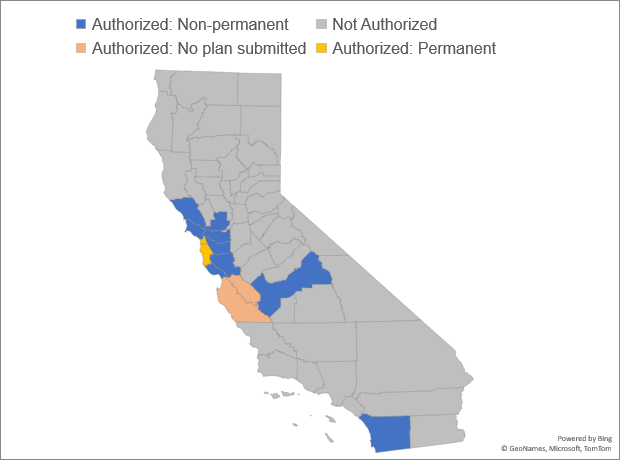
Table 1: History of Pilot Legislation

| **Year** | **Legislation** |
| --- | --- |
| 2003 | **AB 1326 (Chapter 691, Statutes of 2003)** created the San Mateo County Child Care Subsidy Pilot Project in October 2003. The county was authorized to implement this program until January 1, 2009, with a two-year phasing-out period that ran until January 1, 2011, and the county was required to submit annual reports on the success of the plan. |
| 2005 | **SB 701 (Chapter 725, Statutes of 2005)** created the San Francisco County Child Care Subsidy Pilot Project in September 2005. The county was authorized to implement this program until January 1, 2011, with a two-year phasing-out period that ran until January 1, 2013, and the county was required to submit annual reports on the success of the plan. |
| 2008 | **SB 1304 (Chapter 61, Statutes of 2008)** extended the San Mateo County Pilot authorization for five years so that the Pilot would sunset on January 1, 2014, with a phasing-out period that ran until January 1, 2016. |
| 2010 | **AB 1610 (Chapter 724, Statutes of 2010)** extended the San Francisco County Pilot authorization for two years so that the Pilot would sunset January 1, 2013, with a phasing-out period that ran until January 1, 2015, unless subsequent statute extended those dates. |
| 2012 | **SB 1016 (Chapter 38, Statutes of 2012)** extended the San Francisco County Pilot authorization for one more year. |
| 2013 | **AB 86 (Chapter 48, Statutes of 2013)** extended the San Francisco County Pilot for one more year.  **AB 260 (Chapter 731, Statutes of 2013)** extended the San Mateo County Pilot authorization for two additional years so that the Pilot would sunset January 1, 2018, unless subsequent statute repealed or extended this sunset date. |
| 2015 | **SB 103 (Chapter 324, Statutes of 2015)** repealed provisional language in statute that would have required the San Mateo County Pilot to sunset by January 1, 2018. This repeal allowed San Mateo to become a permanent pilot and maintained annual reporting requirements.  **AB 104 (Chapter 13, Statutes of 2015)** repealed provisional language in statute that would have required the San Francisco County Pilot to sunset by January 1, 2016. This repeal allowed San Francisco to become a permanent pilot and maintained annual reporting requirements.  **AB 833 (Chapter 563, Statutes of 2015)** authorized Alameda County to develop an individualized county childcare subsidy plan in partnership with the state and submit to the Legislature, the CDSS, and the CDE a report that contains specific information relating to the success of the county’s plan. This authorization was to remain in effect until January 1, 2021. |
| 2016 | **AB 2368 (Chapter 574, Statutes of 2016)** authorized Santa Clara County to develop an individualized county childcare subsidy plan in partnership with the state and submit to the Legislature, the CDSS, and the CDE a report that contains specific information relating to the success of the county’s plan. This authorization was to remain in effect until January 1, 2022. |
| 2017 | **AB 258 (Chapter 697, Statutes of 2017)** authorized, until January 1, 2023, Fresno County to develop an individualized county childcare subsidy plan.  **AB 377 (Chapter 701, Statutes of 2017)** authorized, until January 1, 2023, the counties of San Diego and Solano to develop and implement individualized county childcare subsidy plans.  **AB 300 (Chapter 699, Statutes of 2017)** authorized, until January 1, 2023, the counties of Monterey, San Benito, and Santa Cruz to develop individualized county childcare subsidy plans. |
| 2018 | **AB 108 (Chapter 7, Statutes of 2018)** consolidated the pilot statutes of Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Clara, Santa Cruz, Solano, and Sonoma; systemized and streamlined the modification process and plan requirements; and identified new reporting requirements. These pilot programs are to remain in effect until July 1, 2023. Reporting requirements were changed to every three years for both permanent pilot counties (San Mateo and San Francisco).  **AB 2626 (Chapter 945, Statutes of 2018)** codified several pilot flexibilities, including an increase in the income eligibility threshold for subsidized ELC programs and a change in the definition of a three-year-old, and elimination of the enrollment quota for four-year-old children in state preschool. |
| 2020 | **SB 98 (Chapter 24, Statutes of 2020),** the Early Childhood Development Act of 2020, authorized the transfer of many childcare programs from the CDE to the CDSS effective July 1, 2021. As a result, the Pilot Program became jointly administered by the CDE and the CDSS. |
| 2021 | **AB 131 (Chapter 116, Statutes of 2021)** extended the authorization for the Alameda County pilot program, which was set to sunset in 2021, to June 30, 2023, to align with the sunset date of the other nine counties as authorized in AB 108.  **AB 1294 (Chapter 497, Statutes of 2021)** extended the authorization for the Santa Clara County pilot program, which was set to sunset in 2022, to June 30, 2023, to align with the sunset date of the remainder of the temporary pilot counties as authorized in AB 108. Additionally, AB 1294 required the CDE and CDSS to submit a report to the Legislature with recommendations on which pilot flexibilities should be adopted statewide and which are no longer justified due to changes in state policy. |

### Intent and Scope of Pilot Program

Of the 58 counties in California, 13 have been authorized to participate in the Pilot Program. San Francisco and San Mateo have been authorized indefinitely and are referred to in this report as authorized permanent pilot projects to distinguish them from the 11 authorized counties for which the statute specifies an expiration date (see Figure 1: Pilot Counties Across California). The 11 authorized non-permanent pilot county projects are Alameda, Contra Costa, Fresno, Marin, San Diego, Santa Clara, Santa Cruz, Sonoma, and Solano, which have active pilot plans. San Benito and Monterey are authorized to participate but currently do not have active pilot plans.

Figure 1: Pilot Counties Across California



[Figure 1: Link to long description](#Figure1)

The intent of the Pilot Program was to allow authorized counties the ability to adopt pilot flexibilities that overcome statutory and regulatory barriers and address local needs. Pilot flexibilities are local policies that supersede state law with regard to eligibility criteria, fees, reimbursement rates, and methods of maximizing the efficient use of subsidy funds. In adopting certain pilot flexibilities, the county would be able to fill more ELC slots and reduce unearned funds, with the desired result of increasing access to care without requiring any additional funding from the State. Thus, the flexibilities allowed through the Pilot Program are designed to provide a benefit for the State and the authorized county by increasing access to care and maximizing the efficient use of funds.

### Current Pilot Statute

As demonstrated in Table 1: History of Pilot Legislation, the pilot’s legislative history is extensive. During this time, and as the Legislature attempted to align pilot programs and requirements in a more systematic way, some requirements have been authorized in law and subsequently repealed.

The pilot statute was initially codified solely in *EC*; after the transfer of many childcare programs to CDSS, all statutory provisions were mirrored in the *Welfare and Institutions Code* (*WIC*)*.* Within the pilot plans, *EC* applies to CDE contract types[[3]](#footnote-4) and WIC applies to all CDSS contract types.[[4]](#footnote-5) The following are the statutory sections currently in effect within the *EC* and the *WIC*:

* *WIC* sections 10340–10349 and *EC* sections 8273–8282.6: Statute that authorizes Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Cruz, Santa Clara, Solano, and Sonoma counties to implement pilot plans until June 30, 2023.
* *WIC* sections 10350–10356 and *EC* sections 8283–8288.5: Statute that authorizes the City and County of San Francisco to implement a pilot plan indefinitely.
* *WIC* sections10360–10366 and *EC* sections 8289–8294.5: Statute that authorizes the County of San Mateo to implement a pilot plan indefinitely.

### Pilot Plans

#### Plan Development

The statute allows counties participating in the Pilot Program the ability to develop unique policies that fit their needs and goals, referred to in this report as pilot flexibilities. Pilot flexibilities are authorized to supersede statutes regarding eligibility criteria, fees, reimbursement rates, and methods for maximizing the efficient use of subsidy funds. The intent of a pilot flexibility is to overcome regulatory barriers and to help the county achieve its desired outcomes for subsidized ELC programs and increase access to care for children and families. Pursuant to *WIC* Section 10342 and *EC* Section 8275, each county was required to submit an initial pilot plan, including a local needs assessment conducted by the county to understand barriers and systemic issues that negatively impact vulnerable children and families' access to subsidized ELC programs. Additionally, the plan includes a list of participating contractors that chose to opt in as a pilot contractor in the county to benefit from those flexibilities. Each county was also required to identify measurable outcomes to evaluate the success of the plan to achieve the county’s ELC goals and to overcome any barriers identified in California’s ELC subsidy system.

#### Plan Modification Periods

Statute permits counties with approved pilot plans to request modifications to the plan. A pilot modification can consist of either a proposed pilot flexibility to adopt or remove from their plan or a request to remove or add a contractor that would like to opt in or out of participating in the pilot plan.

AB 108 (Chapter 7, Statutes of 2018) required that the CDE “establish instructions and timelines for submission or modifications of the plans” (*WIC* Section 10343 and *EC* Section 8276). Prior to AB 108, pilot counties could submit pilot modifications at any point during the year. In response to this statutory requirement, the CDE established a pilot plan template and two annual modification periods in February and June.

The intent of establishing specific periods for submission requests and a template with common policies was to streamline the Pilot Program and reduce the administrative burden for the State. Modification requests are submitted jointly to the Departments, and the Departments coordinate responses and address requests specific to the programs they administer.

#### Pilot Reporting

Statute requires the pilot counties to regularly report on their success to the Departments and the Legislature and for the Departments to develop the template to be used for reporting. The purpose of these reports is to detail the success of the county’s plan and the county’s ability to maximize the use of funds and to improve and stabilize ELC in the county. Additionally, legislation required all pilot counties to report on a common benchmark to ensure the pilot counties were increasing access to care, which is defined as an increase in enrollment within the first year of implementation as compared to a specified baseline year. The baseline year for each county was defined as the fiscal year (FY) prior to implementation of the plan.

Accordingly, the Departments developed a template for counties to report on the overall success of the plan as well as:

* Enrollment data demonstrating that there was no reduction in the number of children served in the first year of the plan compared to the number of children served in the specified baseline year before plan implementation.
* Performance of each pilot flexibility based on measurable outcomes identified in the pilot plan.
* Records of programmatic and fiscal compliance, including the percentage of unearned funds returned to the State.

Pursuant to [*WIC* Section 10346](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC&sectionNum=10346.) and [*EC* Section 8279](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=8279&lawCode=EDC), authorized non-permanent pilot counties currently participating in the Pilot Program are required to report at the end of years one, three, and five of the plan.

San Francisco and San Mateo, as authorized permanent pilot counties, are required to report at least once every three years, per [*WIC* Section 10364](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC&sectionNum=10364.) and [*EC* Section 8293](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=8293.&lawCode=EDC) for San Mateo and [*WIC* Section 10353](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC&sectionNum=10353.) and [*EC* Section 8286](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=8286.&lawCode=EDC) for San Francisco.

Pilot reports are an essential tool for both the Departments and pilot counties to measure and report on the success of the plan. Per statute, the Departments are required to review county reports and determine whether to allow the plan to continue as designed or to recommend modifications to improve its effectiveness. The Departments work in collaboration to ensure the plans meet statutory requirements and deliver quality technical assistance to support the development of the plan based on the evolving needs of the county.

## Summary of Pilot Flexibilities

### Statute Superseded by Pilot Flexibilities

*EC* sections 8275(b)(2)(C), 8284(b)(3), and 8291(b)(3) and *WIC* sections 10342(a)(2)(C), 10351(b)(3), and 10362(b)(3) outline the specific factors with regards to which pilot flexibilities may supersede state law. Given recent changes in statewide law, flexibilities for some factors are no longer justified since they are allowable in statute. The following are areas in which pilot counties still have the flexibility to supersede state law.[[5]](#footnote-6)

**Eligibility Criteria** (only applicable to the non-permanent pilot counties)

The State determines access to subsidized ELC programs based on a system of eligibility and priority. Due to limited State appropriations for this purpose, not all eligible children will be able to receive care. Within the current system, specified groups are categorically eligible for care, and some programs additionally require a demonstrated need for care. Eligible children are filtered through a system of priorities that also modifies access to care. Pilot flexibilities within this area may modify criteria based on age, family size, time limits, income level, special needs considerations, and other criteria.

**Fees**

Statute requires that all families receiving ELC services are assessed a single flat monthly fee at enrollment and re-certification and exempts certain families from paying a fee. Pilot flexibilities within this area may modify family fees, sliding scale fees, copayments for families that aren’t income-eligible, and other types of fees.

**Reimbursement Rates**

Subsidized ELC providers are reimbursed for the services they provide by the State according to a reimbursement system established by the Departments. Reimbursement rates vary by length of the program year and hours of service and are also modified by adjustment factors that are granted based on serving certain categories of children. Pilot flexibilities within this area may modify the reimbursement rate as well as adjustment factors.

**Methods of Maximizing the Efficient Use of Subsidy Funds**

Subsidized ELC providers enroll and serve eligible children either through vouchers or direct contracts with the State. Providers with direct contracts are contracted to fill a specified number of ELC slots and are initially reimbursed based on projected earnings calculated according to their reimbursement rate and the number of slots assigned. Providers are reimbursed for services in monthly apportionments based on these projected earnings. Actual earnings are calculated based on year-end reporting of enrollment, attendance, and fiscal data and, in cases where there is a discrepancy between projected and actual earnings, providers return excess subsidy funds to the state. Pilot flexibilities that maximize the efficient use of subsidy funds may include (but are not limited to) multiyear contracting with the Department for center-based childcare and interagency agreements that allow for flexible and temporary transfer of funds among agencies.

### Pilot Flexibilities

Throughout the implementation of the Pilot Program, pilot counties have developed their plans through the initial plan approval process and through the modification periods. Over time, each pilot county has an approved collection of flexibilities that supersede state law. As a result, each pilot county is unique in that they each have a specific collection of flexibilities approved and implemented to address each county’s specific needs at the local level.

The tables below outline all the pilot flexibilities that have been approved since the inception of the Pilot Program. Table 2: Active Pilot Flexibilities includes pilot flexibilities that are active and the statute or regulations they supersede. Table 3: Non-Active Pilot Flexibilities includes the flexibilities that are not active due to statewide policy changes, including changes in statute to codify, supersede, or eliminate the need for them.

Table 2: Active Pilot Flexibilities

| **Pilot Flexibility** | **Superseded Law** |
| --- | --- |
| **24-month eligibility for voucher-based CalWORKs programs**  A family shall be considered to meet all eligibility and need requirements for subsidized child development services, for not less than 24 months, with the exception that children who are 12 years old at the time of initial certification or recertification shall only be certified for 12-month eligibility. | At the time this flexibility was adopted, the statute granted 12-month eligibility for CSPP as well as all CDSS programs. Due to the enactment of AB 210, and SB 1047 (Chapter 923, Statutes of 2022), granting 24-month eligibility to CSPP as well as most CDSS childcare programs, this pilot policy is only active for voucher-based CalWORKs programs that are still subject to 12-month eligibility (*WIC* 10271). |
| **Increase service hours: seeking employment[[6]](#footnote-7)** (full-time services and reimbursement)  Families whose only basis of need is “seeking employment” may be certified for no more than five days per week and up to 6.5 hours per day and/or 32.5 hours per week. | In *California Code of Regulations*, Title 5 (5 *CCR*) sections 17766 and 18086.5, families enrolling with “seeking employment” as their need are limited to receiving services for no more than five days per week and for less than 30 hours per week (part-time services and reimbursement). |
| **Increase service hours: seeking permanent housing[[7]](#footnote-8)** (full-time services and reimbursement)  Families whose only basis of need is “seeking permanent housing for family stability” may be certified for no more than five days per week and up to 6.5 hours per day and/or 32.5 hours per week. | In 5 *CCR* sections 17772 and 18091, families enrolling with “seeking permanent housing” as their need are limited to receiving services for no more than five days per week and for less than 30 hours per week (part-time services and reimbursement). |
| **Increase in provider reimbursement rates**  County pilot contractors are able to pool together unspent contract funds to increase provider rates. | Pursuant to *EC* 8242 and *WIC* 10280, commencing January 1, 2022, contractors who, as of December 31, 2021, received the standard reimbursement rate (SRR) shall be reimbursed at the greater of the following: the 75th percentile of the 2018 regional market rate survey or the contract per child reimbursement amount as of December 31, 2021, as increased by the cost-of-living adjustment. |
| **120-day certification of eligibility**  Allow contractors with full-day CSPP and/or CHAN to certify eligibility, need, and enroll families 120 calendar days prior to the first day of services in these programs. | Pursuant to 5 *CCR* sections 17752 and 18118, contractors are allowed 30 days to certify eligibility. |
| **Contract funds transfer** Agencies may request transfers of contract funds outside of the specified windows. | Pursuant to *EC* 8256(b) and *WIC* 10300.5, which authorizes the Departments to establish timelines for interagency contract fund transfers, the Departments established two annual periods in November and May. |
| **Targeted elimination of family fees**  For CSPP contracts, eliminate family fees for families “experiencing homelessness.” | *EC* 8252 requires that families be assessed a flat monthly fee for early childhood services received, according to the most recent family fee schedule. *EC* 8253 exempts certain families from paying a family fee, including recipients of CalWORKs cash aid, families with children receiving Child Protective Services (CPS) or at risk, and families with children in part-day CSPP. |
| **Sibling preference in enrollment**  Reinstate sibling preference in enrollment after CPS or at-risk children. | *EC* 8210(a) and 8211(a) and *WIC* 10271(b) specify eligibility priorities for enrollment; sibling preference is not one of these priorities.  *EC* 8210(b) and 8211(b) and *WIC* 10271(b)(3) allow the Departments to grant specific waivers for the established priorities.  This pilot flexibility allows for sibling preference to be included in eligibility priorities without requiring a waiver. |
| **Remove age limitations for adjustment factors**  General Child Care (CCTR) contractors are allowed to claim the Limited and Non-English Proficient adjustment factor for all children. | *WIC* 10281.5(c)(6) states, “Prior to January 1, 2022, for dual language learner[[8]](#footnote-9) children who are two years of age through kindergarten age, inclusive, the adjustment factor shall be 1.1.”  SB 168 (Chapter 261, Statutes of 2021) and a subsequent state letter to the Joint Legislative Budget Committee authorized the use of this adjustment factor beyond January 1, 2022, while rate reform is pursued. |

Table 3: Non-Active Pilot Flexibilities

| **Pilot Flexibility** | **Changes in statute that superseded or eliminated the need for the flexibility** |
| --- | --- |
| **Definition of a three-year-old**  The definition of a three-year-old for purposes of age eligibility for CSPP is as follows: Children who will have their third birthday on or before December 2 of the FY in which they enroll or who turned three after December 1 and are allowed to enroll on their third birthday. | AB 2626 codified this definition of a three-year-old, which replaced the previous definition that defined three-year-olds as having their third birthday on or before September 1 of the FY in which they enroll in CSPP. |
| **24-month eligibility for all childcare programs except voucher-based CalWORKs programs**  Children enrolled in part-day CSPP may be eligible for up to two 180-day periods within a 24-month period without the family being certified as a new enrollment each year.  Children enrolled in full-day programs shall be considered to meet all eligibility and need requirements for subsidized child development services for not less than 24 months. | AB 210 amended *EC* to grant 24-month eligibility for part-day and full-day CSPP.  SB 1047 amended *WIC* to grant 24-month eligibility for all CDSS childcare programs except voucher-based CalWORKs programs, which are still subject to 12-month eligibility. |
| **Eligibility threshold at 85 percent SMI**  For purposes of establishing initial income eligibility, “initial income eligible” means that a family's monthly adjusted income is at or below 85 percent. | AB 2626 raised the income eligibility threshold to 85 percent of SMI for all childcare programs.  AB 210 subsequently raised the threshold to 100 percent of SMI for CSPP only. |
| **Four-year-old children enrollment quota**  Eliminate the requirement that at least one-half of enrolled children at a preschool site are four-year-olds. | AB 2626 eliminated the following provision from statute:  Requires, for CSPPs operating with funding that was initially allocated in a prior FY, at least half of the children enrolled at a preschool site to be four years old, with certain exceptions, as specified [*EC* 8236(b)]. |
| **Claiming adjustment factors**  High-rate school districts are allowed to claim adjustment factors. | At the time this flexibility was adopted, *EC* included the provision below, which has since been eliminated from statute.  The adjustment factors described in paragraphs (5) and (6) of subdivision (c) shall apply only for full-day preschool programs and those part-day preschool programs for which assigned reimbursement rates are at or below the SRR *(EC* 8265.5). |

Table 4: Active Pilot Flexibilities by County (below) represents the active pilot flexibilities adopted by each pilot county, demonstrating which pilot flexibilities overall were most widely adopted and currently implemented and in effect on the county level.

Table 4: Active Pilot Flexibilities by County

Y = Adopted in the county

N = Not adopted in the county

| **Pilot Flexibility** | **Alameda** | **Contra Costa** | **Fresno** | **Marin** | **San Diego** | **San Francisco**  **Anc**  **i**  **co** | **San Mateo** | **Santa Clara** | **Santa Cruz** | **Solano** | **Sonoma** | **Total** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 24-month eligibility for voucher-based CalWORKs programs | Y | Y | Y | Y | N | Y | Y | Y | Y | N | Y | 9 |
| Increased service hours: seeking permanent housing | Y | N | Y | Y | N | Y | Y | Y | N | Y | Y | 8 |
| Increased service hours: seeking employment | Y | N | Y | Y | N | Y | Y | Y | N | Y | Y | 8 |
| Increased provider reimbursement rate | Y | Y | N | N | Y | Y | Y | Y | N | N | Y | 7 |
| 120-day certification of eligibility | Y | N | N | N | N | Y | Y | Y | N | N | N | 4 |
| Contract funds transfer outside of specified windows | Y | N | N | N | Y | N | N | N | N | N | N | 2 |
| Targeted elimination of family fees | N | N | N | N | N | Y | N | N | N | N | N | 1 |
| Sibling preference in enrollment | Y | N | N | N | N | N | N | N | N | N | N | 1 |
| Claiming adjustment factors | Y | N | N | N | N | N | N | N | N | N | N | 1 |

Additionally, while each pilot county has a unique combination of policies, pilot counties often collaborate, share best practices, and explore similar approaches for developing common local flexibilities that increase access to care. With 11 authorized counties with an active pilot plan, the Departments have determined that a common flexibility is one where at least a third of the pilot counties have that flexibility approved, active, and implemented on a county-wide basis.

Figure 2: Active Common Pilot Flexibilities (below) shows the frequency with which pilot counties adopted a similar local policy highlighting common flexibilities that are desired in multiple regions across the state and are currently in effect. Since the Departments are tasked with providing recommendations on which flexibilities should be adopted statewide, this pie chart serves to clarify which pilot flexibilities should be considered based on the ability to measure the impact of these flexibilities across a statistically significant number of pilot counties.

Figure 2: Active Common Pilot Flexibilities[[9]](#footnote-10)

[Figure 2: Link to long description](#Figure2)

To summarize, two factors have emerged throughout the development and implementation of the Pilot Program: (1) counties are authorized to individually develop and implement a variety of pilot flexibilities, each specific to its own goals and local needs, creating a unique Pilot Program for each individual county; (2) certain pilot flexibilities have proven to be more necessary among multiple counties statewide than other pilot flexibilities, thus creating commonalities among various pilot counties in what flexibilities best address local needs in different regions, all with unique challenges in the shared goal to increase access to care for vulnerable children and families.

## Analysis of Pilot Flexibilities

### Challenges

During the work on this report, the Departments and counties were met with challenges to ensure clear and timely reporting. The preparation of this report necessitates a thorough analysis of the pilot flexibilities in order to provide recommendations on which pilot flexibilities should be adopted statewide and which pilot flexibilities are no longer justified due to being allowable and codified by statute.

The coronavirus disease 2019 (COVID-19) pandemic affected all aspects of life on a global level, and that included a substantial impact on subsidized ELC programs in California. It presented a significant challenge to this analysis; it is difficult to assess each policy’s impact on increasing access to subsidized care at a time in which the pandemic resulted in dramatic decreases in enrollment. Two of the years evaluated within this report, FYs 2019–20 and 2020–21, were significantly affected by the pandemic.

Pilot county reporting was also affected, with hardships imposed by the transition to remote work for many Local Planning Council Pilot Coordinators, who are responsible for the administration of the Pilot Program at the county level, including pilot reporting. Contractors faced additional work imposed as a result of the pandemic, including navigating the challenges of adapting services, site closures, and difficulties in hiring or retaining staff. This presented a challenge to meet mandated reporting requirements in a timely manner and to achieve the intended outcomes of the pilot flexibilities. The Departments were responsive to these challenges and provided contractors flexibility to meet reporting requirements, including allowing late submissions and providing extensive technical assistance.

### Impact of the Pilot Plans on Access to Subsidized Programs

In order to determine which pilot flexibilities would be beneficial to all counties and could then be adopted statewide, the Departments conducted a thorough analysis of the impact of these flexibilities on removing barriers and increasing access to subsidized ELC programs. This analysis included an assessment based on measurable outcomes defining the success of each flexibility as well as consistency with statewide ELC goals. The Departments also reviewed the Pilot Evaluation Reports submitted by the counties in 2022 for any additional context to consider during analysis.[[10]](#footnote-11)

The Departments’ analysis, as well as the information provided in the Pilot Evaluation Reports, relied on data from the fiscal and child-, family-, and provider-level data systems utilized by the Departments. Population data detailing enrollment information, such as enrollment retention rates and the number of children within certain need categories, come from the Child Development Management Information System (CDMIS).[[11]](#footnote-12) Fiscal data detailing the number of child days of enrollment as well as contract earnings come from the Child Development Provider Accounting Reporting Information System (CPARIS).[[12]](#footnote-13)

As detailed in the History of the Pilot Project section, pilot counties have different authorization dates; likewise, they adopted pilot flexibilities at different points in time. In order to streamline the analysis, the Departments evaluated data from FYs 2018–19, 2019–20, and 2020–21, which were identified as reporting years one, two, and three, respectively, based on a five-year pilot period ending in June 2023. This aligns with the requirements of AB 108, which streamlined reporting requirements for all non-permanent pilot counties regardless of differences in the timeline of implementation. For comparative analysis, the Departments evaluated data from the year prior to implementation of the pilot plan as well as the year prior to the implementation of each pilot flexibility, both of which vary by county.

#### Increase in Child Days of Enrollment

One of the key metrics to evaluate the overall success of the pilot plans in increasing access to care is fluctuations in the aggregate child days of enrollment of all county pilot contractors, as an increase indicates the county is serving more children. Pursuant to *EC* section 8278 and *WIC* section 10345, non-permanent pilot counties must demonstrate an increase in child days of enrollment in the first fiscal year of operation when compared to their baseline year, which is defined as the year prior to the development and implementation of the pilot plan. While not mandated in statute, as it pertains to this report, the Departments decided to analyze the pilot plans by reviewing data from the counties’ baseline year prior to pilot plan implementation and in comparison to year one to determine its immediate local impact as well as comparing the baseline year to year three to determine the sustainability of the plan over a period of years as it relates to the goal of increasing access to care for families in the county.

Figure 3: Fourth Quarter Pilot County Child Days of Enrollment Across Fiscal Years (below) shows child days of enrollment data for non-permanent pilot counties in years one and three as well as in each county’s baseline year. Through this analysis, it was found that due to the COVID-19 pandemic during FY 2020–21 (or year three of the Pilot Program), Alameda, Contra Costa, Marin, San Diego, Santa Clara, Santa Cruz, Sonoma, and Solano counties demonstrated a decrease in child days of enrollment. The counties stated in their individual reports that they do not believe this decrease is an accurate representation of the effect these pilot flexibilities have in their counties. The Departments share this concern due to the number of facility closures during these fiscal years and the overall enrollment numbers decreasing as a result.

The graph below provides a visualization of this data and whether pilot counties were able to demonstrate an increase in aggregate child days of enrollment at different intervals of the program.[[13]](#footnote-14)

Figure 3: Fourth Quarter Pilot County Child Days of Enrollment Across Fiscal Years[[14]](#footnote-15)

[Figure 3: Link to long description](#Figure3)

There are several takeaways from each county, which are listed below:

* Fresno County demonstrated a consistent increase in child days of enrollment throughout the duration of the pilot program.
* Contra Costa, Marin, Santa Cruz, Solano, and Sonoma counties demonstrated an increase in child days of enrollment from the baseline year to FY 2018–19 but then demonstrated a decrease in FY 2020–21. However, this decrease can be attributed to the COVID-19 pandemic, as discussed above.
* Alameda, San Diego, and Santa Clara counties demonstrated a consistent decrease in child days of enrollment throughout the reporting years as stipulated in AB 108. While this can be attributed to the COVID-19 pandemic in FY 2018–19, their decrease from the baseline year to FY 2018–19 cannot be explained by the pandemic.
  + **Alameda County:** In their Pilot Evaluation Report, Alameda County attributed the drop-in child days of enrollment from the baseline year to FY 2018–19 to the methodology of the evaluation. Pursuant to *EC* 8278 and *WIC* 10345, the Departments evaluated child days of enrollment in the final quarter of each evaluation year. However, in their Pilot Evaluation Report, Alameda indicated a 2.6 percent increase during this timeframe when evaluating aggregate child days of enrollment for the entire fiscal year.
  + **San Diego County:** In their Pilot Evaluation Report, San Diego County attributed its drop-in child days of enrollment from the baseline year to FY 2018–19 to the fact that none of its pilot flexibilities were active in FY 2018–19. Thus, the impact of their pilot plan on child days of enrollment cannot be evaluated until FY 2019–20, when the flexibilities began to be implemented.
  + **Santa Clara County:** Santa Clara County’s drop-in child days of enrollment from the baseline year to FY 2018–19 can be partially explained by a decrease in contractors from the baseline year to FY 2018–19. Santa Clara County indicated in its Pilot Evaluation Report that several contractors operating in their baseline year were no longer in operation as of FY 2018–19, thus lowering the overall child days of enrollment in this period.

### Methodology

The table below details the measurable outcomes used to evaluate the success of pilot flexibilities the Departments considered relevant for statewide adoption and the methodology used for measuring these outcomes. Per *EC* Section 8275(b)(4) and *WIC* Section 10342(a)(4), measurable outcomes “evaluate the success of the plan to achieve the county’s childcare goals, and to overcome any barriers identified in the state’s childcare subsidy system.” Data used to assess the measurable outcomes come from the CDMIS. The Departments did not evaluate the measurable outcomes of the flexibilities no longer justified given changes in statewide policy as they have already been adopted statewide or are no longer necessary. Additionally, as previously stated in the analysis, pilot flexibilities adopted by fewer than one-third of the 11 counties with active pilot plans were excluded due to a lack of statistical significance.

Figure 4: Pilot Flexibility Measurable Outcomes

| **Pilot Flexibility** | **Measurable Outcome(s)** | **Methodology** |
| --- | --- | --- |
| 24-month eligibility | Enrollment retention rate | Calculated by dividing the total number of unique enrollments from the previous year by the total number of unique enrollments for that FY. |
| 120-day certification of eligibility | The reduced administrative burden for processing applications | Calculated by assessing the number of enrollment applications providers were required to process per day during a high-volume enrollment period. |

## Recommendations

While the Pilot Program is beneficial to participating counties, other counties throughout the state also deserve consideration from an equity standpoint to benefit from the ability to implement policies that can help vulnerable children and families in their counties as well. Therefore, the main focus of this report is to determine which policies are working well in existing pilot counties and would benefit those counties currently not authorized to participate in the Pilot Program.

AB 1294 imposed statutory requirements with the addition of *EC* Section 8282.6, which required the Departments to make recommendations on which pilot flexibilities should be considered for adoption statewide. In the same provision, *EC* Section 8282.6(a)(3) stated that the Departments shall consider administrative burden for both the Departments and counties in the recommendations.

### Administrative Burden

First, the Departments acknowledge that there will be administrative and operational considerations to implement changes statewide. There will be implementation costs upon enacted legislation and ongoing costs for staff at each department. Initial year costs would include developing guidance (management bulletins, frequently asked questions, etc.), answering questions from the field, developing and conducting ongoing training, and providing technical assistance through webinars and in person throughout the state. Ongoing work would include drafting and/or updating regulations to clarify these policy changes. In terms of administrative workload for counties, additional training will be needed for local contractors in non-pilot counties and contractors in pilot counties not currently participating in the county pilot program.

Overall, the additional administrative and operational considerations may be overcome with the appropriate resources and costs and scaling to implement statewide-specific pilot flexibilities that have demonstrated success to be beneficial to vulnerable children and families. Therefore, the Department(s) recommend the following pilot flexibilities to the Legislature for consideration to be adopted statewide:

### Part 1: Pilot Flexibilities Recommended for Statewide Consideration

When reviewing the success of Pilot Programs, the Departments measured each pilot’s flexibility using data from the CDMIS database. This allowed the Departments to conduct an independent analysis apart from what pilot counties reported to ensure that all recommended pilot flexibilities have been thoroughly vetted for potential success statewide. The Departments identified pilot flexibilities that have the potential to provide benefits for all counties statewide based on the degree to which each pilot flexibility met its measurable outcome and succeeded in overcoming local barriers and increasing access to subsidized ELC programs.

The CDSS identified the following policy, given its success as a pilot flexibility, that the Legislature may wish to consider the policy implications of for adoption as state law:

* Institute 24-month eligibility for all CDSS-administered childcare programs except the California Work Opportunity and Responsibility to Kids (CalWORKs) Stage 1 program, which has a different process for eligibility.

The CDE is not recommending any of the CSPP pilot flexibilities for statewide adoption in CSPP.

#### Pilot Flexibilities Suggested by the CDSS for Consideration:

**24-month eligibility for CalWORKs Stage 2 (C2AP) and 3 (C3AP) programs (which would reflect alignment with CDE/CSPP policy)[[15]](#footnote-16)**

Projected Fiscal Impact: No Cost

Nine counties requested and were approved for a pilot flexibility that authorized eligibility for services for children and families for up to 24 months. This policy supersedes *WIC* Section 10271(h)(1), which authorizes 12-month eligibility for services where families do not have to recertify eligibility for 12 months regardless of changes to status. This extension of eligibility for services reduced administrative burden on providers and families, an identified barrier to childcare reported by counties as various factors contributed to why some vulnerable families did not return to certify their child or children for childcare services (e.g., transportation issues, money, family challenges, etc.).

To determine whether this policy was successful, the CDSS reviewed data on total enrollment over consecutive years to calculate the retention rate for families that continued in subsidized childcare after being certified for services. Examples of data pulled from the state database based on counties with 24-month eligibility approved as part of its pilot plan that demonstrate it to be successful include:

**Contra Costa County:** Contra Costa County was approved for 24-month eligibility in 2019.

* Data showed that in FY 2017–18, the year before the approval of the policy, the retention rate in Contra Costa County for full-day families was 68 percent. After the policy had been implemented by county pilot contractors, the percentage of children and families retained in the program increased, with data indicating by FY 2020–21 that 74.5 percent of children certified for full-day services were retained in the program.

**Fresno County:** Fresno County was approved for 24-month eligibility in 2019.

* Data from the years leading up to the flexibility being approved and implemented indicated that the children and families retained in non-CSPP full-day childcare programs ranged from 66 to 69 percent. After the flexibility had been approved and implemented countywide, those same full-day numbers of children and families retained year-over-year increased substantially—up to nearly 83 percent in FY 2020–21.

**Santa Cruz County:** Santa Cruz County was approved for 24-month eligibility in 2019.

* Data from the years leading up to the policy being approved and implemented indicated that the children and families retained in non-CSPP full-day childcare programs ranged from 68 to 71 percent. After the policy had been approved and implemented countywide, those same full-day numbers of children and families retained year-over-year continued to increase over the next couple of years, with a high of nearly 81 percent of children and families retained in FY 2019–20.

**Sonoma County:** Sonoma County was approved for 24-month eligibility in 2018.

* Data from the year before the policy was approved and implemented indicated that 71 percent of children and families were retained in non-CSPP full-day childcare programs. After the policy had been approved and implemented countywide, those same full-day numbers of children and families retained year-over-year increased substantially—up to nearly 85 percent in FY 2020–21.

In general, as provided within the Pilot Evaluation Report, program administrators that implemented 24-month eligibility in their programs have shown it decreased administrative workload, which resulted in retaining administrative support and a reduction in time allocated to outreach and administrative support. Additionally, it provided families with stability as the longer enrollment allowed programs to build critical relationships with both the children and families and addressed the quality component of continuity of care.

AB 210 (Chapter 62, Statutes of 2022) made a major change to CSPP, specifically allowing for 24-month eligibility that was not extended to non-CSPP programs. This poses challenges to grantees that operate blended programs and creates new administrative burdens. Recent legislation (SB 1047), enacted in September 2022, codified 24-month eligibility for non-CSPP programs except for CalWORKs Stages 1, 2, and 3. To ensure equity and complete system alignment, the CDSS maintains that this extended eligibility period applies to children and families receiving services in all types of subsidized ELC programs, including voucher-based programs. Therefore, when considering the successes reported by the pilot programs with this policy adopted as part of its pilot plan, in addition to the State’s goals to align program requirements and reduce the administrative burden for contractors to increase access to care and promote greater continuity of care for children and families, the CDSS has identified the policy, given its success as a pilot flexibility, that the Legislature may wish to consider for statewide adoption for CalWORKs Stage 2 and 3 programs. The CDSS intentionally omits CalWORKs Stage 1 from this observation as that voucher-based program does not conduct recertification specific to its childcare programs.

### Part 2: Pilot Flexibilities Not Recommended for Statewide Consideration

In the course of the analysis, the Departments determined that the following pilot flexibilities would not be beneficial for statewide adoption.

#### Eligibility Criteria

* **Reinstate Sibling Preference in Enrollment (after Child Protective Services or At-Risk Children)**

Alameda County adopted this policy in October 2016. The current priority order for eligibility for childcare services codified within *EC* sections 8210(a) and 8211(a) and *WIC* 10271(b) does not allow siblings of children already enrolled in a subsidized program priority in enrollment. This pilot flexibility establishes that siblings are prioritized for services in the second order only behind children receiving CPS or referred by a designated agency for being at risk of neglect, abuse, or exploitation. Alameda County is the only pilot county to adopt this pilot flexibility; therefore, there is insufficient data to evaluate whether there is a significant enough impact on the stability of care to justify this change in the current order of priorities on a statewide basis. The Departments also considered the administrative workload that would be placed on the field by developing a new priority order to learn and follow.

#### Maximizing Efficient Use of Subsidy Funds

* **120-day Certification of Eligibility for Full-Day Programs**

This policy, which was approved as a pilot flexibility during the pandemic, allows certain contractors (based on program and funding type) to certify eligibility and need and enroll families 120 calendar days before the first day of services in these programs. Currently, 5 *CCR* State Preschool Programs Section 17752 and General Child Care Programs Section 18118 provide 30 days for this action. This approach expands the timeframe to 1) allow current staff to process applications over a longer period without using additional administrative funds to hire more staff, and 2) ensure the maximum number of eligible families are processed promptly. Both outcomes assist in maximizing the use of subsidy funding, an allowable criterion in statute for developing a pilot flexibility to supersede state law.

Four counties currently have this pilot flexibility. Each county justified its inclusion in its respective plan by citing within its Pilot Evaluation Reports that there was an administrative burden imposed by the 30-day certification window and a loss in contract earnings as a result of this workload. The counties indicated that, given limited enrollment staff, 30 days is not sufficient to process all family applications, especially at high volume times when a large group of children are exiting the program at the same time. Counties additionally explained that the circumstances of COVID-19 have added to the administrative time needed to process family applications as staff were working remotely and families needed to gather and submit documentation and follow all safety protocols.

All the CDSS-administered programs, except for the Severely Disabled program (CHAN), are funded with a blend of state and federal funding and are subject to additional federal requirements that precluded them from being approved as part of a pilot modification and also as eligible for recommendation for purposes of this report. Specifically, Section 98.16(h)(7) of Title 45 of the *Code of Federal Regulations* states that for purposes of eligibility determination and redetermination, one of the requirements a lead agency shall implement in its State Plan to promote continuity of care for children and stability for families receiving services funded by Child Care and Development Fund dollars includes “Other policies and practices such as timely eligibility determination and processing of applications.” That timeframe, for purposes of ensuring timeliness of eligibility determination and processing of applications, has been established in the State Plan as no more than 30 days. Due to this federal requirement, the CDSS cannot recommend this pilot flexibility for its childcare programs other than CHAN.

For CHAN and full-day CSPP (administered by the CDE), the 120-day certification pilot flexibility was approved as part of the modification plan for certain counties. However, those approvals were due in part to the county’s justification that application processing was delayed because of administrative issues facing contractors due to the COVID-19 pandemic. Additionally, the Departments have concerns about this flexibility being adopted statewide for these programs for the following reasons:

* Families with a need for services should not have to wait 120 days for services.
* Family income may change during the 120-day wait time. If the income exceeds the 85 percent ceiling at the time services begin, the family would no longer be eligible and may or may not report the change. If they do not report it, another family who is both eligible and on the waiting list may not have access to services. If it is reported, there is an additional administrative burden.
* Families’ need for services may change during the 120-day wait time. If they no longer have a need for services, they are not required to report that. And, again, another family that is eligible and on the waiting list may not have access to services.

Therefore, due to the reasoning above, the Departments view this policy as meeting a temporary need and do not find sufficient justification to recommend it become state law.

* **General Child Care and Development (CCTR) Contractors Are Allowed to Claim the Limited and Non-English Proficient[[16]](#footnote-17) Adjustment Factor for All Children**

This pilot flexibility was adopted by Alameda County to supersede statutory age limitations (age two to kindergarten age) on the use of this adjustment factor. The process of rate reform includes a comprehensive evaluation of the current reimbursement structure and is intended to address any existing inequities within the system. The Departments believe that recommendations for any amendments to existing adjustment factors should fall within the scope of rate reform rather than through separate and individual policy change efforts.

#### Family Fees

* **Eliminate Family Fees for Families “Experiencing Homelessness” in the California State Preschool Program**

The current statute stipulates that all families receiving ELC services are assessed a single flat monthly fee at enrollment and recertification. The Departments jointly develop this family fee schedule, which outlines fees for each family size in relation to the most current SMI determination. *EC* 8253 and *WIC* 10291 specify existing and permissible exemptions for families with children who are recipients of CPS or at risk, children whose families receive CalWORKs cash aid, and all children enrolled in part-day CSPP. Additionally, in 2022–23, families with monthly incomes below 40 percent of the SMI do not pay any fees. *EC* Section 8252(h)(1) and *WIC* Section 10290(i) exempt all families from paying a fee in FY 2022–23.

San Francisco County is the only pilot county with this flexibility in effect. Since San Francisco adopted the policy in March 2022, sufficient data is not available to evaluate the impact of a targeted elimination of fees for families experiencing homelessness for applicability statewide. Evaluation of this pilot flexibility would need to take into account whether fees are more of a barrier for these families compared to other groups, and the fiscal impact to the State if it were to fill the gap in funding.

### Part 3: Pilot Flexibilities No Longer Justified

There are several pilot flexibilities in effect during this reporting period that are no longer justified due to statewide policy changes. Several of these flexibilities were codified in AB 2626 (Chapter 945, Statutes of 2018), a statewide equity bill enacted in 2018. Part of the bill’s intent was to codify specific pilot flexibilities to align the childcare system and apply equity statewide in addition to supporting increased access to subsidized childcare and early learning programs for all families and maximizing efficient use of subsidized funding. AB 131 (Chapter 116, Statutes of 2021) initiated a process for rate reform that renders pilot flexibilities regarding reimbursement rates no longer relevant. AB 210 (Chapter 62, Statutes of 2022) enacted budget and statute changes and established significant changes to state preschool programs, including 24-month eligibility, the most widely adopted pilot flexibility. Senate Bill (SB) 140 (Chapter 193, Statutes of 2023) enacted changes to the threshold for full-time reimbursement, removing the need for pilot flexibilities that increase service hours for families in specified need categories who are subject to service limitations in 5 *CCR*.

#### Pilot Flexibilities Codified through Assembly Bill 2626

* **Income Eligibility Threshold at 85 Percent of the State Median Income**

In 2018, established law (*EC* 8263[a]) defined "income eligible," for purposes of establishing initial income eligibility for subsidized ELC services, to mean that a family's adjusted monthly income is at or below 70 percent SMI, adjusted for family size. Three pilot counties requested and were approved to increase the eligibility for subsidized ELC services threshold from 70 to 85 percent of SMI in order to expand the number of low-income families that are eligible for services and align with the intent of the Pilot Program to increase access to care for children and families. With the enactment of AB 2626, which increased the SMI threshold to 85 percent statewide, this pilot flexibility is no longer justified as part of a pilot plan. AB 210 raised the threshold to 100 percent of SMI for CSPP, effective July 1, 2022.

* **Definition of a Three-Year-Old**

In 2019, established law [*EC* 8208 (ai) and (aj)] defined "three-year-old children" and "four-year-old children" to mean children who will have their third birthday or fourth birthday, respectively, on or before September 1 of the fiscal year in which they are enrolled in a CSPP. Three pilot counties requested and were approved to change the definition of a three-year-old for purposes of age eligibility for CSPP as follows: Children who will have their third birthday on or before December 2 of the FY in which they enroll in CSPP. Additionally, five pilot counties requested and were approved to change the definition of three-year-old children to mean children who will have their third birthday on or before December 1 of the FY in which they are enrolled in a CSPP or children who turned three after December 1 and are allowed to enroll on their third birthday. These pilot counties requested these pilot flexibilities with the intent of being able to enroll more age-eligible children. AB 2626 changed (for purposes of determining CSPP eligibility) the date by which a child must have his or her third birthday from September 1 to December 1 and added that children who have their third birthday on or after December 2 may be enrolled in a CSPP after their third birthday. This policy change expanded access to the program.

* **Four-Year-Old Children Enrollment Quota**

In 2019, established law (*EC* 8236 [b]) required that, for CSPP programs operating with funding that was initially allocated in a prior fiscal year, at least one-half of the children enrolled at a preschool site shall be four-year-old children. Two pilot counties requested and were approved to eliminate this requirement in order to serve more age-eligible children without a limit on age enrollment. AB 2626 changed the age restrictions for the CSPP and removed the requirement that 50 percent of enrollment had to be made up of four-year-old children. This change allowed providers to increase enrollment of three-year-old children beyond the 50 percent limit while still stipulating that four-year-old children will continue to have priority over other age groups.

#### Pilot Flexibilities Rendered Inapplicable by Assembly Bill 131

* **Claiming Adjustment Factors**

This flexibility allowed high-rate school districts to claim adjustment factors and was adopted by Alameda County. Contract terms are initially negotiated by the CDE based on the contractor’s application for funding and tailored to fit what the contractor needs to operate the program. Contractors receiving rates above the SRR were considered high-rate contractors. At the time, *EC* 8265.5 specified that “the adjustment factors described in paragraphs (5) and (6) of subdivision (c) shall apply only for full-day preschool programs and those part-day preschool programs for which assigned reimbursement rates are at or below the SRR.” This effectively prevented high-rate contractors, some of which were school districts, from receiving the specified adjustment factors, as their rates were above the SRR. This provision has since been removed from *EC*.

Additionally, under the reimbursement rate structure at the time the flexibility was implemented, *EC* 8265 tasked the State Superintendent of Public Instruction with establishing a plan with “reasonable standards and assigned reimbursement rates” based on the intent to achieve a more equitable rate structure. Within this plan, agencies with rates higher than the current year’s SRR would be required to reduce costs incrementally to achieve the SRR; likewise, the plan included provisions to increase rates for those below the SRR. Implementation of this plan over time brought all contractors to the SRR and negated the existence of high-rate or low-rate contractors. More recent changes instituted by AB 131 (Chapter 116, Statutes of 2021) have tasked the State with developing a single reimbursement rate structure, in line with previous efforts to reduce inequities in reimbursement rates. Due to these changes in state policy, this pilot flexibility is no longer justified.

* **Increased Provider Reimbursement Rates**

Legislation permits pilot plans to supersede state law for higher provider reimbursement rates. Seven counties have adopted this flexibility in some form as part of their pilot plan. The pilot reimbursement rate (PRR) is developed by contractors relinquishing child days of enrollment and using that reallocation of funding to increase the SRR within the Pilot Program.

In FY 2021–22, AB 131 directed the State to pursue rate reform to eliminate the current dual-reimbursement system approach and instead develop and implement a single rate reimbursement system. The bill also stipulated that providers be held harmless by ensuring SRR-based providers were paid at the greater of either the 75th percentile of the 2018 regional market rate survey or the contract per-child reimbursement amount as of December 31, 2021. Due to this provision, all pilot counties that had a PRR for their Pilot Program received rate increases as a result of AB 131. This effectively set each of the pilot counties’ reimbursement rates at the 75th percentile of the 2018 regional market rate survey, which accounts for county variations in costs. The purpose of allowing pilot counties the flexibility to adjust their reimbursement rates was to ensure rates reflected local costs; the current rate reform process has accounted for this need and is designed to remove the inequities that this pilot flexibility sought to address.

#### Pilot Flexibilities Codified through Assembly Bill 210

* **Institute 24-Month Eligibility for Full-Day California State Preschool Program**

There are many variations of the pilot flexibility that allows for the extension of recertification requirements from 12 to 24 months, with a total of nine pilot counties having adopted one of the variations. However, AB 210 included FY 2022–23 policy changes to CSPP, which made this pilot flexibility no longer justified within CSPP programs. The enacted budget and statute changes provided that, upon establishing initial eligibility or ongoing eligibility for full-day CSPP services under this bill, a family shall be considered to meet all eligibility and need requirements for those services for not less than 24 months, is required to receive those services for not less than 24 months before having their eligibility or need to be recertified, and shall not be required to report changes to income or other changes for at least 24 months.

* **Institute 24-Month Eligibility for Part-Day California State Preschool Program**

Legislation permitted pilot plans to supersede state law in specific areas. One example is that children enrolled in part-day CSPP may be eligible for up to two 180-day periods within a 24-month period without the family being certified as a new enrollment each year. A total of six pilot counties adopted this policy, which has since become invalidated with the adoption of the CSPP 24-month eligibility policy that became a statute through the passing of AB 210, as mentioned above.

#### Pilot Flexibilities Rendered Inapplicable by Senate Bill 140

* **Increase Service Hours: Seeking Employment (full-time services and reimbursement)**

Eight counties requested and were approved for pilot flexibility that increased the service hours for families who indicate “seeking employment” as their need for services to up to 32.5 hours per week. This policy superseded 5 *CCR* State Preschool Program Section 17766 and General Child Care Programs Section 18086.5, which place a cap on the number of ELC service hours a family with this need can receive at no more than five days per week and less than 30 hours per week.

Senate Bill 140 (Chapter 193, Statutes of 2023), a 2023–24 budget trailer bill, ratified the State of California’s agreement with the Child Care Providers United (CCPU) Union, and included a provision to reduce the threshold of full-time services to 25 hours or more per week, effective March 1, 2024. Previously, the threshold for full-time services and reimbursement for both center-based and voucher programs was 30 hours per week, and this pilot flexibility responded to that threshold by allowing families to increase their hours beyond the limits set in regulations in order for ELC programs to be reimbursed at the full-time rate for serving these children. The new threshold for full-time reimbursement at 25 hours per week removes the need for this pilot flexibility, as it enables families seeking employment to enroll children for full-time services, and programs to receive full-time reimbursement for serving these children.

* **Increase Service Hours: Seeking Permanent Housing (full-time services and reimbursement)**

Eight pilot counties requested and were approved to implement a pilot flexibility that increased the service hours for families enrolling in subsidized programs with “seeking permanent housing” as their need to up to 32.5 hours per week. This policy superseded 5 *CCR* sections 17771 and 18091, which place a cap on the number of ELC service hours a family with this need can receive at no more than five days per week and for less than 30 hours per week.

Senate Bill 140 (Chapter 193, Statutes of 2023), a 2023–24 budget trailer bill, ratified the State of California’s agreement with the Child Care Providers United (CCPU) Union, and included a provision to reduce the threshold of full-time services to 25 hours or more per week, effective March 1, 2024. Previously, the threshold for full-time services and reimbursement for both center-based and voucher programs was 30 hours per week, and this pilot flexibility responded to that threshold by allowing families to increase their hours beyond the limits set in regulations in order for ELC programs to be reimbursed at the full-time rate for serving these children. The new threshold for full-time reimbursement at 25 hours per week removes the need for this pilot flexibility, as it enables families seeking permanent housing to enroll children for full-time services, and programs to receive full-time reimbursement for serving these children.

## Appendix

**Long description for** [**Figure 1: Pilot Counties Across California**](#Figure1visual)

This is a map of the counties of the state of California showing which counties fall into one of the following four categories:

* Authorized (Non-permanent): Alameda, Contra Costa, Fresno, Marin, San Diego, Santa Clara, Santa Cruz, Solano and Sonoma
* Authorized (Permanent): San Francisco, San Mateo
* Authorized: (No plan submitted): Monterey, San Benito
* Not Authorized: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Joaquin, San Luis Obispo, Santa Barbara, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba

**Long description for** [**Figure 2: Active Common Pilot Flexibilities**](#Figure2visual)

This figure shows the number of pilot counties that have adopted each common pilot flexibility, including:

* 24-month eligibility adopted by 9 counties
* increased service hours: seeking employment adopted by 8 counties
* increased service hours: seeking housing adopted by 8 counties
* increased provider rates adopted by 7 counties
* 120-day certification of eligibility adopted by 4 counties

**Long description for** [**Figure 3: Fourth Quarter Pilot County Child Days of Enrollment Across Fiscal Years**](#Figure3visual)

This graph shows child days of enrollment in the fourth quarter across three fiscal years, the baseline year, year one and year three, for all non-permanent pilot counties. The values depicted in the graph are displayed in the table below.

| **County** | **Baseline Year** | **Year 1** | **Year 3** |
| --- | --- | --- | --- |
| Alameda | 424,265.69 | 353,225.00 | 254,647.00 |
| Contra Costa | 88,339.40 | 137,807.30 | 65,779.63 |
| Fresno | 217,148.00 | 246,964.00 | 267,702.00 |
| Marin | 47,050.08 | 87,414.09 | 45,793.59 |
| San Diego | 391,291.00 | 376,898.00 | 247,912.00 |
| Santa Clara | 470,534.93 | 215,630.32 | 203,324.94 |
| Santa Cruz | 55,261.08 | 65,441.48 | 44,869.56 |
| Solano | 38,370.39 | 43,076.01 | 18,551.01 |
| Sonoma | 44,225.47 | 56,724.83 | 39,469.62 |

1. A policy specific to a pilot county that supersedes statutes or regulations to eliminate barriers to the county's achievement of its desired outcomes for subsidized child care. [↑](#footnote-ref-2)
2. Denotes the number of days a child is enrolled during a specific fiscal year, modified by adjustment factors. [↑](#footnote-ref-3)
3. CDE contract types: CSPP [↑](#footnote-ref-4)
4. CDSS contract types: General Child Care Program (CCTR), California Migrant Program (CMIG), California Alternative Payment Program (CAPP), C2AP, C3AP, Family Child Care Home Education Networks (CFCC), Programs for Children with Severe Disabilities (CHAN), and California Resource and Referral Program (CRRP). The CDSS also administers the California Migrant Alternative Payment Program (CMAP), but it is not currently a part of any approved pilot plan. [↑](#footnote-ref-5)
5. Though it has not yet been approved as part of any pilot plan, permanent pilot counties are allowed the flexibility to, “Provide a family that qualifies for the second or third stage of child care services for purposes of eligibility, fees, and reimbursements, the same or higher level of benefit as a family that qualifies for subsidized child care on another basis pursuant to the local policy, except as otherwise provided.” [↑](#footnote-ref-6)
6. This flexibility is active but no longer justified, as described in the Part 3: Pilot Flexibilities No Longer Justified, Pilot Bills Rendered Inapplicable by Senate Bill 140 section of this report. [↑](#footnote-ref-7)
7. This flexibility is active but no longer justified, as described in the Part 3: Pilot Flexibilities No Longer Justified, Pilot Bills Rendered Inapplicable by Senate Bill 140 section of this report. [↑](#footnote-ref-8)
8. AB 131, enacted in 2021, changed this designation from “limited and non-English proficient” to “dual language learner.” [↑](#footnote-ref-9)
9. In this figure, 24-month eligibility refers to 24-month eligibility for voucher-based CalWORKs programs. [↑](#footnote-ref-10)
10. Of the 11 participating pilot counties, 10 submitted their most recent reports in July and August 2022. San Francisco most recently reported in December 2020. [↑](#footnote-ref-11)
11. CDMIS is the data management information system designed for contracted agencies to complete and submit the CDD-801A Monthly Child Care Population Report (CDD-801A) and CDD-801B Monthly Sample Report (CDD-801B). [↑](#footnote-ref-12)
12. CPARIS is the web-based system through which center-based child development programs submit required attendance and fiscal reports. [↑](#footnote-ref-13)
13. San Francisco County and San Mateo County are not represented in this discussion of child days of enrollment because their baseline years are more than 10 years before the evaluation years required for non-permanent pilot counties (FYs 2018–19 through 2020–21) and therefore do not provide a relevant point of comparison. [↑](#footnote-ref-14)
14. The baseline year for Alameda is FY 2014–15, and the baseline year for Santa Clara is FY 2015–16. The baseline year for all other counties is FY 2016–17. [↑](#footnote-ref-15)
15. Assembly Bill 1808, chaptered in September 2024 after this report had been finalized by both Departments, codified 24-month eligibility for all CalWORKs programs. [↑](#footnote-ref-16)
16. This classification has been changed to dual language learners. [↑](#footnote-ref-17)