

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 380 (Limón) – As Amended June 10, 2024

**SENATE VOTE:** Not relevant

**SUBJECT:** California state preschool programs: age of eligibility

**SUMMARY:** Authorizes California state preschool program (CSPP) contractors to enroll two-year-old children until July 1, 2027, and requires the California Department of Education (CDE) to ensure that the rate contractors receive to serve 2-year-old children is no less than the rate provided for children of the same age served in the general child care and development program. Specifically, **this bill:**

- 1) Authorizes, but does not require, CSPP contractors to enroll eligible two-year-old children in full-day or part-day CSPP until July 1, 2027.
- 2) Specifies that a two-year-old child is eligible for a part-day CSPP if the CSPP has chosen to enroll two-year-old children and the family meets current eligibility requirements.
- 3) Specifies that a two-year-old child is eligible for a full-day CSPP if the CSPP has chosen to enroll two-year-old children and the family meets current eligibility and need for service requirements.
- 4) Requires CSPP facilities to be licensed under Title 22 and prohibits a local educational agency (LEA) from operating a license-exempt CSPP to serve children under 4 years of age.
- 5) Requires the Superintendent of Public Instruction (SPI) to develop guidance for contractors to follow when enrolling two-year-old children, and authorizes the SPI to issue the guidance through management bulletins or letters of instruction pending the development of regulations.
- 6) Clarifies that the existing adjustment factor of 1.8 for serving children 47 months of age or younger, is applied to two-year-old and three-year-old children.
- 7) Requires the CDE to ensure that the rate provided to CSPP contractors serving two-year-old children is no less than the applicable rate provided for children of the same age served in the general childcare and development programs (CCTR) in each county.
- 8) Prohibits a CSPP contractor from serving any two-year-old children after July 1, 2027, unless the children were being served before that date, and makes all other provisions related to serving two-year-old children inoperative as of that date.
- 9) Adds two-year-old children to existing eligibility and priority provisions for three-year-old and four-year-old children.
- 10) Defines “two-year-old children as those who have had their second birthday and do not otherwise meet the definition of three-year-old children.”

**EXISTING LAW:**

- 1) Establishes the Early Education Act, to be administered by the CDE, and provides that the programs shall include, but not be limited to, part-day age and developmentally appropriate programs designed to facilitate the transition to kindergarten for three- and four-year-old children in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. (Education Code (EC) Section 8207)
- 2) Establishes eligibility for three-year-old and four-year-old children for preschool programs administered by the CDE and requires the SPI to adopt rules and regulations on eligibility, enrollment, and priority of services needed for implementation. (EC 8208)
- 3) Specifies that in order for three- or four-year-old children to be eligible for part-day CSPP, families must meet at least one of the following eligibility criteria:
  - a) A current aid recipient;
  - b) Income eligible;
  - c) Homeless;
  - d) One whose children are recipients of child protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited; or
  - e) One who has a member of its household certified to receive benefits from specified means-tested government programs. (EC 8208)
- 4) Specifies that a three- or four-year-old child is eligible for full-day CSPP if the family meets one of the criteria in (3) and the family needs the childcare services for either of the following reasons:
  - a) Because the child is identified by a legal, medical, or social services agency, an LEA liaison for homeless children and youth, a Head Start program, or an emergency or transitional shelter as a recipient of protective services, or is being neglected, abused, or exploited, or is at risk of neglect, abuse or exploitation, or is homeless; or
  - b) Because the parents are engaged in: vocational training leading directly to a recognized trade, paraprofession, or profession; engaged in an educational program for English learners, or to attain a high school diploma or general educational development certificate; employed or seeking employment; seeking permanent housing for family stability; or incapacitated. (EC 8208)
- 5) Authorizes a part-day CSPP to provide services to children in families whose income is no more than 15% above the income eligibility threshold after all eligible three- and four-year-old children have been enrolled. Specifies that no more than 10% of children enrolled may be from families above the income threshold. (EC 8208)

- 6) Requires, until June 30, 2025, CSPP contractors to reserve at least 5% of enrollment for children with exceptional needs; 7.5% as of July 1, 2025; and 10% as of July 1, 2026, and specifies that contractors not meeting these thresholds may be put on conditional contracts. (EC 8208)
- 7) Authorizes a part-day CSPP to enroll three- and four-year-old children with additional exceptional needs (beyond those enrolled pursuant to (6) above) from families above the income threshold after all eligible children have been enrolled, and specifies that these children do not count toward the 10% cap on over-income families. (EC 8208)
- 8) Authorizes a full-day CSPP, after all eligible children have been enrolled, to enroll three- and four-year-old children from families who do not meet one of the requirements in (4)(ii) above. (EC 8208)
- 9) Authorizes a provider of a CSPP operating within the attendance boundary of a public school, not including a charter or magnet school, where at least 80% of enrolled pupils are eligible for free or reduced-price meals, to enroll four-year-old children from families not meeting other eligibility requirements, as specified, with priority given to the lowest income families first. (EC 8217)
- 10) Defines "income eligible" as a family whose adjusted monthly income is at or below 100% of the State Median Income (SMI), adjusted for family size, and adjusted annually. For purposes of establishing ongoing eligibility, a family's adjusted monthly income must be at or below 100% of the SMI, adjusted for family size. Requires the Department of Finance (DOF) to calculate the applicable SMI by family size annually and provide the updated data to the CDE by March 1 of each year. (EC 8213)
- 11) Requires that, upon establishing initial eligibility, a family be considered eligible for CSPP services for no less than 24 months before having their eligibility or need recertified. (EC 8208)
- 12) Requires CSPP contractors to admit children to a full-day program based upon the following priorities, in order:
  - a) Three-year-old and four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused, or exploited, as specified;
  - b) Three-year-old and four-year-old children with exceptional needs from families with incomes below the income threshold;
  - c) Eligible three-year-old or four-year-old children who are not enrolled in a transitional kindergarten (TK) program, in order of lowest income first;
  - d) Children from families with income no more than 15% above the income eligibility threshold, with priority to children with exceptional needs, and then to four-year-old children, followed by three-year-old children;
  - e) Children with exceptional needs from families above the income eligibility threshold, with priority to four-year-old children, followed by three-year-old children; and

f) For a program operating within the attendance boundary of a high-poverty school, any other three-year-old or four-year-old child, as per (8) above. (EC 8211 and 8212)

13) Requires families to be assessed a single flat monthly fee for all state subsidized early childhood services received, including full-day CSPP, and requires that the SPI use the fee schedule developed in conjunction with the California Department of Social Services (CDSS). (EC 8252)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Need for the bill.* According to the author, “SB 380 will expand California State Preschool eligibility to children as young as 2 years of age. This will allow providers to serve more children and have more flexibility to serve the needs of their community. Getting children into preschool earlier can also promote continuity of care, helping the youngest learners build confidence and improve educational outcomes.”

*California has a complex system of early childhood programs.* California’s subsidized early care and education (ECE) is made up of a complex system of programs serving children from birth through 13 years, funded through a mix of federal and state dollars, and administered through a mixed delivery system by LEAs, community-based providers, and family childcare providers including, but not limited to:

- General Childcare and Development (CCTR) Programs include center-based or family childcare home care, providing part or full-time care for children from 0-5 years and out-of-school care for school age children up to age 13 from income eligible families who have a need for care;
- Alternative Payment Programs (APP) provide voucher-based childcare subsidies to low-income parents to access childcare through a wide range of providers. Includes vouchers offered through California’s state welfare program, California Work Opportunity and Responsibility to Kids (CalWORKs), those for working families, as well as programs specifically for migrant children;
- CSPP provides center-based preschool for 3- and 4-year-old children from income eligible families or who are otherwise eligible;
- Family Childcare Home Education Networks (FCCHENs) provide childcare and development services, including preschool, in family childcare home settings. CDE contracts with FCCHEN contractors to provide ongoing training and support to network providers in order to assist these family childcare home providers in offering early education and child care to eligible families with children ages birth through 13 years of age; and
- Head Start and Early Head Start are federally-funded preschool and child development programs serving children from families with incomes below the federal poverty level and offer education, childcare, extensive family engagement, and wraparound services.

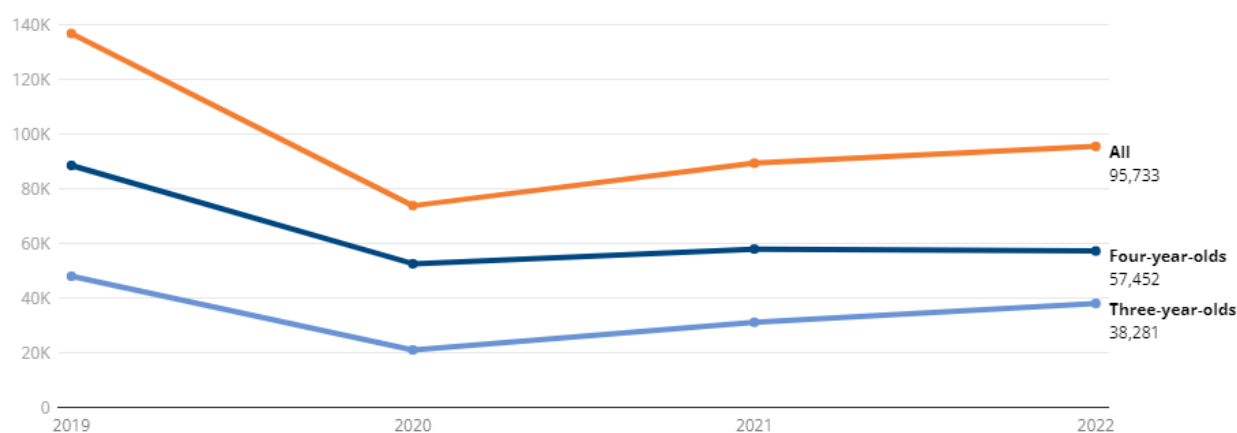
These programs offered a total of 713,300 slots in the 2022-23 fiscal year, as noted below.

Program	Total # of slots in 2022-23
Full-day CSPP	69,000
Part-day CSPP	142,000
TK	120,000
APP	161,300
CCTR	78,500
CalWORKs Stages 1-3	127,800
Other	14,700
<b>Total</b>	<b>713,300</b>

Source: Legislative Analyst Office (LAO), 2023

**Enrollment in CSPP has not returned to pre-pandemic levels.** Despite the availability of over 200,000 CSPP slots, as noted above, the level of enrollment in CSPP has not fully recovered from the impacts of the COVID-19 pandemic, among other factors. Total enrollment in CSPP by three- and four-year-old children dropped from approximately 140,000 in 2019 to 95,733 in 2022, as shown below:

Number of 3- and 4-Year-Old Children Enrolled in CSPP, 2019-2022



Source: California Budget and Policy Center, 2024

Some of the factors impacting the drop in CSPP enrollment have been identified as:

- Workforce challenges that limit providers' ability to staff classrooms;
- The long-lasting impacts of the pandemic;
- 4-year-old children moving to TK;
- Programs may not meet families' needs (e.g., inconvenient hours or location); and
- Families facing access challenges, such as not having enough information about the program. (California Budget and Policy Center, 2024)

***Transitional Kindergarten serves four-year-olds.*** TK is the first year of a 2-year kindergarten program. California’s Kindergarten Readiness Act of 2010 revised the cutoff date by which children must turn 5 for kindergarten entry in that year. The act established September 1 as the new kindergarten eligibility date, 3 months earlier than the previous date of December 2. The Kindergarten Readiness Act also established TK for all students affected by the birthdate eligibility change. Instead of enrolling in regular kindergarten, students who reach age 5 between September 2 and December 2 receive an “age and developmentally appropriate” experience in TK prior to entering kindergarten the following year. The Budget Act of 2021 expanded access to early education for four-year-olds by requiring that all LEAs offer a TK program to all eligible children by the 2025-26 school year.

***The expansion of TK impacts CSPP providers.*** As universal TK is rolling out, the impact is reducing the number of four-year-olds enrolling in CSPP. However, neither TK nor kindergarten is mandatory in California, thus not all eligible four-year-olds will be enrolled in TK. Some families may choose to have their children remain in CSPP or another childcare program that better meets their needs for full-day and full-year care or provides care during non-traditional hours. The Budget Act of 2021 also authorizes CSPP providers to offer wraparound care for children enrolled in TK, during the hours they are not enrolled in TK.

Concerns have been raised about the impact of an expansion of TK on CSPP providers, particularly those community-based providers not affiliated with an LEA. If sufficient numbers of 4-year-olds are enrolled in TK rather than CSPP, the CSPP contractors could experience significant drops in enrollment, jeopardizing their ability to earn their contracts or to remain open. CSPP contracts held by LEAs may be relinquished if the LEA determines that operating a TK program is more financially viable than a CSPP. The loss of full-day, full-year CSPP programs could negatively impact parent choice and the ability of parents to find care that best meets the needs of the child and family.

Another factor cited by CSPP contractors is the disparity in the costs of serving preschool age children versus infants and toddlers due to the differing ratio requirements, which impact staffing costs. Contractors note that the revenues associated with serving 4-year-olds contribute to offsetting the higher costs associated with caring for infants and toddlers. They express concern that without a sufficient number of 4-year-olds in their programs, the programs will not be financially viable in serving infants and toddlers, further exacerbating the shortage of infant and toddler childcare slots.

***Small fraction of eligible children receive subsidized care.*** According to the CDE, in the 2021-22 fiscal year, 62% of three- and four-year-olds in California were eligible for CSPP. Of those eligible, only 8.5% of eligible three-year-olds and 22% of eligible four-year-olds were served. The total number of income-eligible children served in either CSPP or Head Start represented 20.9% of three-year-olds and 27% of four-year-olds.

Enrollment in TK does not require income eligibility as it is being made available to all four-year-old children in a phased-in approach based upon the month of their birthday. In 2021-22, 75,465 children, or 62% of eligible children, participated in TK. It is estimated that at full implementation in 2025-26, between 65-80% of all four-year-olds will participate in TK, representing between 291,000 and 358,200 children.

***Clear need for additional infant and toddler childcare.*** Researchers report that children begin learning at birth, and every interaction that young children have with a caregiver adds to their experiences and influences the rapid brain development that occurs in the first few years of life. The ability of families to access childcare programs staffed by highly skilled and experienced teachers can have a major impact on children's cognitive development. Nearly 1 in 5 infants in the U.S. live in poverty, leaving them at risk of falling behind before they can walk. The toxic stress associated with poverty can limit young children's exposure to positive interactions and harm brain development. Research shows that gaps in children's cognitive abilities by income are evident as early as 9 months and significantly widen by the age of 2.

According to data provided by the American Institutes for Research, the Child Care Resource Center reports that only 9.1% of eligible two-year-olds and 6.5% of one-year-olds are served in subsidized care in California. This bill would propose to serve more two-year-old toddlers in subsidized care by authorizing CSPP contractors to serve these younger children within their contracts.

***Related legislation.*** SB 1047 (Limón), Chapter 923, Statutes of 2022, expands, from 12 months to 24 months, the period of a family's eligibility after establishing initial eligibility for CSPP and other subsidized childcare and development programs, and expands priority for eligibility, enrollment, and services to include families who receive specified human services benefits.

SB 50 (Limón) of the 2021-22 Session would have expanded the range of types of childcare and early learning services that a CSPP contracting agency may provide. This bill was vetoed by the Governor with the following message:

Expanding access to high quality early learning and care for babies and toddlers is a priority for my Administration. That's why I worked to make universal TK a reality, strengthen our paid family leave policies, and expand childcare slots for children in California.

Unfortunately, the timing of this bill is premature as it presupposes how the State Preschool Program will be modified to account for the implementation of universal TK. Next January, modifications will be proposed to the State Preschool Program in the 2022 Budget to align the program with the Master Plan for Early Learning and Care. I appreciate the author's leadership on this issue and look forward to working with her on improving the State Preschool Program and serving more of California's youngest children.

AB 92 (Reyes) of the 2021-22 Session would have made changes to the amount of the family fee collected for preschool and childcare and development services by prohibiting family fees from exceeding 1% of a family's monthly income, exempting families with a monthly income below 75% of the state median income from paying a family fee, and prohibited providers from absorbing any reduction in pay due to waivers or reductions in family fees. This bill was vetoed by the Governor with the following message:

The author's advocacy for California's working families is commendable. Like the author, expanding access to high quality early learning and care programs for babies and toddlers is a priority of my Administration. That's why the 2022 Budget Act included significant investments in preschool and childcare including family fee waivers for the 2022-23 fiscal year, an income threshold increase for the State preschool program from 85 percent to 100 percent of state median income, and funding to allow providers to stay open even if enrollment is down due to COVID-19.

While the intent of this bill is consistent with our previous budget actions, it creates costs in the tens of millions of dollars not currently accounted for in the state's fiscal plan. With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending, particularly spending that is ongoing. We must prioritize existing obligations and priorities, including education, health care, public safety and safety-net programs.

SB 976 (Leyva) of the 2021-22 Session would have renamed CSPP as Universal Preschool and expressed the intent of the Legislature to provide access to free universal preschool to all families regardless of family income, subject to an appropriation for this purpose, through a mixed-delivery system; authorized individual family childcare home providers and Head Start agencies to offer universal preschool; required the convening of a stakeholder council on universal preschool; removed the requirement for the levying of family fees within the universal preschool program; required that financial support be provided to current and aspiring preschool staff in obtaining required credentials and degrees; and expanded the scope of services provided to families by resource and referral agencies (R&Rs). This bill was held in the Assembly Education Committee.

SB 89 (Committee on Budget and Fiscal Review) Chapter 24, Statutes of 2020, authorizes the transfer of child care and development programs, other than CSPP, currently administered by the CDE to the DSS effective July 1, 2021.

AB 123 (McCarty) of the 2019-20 Session would have established the Pre-K for All Act; expanded the eligibility for CSPP; increased the reimbursement rate for the CSPP and required a portion of the increase to be used to increase teacher pay; required CSPP lead teachers to hold a bachelor's degree by a specified date; and established a program to provide financial support to childcare workers pursuing a bachelor's degree. This bill was held in the Senate Appropriations Committee.

AB 167 (Rubio) of the 2019-20 Session would have created the "California Partnership for Infants and Toddlers" to provide grants to specified providers serving infants and toddlers, subject to an appropriation if they agreed to meet specified standards and to provide full-day, full-year care. Also stated legislative intent to provide funding to provide childcare for an additional 20,000 infants and toddlers. This bill was held in the Assembly Appropriations Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

None on file

##### **Opposition**

None on file

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