



Afterschool Alliance

AFTERSCHOOL FOR ALL

August 5, 2013

Ms. Cheryl Vincent
Office of Child Care, Administration for Children and Families
U.S. Department of Health and Human Services
370 L'Enfant Promenade, SW
Washington, DC 20024

Re: Comments on Notice of Proposed Rulemaking: Child Care and Development Fund Program (ACR-2013-0001)

Thank you for the opportunity to comment on the proposed rule to amend the Child Care Development Fund regulations. The Afterschool Alliance is a non-profit organization that works to ensure that all school-age children and youth have access to quality before-school, afterschool and summer learning opportunities. Our network of more than 26,000 providers and partners utilizes school community partnerships to keep children safe and provide engaging, hands-on activities that raise school attendance, academic achievement and graduation rates. A substantial number of afterschool and summer learning program providers have been able to utilize Child Care Development Funds (CCDF) to provide quality school-age care that engages children while keeping them safe during the hours when school is out and their parents are still working.

Approximately 600,000 school-age children receive CCDF assistance for their time before and after school and during the summer. Children ages 6 to 13 represent 33% of all children receiving CCDF assistance, while school-age children receive an estimated one-third, or \$1.7 billion, of CCDF funds. And yet the need for school-age care continues to increase. In 2010, 3.6 million school-age children (ages 5 - 14 years) were in self-care, or at home unsupervised, while their mothers were at work. In establishing quality standards for child care, providing technical assistance and training for providers, and making supports available to eligible families with school-age children, it is essential that the unique needs and parameters of school-age care providers and school-age programs are taken into account.



In general, we applaud the direction the Department is heading by proposing the rule: emphasizing that quality child care opportunities are provided to parents, and focusing on improving health and safety standards. In light of the recent trend in some states towards limiting the number of school-age children served through CCDF, or reducing the amount of training and support provided to school-age care providers, we especially commend your emphasis on the value of quality school age before-school and afterschool programs; the recognition of the collaborative role played by statewide afterschool networks; the importance of a continuity of care for children aging out of early care and phasing into school-age care; and the proposed addition of age-appropriate guidelines and learning standards, including alignment with K-12 education standards.

However, we are concerned that the regulations present a challenge for some states by adding additional costs for school-age care providers and communities, as well as the state agencies charged with administering CCDF. While some states are already implementing steps consistent with policies that would be required under the proposed rule, the proposed regulations would impose significant new costs to many states that do not have policies similar to those proposed in the regulations—for example, for states that do not have an existing quality rating and improvement system and states that do not currently conduct annual monitoring visits to all regulated providers. The new regulations will be particularly difficult to implement at this time, when many states are cutting back on staff due to the sequester and tightened budgets. If states are required to divert additional funds to comply with these new regulations, they will have less funding available to provide child care assistance to families—adding to the elementary school age children that are unsupervised each afternoon. States may also have less funding available to support adequate reimbursement rates for child care providers, which could lower the quality of care for children receiving child care assistance.

Following are comments on specific sections of the proposed rule:

98.14 Plan process

We commend the proposed addition of statewide afterschool networks and/or state afterschool associations to the new partners that would be required to participate in developing the Child Care and Development Fund plan under the proposed regulations, and *recommend including the state Child and Adult Care Food Program and Summer Food Service Program agencies as required partners.*



98.16(g)(6). Plan provisions—job search

We support the proposal to require states to allow parents to receive child care assistance during at least some period of job search. While most states (46) currently permit parents to continue to receive child care assistance after losing a job, there are several states that do not allow it at all; many states only allow parents to receive child care assistance while searching for a job for a short time, and just 16 states allow parents to initially qualify for assistance while searching for a job. This provision will emphasize to states the importance of permitting parents to receive child care assistance during a period of job search to grant parents time to look for work, ensure that child care will be available when the parent begins a new job, and avoid disruptions in children's care.

98.16(i) Plan Provisions--Grants or contracts.

We support the addition of a requirement that Lead Agencies include a description of how they will use grants or contracts to address shortages in the supply of high quality child care. Grants and contracts can be important to school-age care providers as they ensure a degree of infrastructure and sustainability in underserved areas and for underserved populations. *We recommend including the suggestion that states consider grants or contracts for non-profit and for-profit school-age providers to offer summer learning programs.*

98.16(h) Plan Provisions

We support the Office of Child Care in its efforts to promote continuity of care for children and make the child care assistance system more family-friendly. To support that goal *we recommend adding the following language to the regulations, which would require states to indicate in their CCDF plan how they will help families' obtain and retain access to child care assistance:*

(h) A description of policies to promote continuity of care for children and stability for families receiving services for which assistance is provided under this part, including:

- (1) Policies that take into account developmental needs of children when authorizing child care services pursuant to § 98.20(d);*
- (2) Timely eligibility determination and processing of applications;*
- (3) Policies that promote employment and income advancement for parents;*
- (4) Policies that ease the burden of obtaining and retaining child care assistance for parents.*



As noted in the preamble, this proposed rule includes provisions to make the CCDF program more “family friendly” by reducing unnecessary administrative burdens on families. While some Lead Agencies have taken steps to reduce the burden on families applying for and receiving subsidies, others continue to have significant hurdles in place. Lead Agencies may have onerous requirements, such as requiring fingerprinting of parents and others who are picking up children from child care programs or child support cooperation requirements, which may deter parents from seeking assistance. OCC should be explicit in the preamble to the regulations that these policies are not in line with intended reforms to make the system more family-friendly and that states should implement policies that facilitate, rather than prevent, parent’s access to child care assistance that helps them go to work and support their families.

98.16(t). Payment practices

We support the inclusion of payment practices in the State Plan. In addition to the proposed language, *we suggest the following additional language provisions as a framework for States to use:*

- *“...including timely reimbursement for services, how payment practices support providers’ provision of high quality child care services, and practices to promote the participation of child care providers in the subsidy system such as:*
 - *payment based on the accepted practice of child enrollment, not child attendance*
 - *permission for prospective reimbursement payment that allows a child to attend child care and the parent to go to work or school and assures the provider of payment while an eligibility case is being reviewed.*
 - *guaranteed reimbursement payment to providers for families certified as “eligible” including assuming responsibility for notifying the providers when changes in child/family eligibility occur;*
 - *allowing providers to charge above the copay when the CCDF reimbursement rate is below the 75% percentile, but not to exceed the private pay market rate; and*
 - *a description of whether and how attendance, billing, and payment processes are automated, and whether and how attendance, billing, and payment processes are both family-friendly and provider-friendly.”*



98.20(a)(3)(ii). Vulnerable children

We appreciate the clarification provided by this proposed provision, which authorizes states to permit specific populations of vulnerable children to be eligible for child care assistance, even if they are not formally involved with the child protective services system. This provision recognizes the challenges faced by a range of vulnerable children and the importance of helping them receive stable, supportive child care, independent of their guardian's work status or income level or their engagement with child protective services.

98.20(b) Eligibility re-determination periods

We support the proposed change allowing Lead Agencies to re-determine a child's eligibility for child care services no sooner than 12 months following the initial eligibility determination or most recent re-determination. The flexibility to align eligibility with the school year will ease administration of school age programs. We appreciate the example that clarifies how school-age children would be able to continue to access valuable high quality before-and after-school care under this proposed rule even if they turned 13 during the school year.

98.30(a)(1) Use of contracts for child care

We applaud the change in this regulation requiring states to use grants and contracts as well as certificates. As noted earlier, school-age care providers can benefit from the degree of stability that contracts provide, and use of contracts for summer school-age care should be encouraged. *It should be noted, the effectiveness of contracts in boosting the quality and supply of care depends on adequate payment levels for providers receiving contracts.*

98.30(h). Parental choice and high-quality care

We support the proposed language indicating that ensuring parental choice does not preclude providing information and incentives to encourage the selection of high-quality child care. However, *the preamble to the regulations should state that higher reimbursement rates are essential to enable providers to achieve and sustain high levels of quality and to incentivize high-quality providers to serve children receiving child care assistance.*

Sec. 98.32: Parental Complaints

In order to provide due process, States must have a procedure for providers to contest complaints and a process for determining if the alleged infractions are



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substantiated. Only substantiated infractions or parent complaints should be made available for public release. We therefore *suggest the following additions*:

- *Section 98.32 (c): “Make information regarding substantiated ~~such~~ parental complaints available to the public on request”*
- *Section 98.32 “(e) “Establish a process to investigate complaints and for child care providers to contest complaints;”*

98.33(b). Consumer education—quality indicators

We understand that the new provision requiring states to implement an extensive system of quality indicators is intended to provide additional information to parents about the quality of their child care options, and we support this goal. However, *we are concerned that the proposed requirements will create a significant burden for states, particularly for those that do not have an existing quality rating and improvement system (QRIS)*. It will be difficult for states to effectively implement a quality indicator system without additional staff to design and administer it and without additional resources to help providers improve their quality. Even if a state uses an alternative to a complete QRIS to comply with the proposed requirement, there will be significant new administrative and other costs for the state, as well as for providers that would be required to compile and submit data to the state.

Therefore, instead of requiring states to adopt a complete system of new indicators, we recommend allowing states to meet the objective of better informing parents by making information that they already collect—such as the components of the state’s child care licensing requirements and general information about the Child and Adult Care Food Program (how it operates and how it benefits children and providers)—available to parents in easy-to-understand language.

98.41(a)(2)(i). Health and safety requirements—background checks

We support the proposal to strengthen background checks for child care providers to ensure children’s well-being and safety in child care. However, *the final rule should make clear that states must provide appropriate protections for child care providers, including the right to appeal findings, to ensure that they are not permanently penalized as the result of inaccurate information*. While waiting for the results, providers should be permitted to work under the supervision of an employee who has been cleared by a background check. In addition, the preamble to the final regulations should emphasize the importance of timely processing of background checks and encourage Lead Agencies to work closely with state entities responsible for such checks to ensure that the process is as



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efficient as possible. States should also be required to provide up to three months retroactive pay for family child care and license-exempt providers that care for children while waiting for the background checks to be completed and are then cleared.

98.41(a)(2). Fire, Health, and Building codes and Emergency Preparedness

Ensuring the safety of the physical setting for school-age afterschool and before-school care is essential to operating a quality program. According to the America After 3PM report (2009) about 60 percent of afterschool programs are located on school grounds. While many of these programs are operated by the school district, a significant number are operated by community based organizations that use school property. In a number of communities, organizations using school property as a setting for afterschool care must comply with health and safety standards even though school-run programs are exempt from the standards. This lack of coordination and consistency creates an additional hurdle for afterschool providers. ***States should be encouraged to develop strategies to reconcile the differences in these standards; the same standards should ultimately be met by both child care providers and public schools alike to ensure the maximum safety and protection of children. Since the schools have been approved by the particular state to enroll children during the regular school day, the same children's health and welfare will not be jeopardized if they attend the before and after school program at these schools.***

98.41(a)(3). Health and safety requirements—minimum training

We support the proposed requirements for minimum pre-service/orientation training on health and safety. While providers should make every effort to complete the requisite training prior to working with children, to ensure that care is available when families need it, we agree it is appropriate to allow providers to fulfill their training requirements during an initial service period (orientation period) defined by the Lead Agency.

We also recommend that the final rule specify that the required training should be offered in multiple formats (including online) and in language(s) appropriate for the audience, to account for diversity of need and varying circumstances of providers.

In addition, in-service/ongoing training is a critical professional development and advancement issue, as well as a quality indicator. States need additional resources to expand the availability of community colleges and universities offering coursework and degrees in afterschool programming; and afterschool program staff need resources to support release time, tuition and fees, and other



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costs of training and education. State afterschool networks should be utilized as a resource for training school-age care providers. Additionally, we appreciate the flexibility to ensure that school-age care providers receive training appropriate for the children they are serving.

98.41(a)(3)(vi): Health and Safety Requirements – Nutrition and Physical Activity

We support the inclusion of training on age-appropriate nutrition and physical activity in the new health and safety training requirements and *recommend specifying in the regulations that Child and Adult Care Food Program training on afterschool meal and snack programs are included. We also recommend including a reference to the Healthy Eating, Physical Activity (HEPA) standards adopted by the National Afterschool Association, Y of the USA and others. In addition to development of these research-based standards, a myriad of resources exist to facilitate the adoption and implementation of these standards by providers, including free online trainings.*

98.41(d)(1). Health and safety requirements—monitoring

We support the monitoring of child care programs that receive federal funding to ensure that programs are meeting the requirements and standards as defined by the state. States should have processes in place to inspect and monitor child care providers receiving CCDF funding and to provide consultation regarding the results of such visits.

We note that without additional resources, states will face tremendous challenge in monitoring providers on an annual basis. We are concerned that without these resources, states will be unable to appropriately monitor out-of-school time programs, such as camps, afterschool programs, recreational programs, and summer programs. Using the current state-based child care licensing system, should be sufficient and meet inspection requirements.

98.42(c) Sliding fee scales—waiver of copayment

We support the proposed regulation to allow Lead Agencies to waive the copayment for some families, not limited to families with incomes at or below the federal poverty level. In addition to families with very limited incomes, some families face high expenses or other extenuating circumstances that would render any copayment unaffordable, and would be unable to use child care assistance if they were required to pay a copayment.

98.42(d) Sliding fee scales—prohibition of using cost as a factor



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We support the proposed prohibition of using the cost of care in determining the copayment of a family receiving child care assistance. Using cost as a factor can discourage parents from using higher-cost care, which is often higher-quality care, because it would result in a larger cost burden for them.

98.43(b)(2) Equal access—adequacy of payment rates

We strongly oppose allowing states to use an alternative methodology as a replacement for the local market rate study (which would be referred to as “local market price study” under the proposed rule—a change in terminology that we approve). The local market price study is an essential benchmark that allows for accountability and comparability across states, which states can and do use in setting a goal to encourage rate increases. States should not be given the option of abandoning market price studies for unproven, potentially challenging, and costly methods that may only be used to justify states’ existing low market rates. We appreciate ACF’s interest in obtaining information that would more accurately reflect the cost of providing child care, but this objective would be better accomplished by encouraging states to consider methodologies that would supplement, not replace, exist local market price studies, or with a study on the cost of providing high-quality care conducted at the national level.

In addition, we recommend that the regulations include more extensive guidance for states to help them conduct valid, reliable market price studies with sufficiently representative information on providers’ prices.

98.43(c)(2) Equal access—payment rates based on quality

We support the proposed provision requiring states to take into account the quality of child care when determining payment rates. However, *we recommend that the preamble to the final rule strongly encourage states to set adequate base rates and pay higher rates for higher-quality care that truly reflect the additional costs of achieving and maintaining higher quality levels.* Currently, in four-fifths of states that offer higher rates for higher-quality care, even the highest rates are below the 75th percentile of up-to-date market rates. We also recommend that the preamble strongly discourage states from lowering base rates and encourage them to instead differentiate rates by raising rates for providers at progressively higher levels of quality. While we recognize that states have limited resources, setting payment rates for providers that more accurately reflect the costs of high-quality care is likely to be a well-targeted and effective way to promote such high-quality care. Lowering base rates makes it even more challenging for programs to improve their services to children.

Sec. 98.51(a)(2)(ii): Activities to Improve the Quality of Child Care



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We support the inclusion of language regarding activities to improve the quality of child care services, including the implementation of systems of quality improvement. *We offer additional language to clarify that state quality rating systems should enable providers to select curricula from among those that are high quality and age-appropriate.*

- *“Establishment and implementation of age-appropriate learning and development guidelines for children of all ages, including infants, toddlers, and school-age children; states shall provide flexibility to child care providers to choose among high quality, age appropriate curricula.”*

98.51(a)(2)(iii)(A): Activities to Improve the Quality of Childcare

Including the HEPA Standards as a defined indicator of quality would proactively promote healthy eating, physical activity, breastfeeding, and parent engagement in child care programs while supporting training and program improvements in these areas.

Sec. 98.51(a)(2)(iv): Activities to Improve the Quality of Child Care

We are in support of the added language in this section and would like to suggest that the professional development system described in the proposal should also incorporate in-house training offered by child care organizations and providers to fulfill training hour requirements, provided that such training meets regulatory criteria, supports pathways for staff to attain credentials and assists programs to achieve QRIS recognition and Accreditation status. Approval for trainers and quality of content should be handled on a statewide basis, not locally.

Thank you for the opportunity to provide comments on the proposed rule and please do not hesitate to contact Erik Peterson, Policy Director, if you need additional information: epeterson@afterschoolalliance.org.

Sincerely,

Jodi Grant

Executive Director