

# **Child Care and Development Block Grant Act**

## **SEC. 658A. SHORT TITLE AND PURPOSES.**

(a) Short Title-This subchapter may be cited as the ‘Child Care and Development Block Grant Act of 1990’.

(b) Purposes.-The purposes of this subchapter are-

- (1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that State;
- (2) to promote parental choice to empower working parents to make their own decisions regarding the child care services that best suits their family’s needs;
- (3) to encourage States to provide consumer education information to help parents make informed choices about child care services and to promote involvement by parents and family members in the development of their children in child care settings;
- (4) to assist States in delivering high-quality, coordinated early childhood care and education services to maximize parents’ options and support parents trying to achieve independence from public assistance;
- (5) to assist States in improving the overall quality of child care services and programs by implementing the health, safety, licensing, training, and oversight standards established in this subchapter and in State law (including State regulations);
- (6) to improve child care and development of participating children; and
- (7) to increase the number and percentage of low-income children in high-quality child care settings.

## **SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this subchapter \$2,360,000,000 for fiscal year 2015, \$2,478,000,000 for fiscal year 2016, \$2,539,950,000 for fiscal year 2017, \$2,603,448,750 for fiscal year 2018, \$2,668,534,969 for fiscal year 2019, and \$2,748,591,018 for fiscal year 2020.

## **SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.**

The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

## **SEC. 658D. LEAD AGENCY.**

(a) Designation-The Governor of a State desiring to receive a grant under this subchapter shall designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter.

(b) Duties -

(1) In general-The lead agency shall-

(A) administer, directly or through other State governmental or nongovernmental agencies, the financial assistance received under this subchapter by the State;

(B) develop the State plan to be submitted to the Secretary under section 658E(a);

(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State with sufficient time and Statewide distribution of the notice of such hearing to provide to the public an opportunity to comment on the provision of child care services under the State plan;

(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs; and

(E) at the option of an Indian tribe or tribal organization in the State, collaborate and coordinate with such Indian tribe or tribal organization in the development of the State plan in a timely manner.

(2) Development of plan-In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government.

## **SEC. 658E. APPLICATION AND PLAN.**

(a) Application-To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including-

(1) an assurance that the State will comply with the requirements of this subchapter; and

(2) a State plan that meets the requirements of subsection (c).

(b) Period Covered by Plan-The State plan contained in the application under subsection (a) shall be designed to be implemented during a 3-year period.

(c) Requirements of a Plan-

(1) Lead agency-The State plan shall identify the lead agency designated or established under section 658D.

(2) Policies and procedures-The State plan shall-

(A) Parental choice of providers -Provide assurances that-

- (i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter, are given the option either-
  - (I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or
  - (II) to receive a child care certificate as defined in section 658P(2);
- (ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and
- (iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I); and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.

(B) Unlimited parental access-Certify that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers, and provide a detailed description of such procedures.

(C) Parental complaints-Certify that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request and provide a detailed description of how such record is maintained and is made available.

(D) Monitoring and Inspection Reports.—The plan shall include certification that the State, not later than 1 year after the State has in effect the policies and practices described in subparagraph (K)(i), will make public by electronic means, in a consumer-friendly and easily accessible format, organized by provider, the results of monitoring and inspection reports, including those due to major substantiated complaints about failure to comply with this subchapter and State child care policies, as well as the number of deaths, serious injuries, and instances of substantiated child abuse that occurred in child care settings each year, for eligible child care providers within the State. The results shall also include information on the date of such an inspection, and, where applicable, information on corrective action taken.

(E) Consumer and Provider Education Information. - The plan shall include a certification that the State will collect and disseminate (which dissemination may be done, except as otherwise specified in this subparagraph, through resource and referral organizations or other means as determined by the State) to parents of eligible children, the general public, and, where applicable, providers-

(i) information about the availability of the full diversity of child care services that will promote informed child care choices and that concerns—

(I) the availability of child care services provided through programs authorized by this subchapter and, if feasible, other child care services and other programs provided in the State for which the family may be eligible, as well as the availability of financial assistance to obtain child care services in the State;

(II) if available, information about the quality of providers, as determined by the State, that can be provided through a Quality Rating and Improvement System;

(III) information, made available through a State Web site, describing the State process for licensing child care providers, the State processes for conducting background checks, and monitoring and inspections, of child care providers, and the offenses that prevent individuals and entities from serving as child care providers in the State;

(IV) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), Head Start and Early Head Start programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.), the program carried out under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766), and the Medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.);

(V) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(VI) research and best practices concerning children's development, including social and emotional development, early childhood development, and meaningful parent and family engagement, and physical health and development (particularly healthy eating and physical activity); and

(VII) the State policies regarding the social-emotional behavioral health of young children, which may include positive behavioral

intervention and support models, and policies on expulsion of preschool-aged children, in early childhood programs receiving assistance under this subchapter; and

(ii) information on developmental screenings, including—

(I) information on existing (as of the date of submission of the application containing the plan) resources and services the State can deploy, including the coordinated use of the Early and Periodic Screening, Diagnosis, and Treatment program under the Medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and developmental screening services available under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), in conducting developmental screenings and providing referrals to services, when appropriate, for children who receive assistance under this subchapter; and

(II) a description of how a family or eligible child care provider may utilize the resources and services described in subclause (I) to obtain developmental screenings for children who receive assistance under this subchapter who may be at risk for cognitive or other developmental delays, which may include social, emotional, physical, or linguistic delays.

(F) Compliance with State Licensing Requirements.—

(i) In General.- The plan shall include a certification that the State involved has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced.

(ii) License Exemption.—If the State uses funds received under this subchapter to support a child care provider that is exempt from the corresponding licensing requirements described in clause (i), the plan shall include a description stating why such licensing exemption does not endanger the health, safety, or development of children who receive services from child care providers who are exempt from such requirements.

(G) Training and Professional Development Requirements.—

(i) In General.—The plan shall describe the training and professional development requirements that are in effect within the State designed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and to improve the knowledge and skills of the child care workforce. Such requirements shall be applicable to child care providers that provide services for which assistance is provided in accordance with this subchapter.

(ii) Requirements.—The plan shall provide an assurance that such training and professional development—

(I) shall be conducted on an ongoing basis, provide for a progression of professional development (which may include encouraging the pursuit of postsecondary education), reflect current research and best practices relating to the skills necessary for the child care workforce to meet the developmental needs of participating children, and improve the quality of, and stability within, the child care workforce;

(II) shall be developed in consultation with the State Advisory Council on Early Childhood Education and Care (designated or established pursuant to section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i))), and may engage training providers in aligning training opportunities with the State's training framework;

(III) incorporates knowledge and application of the State's early learning and developmental guidelines (where applicable), the State's health and safety standards, and incorporates social-emotional behavior intervention models, which may include positive behavior intervention and support models;

(IV) shall be accessible to providers supported through Indian tribes or tribal organizations that receive assistance under this subchapter; and

(V) to the extent practicable, are appropriate for a population of children that includes—

(aa) different age groups;

(bb) English learners;

(cc) children with disabilities; and

(dd) Native Americans, including Indians, as the term is defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) (including Alaska Natives within the meaning of that term), and Native Hawaiians (as defined in section 6207 of the Elementary and Secondary Education Act of 1965.

(iii) Information.—The plan shall include the number of hours of training required for eligible providers and caregivers to engage in annually, as determined by the State.

(iv) Construction.—The Secretary shall not require an individual or entity that provides child care services for which assistance is provided in accordance with this subchapter to acquire a credential to provide such services. Nothing in this section shall be construed to prohibit a State from requiring a credential.

(H) Child-to-Provider Ratio Standards.—

(i) Standards.—The plan shall describe child care standards for child care services for which assistance is made available in accordance with this subchapter, appropriate to the type of child care setting involved, to

provide for the safety and developmental needs of the children served, that address—

(I) group size limits for specific age populations, as determined by the State;

(II) the appropriate ratio between the number of children and the number of providers, in terms of the age of the children in child care, as determined by the State; and

(III) required qualifications for such providers, as determined by the State.

(ii) Construction.—The Secretary may offer guidance to States on child-to-provider ratios described in clause (i) according to setting and age group, but shall not require that the State maintain specific group size limits for specific age populations or child-to-provider ratios for providers who receive assistance in accordance with subchapter.

(I) Health and Safety Requirements.- The plan shall include a certification that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements-

(i) shall relate to matters including health and safety topics consisting of—

(I) the prevention and control of infectious diseases (including immunization) and the establishment of a grace period that allows homeless children and children in foster care to receive services under this subchapter while their families (including foster families) are taking any necessary action to comply with immunization and other health and safety requirements;

(II) prevention of sudden infant death syndrome and use of safe sleeping practices;

(III) the administration of medication, consistent with standards for parental consent;

(IV) the prevention of and response to emergencies due to food and allergic reactions;

(V) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;

(VI) prevention of shaken baby syndrome and abusive head trauma;

(VII) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(1));

(VIII) the handling and storage of hazardous materials and the appropriate disposal of biocontaminants;

(IX) for providers that offer transportation, if applicable, appropriate precautions in transporting children;  
(X) first aid and cardiopulmonary resuscitation; and  
(XI) minimum health and safety training, to be completed pre-service or during an orientation period in addition to ongoing training, appropriate to the provider setting involved that addresses each of the requirements relating to matters described in subclauses (I) through (X); and

(ii) may include requirements relating to nutrition, access to physical activity, or any other subject area determined by the State to be necessary to promote child development or to protect children's health and safety.

(J) Compliance with State and Local Health and Safety Requirements.- The plan shall include a certification that procedures are in effect to ensure that child care providers within the State, that provide services for which assistance is made available in accordance with this subchapter, comply with all applicable State or local health and safety requirements as described in subparagraph (I).

(K) Enforcement of Licensing and Other Regulatory Requirements.—

(i) Certification.—The plan shall include a certification that the State, not later than 2 years after the date of enactment of the Child Care and Development Block Grant Act of 2014, shall have in effect policies and practices, applicable to licensing or regulating child care providers that provide services for which assistance is made available in accordance with this subchapter and the facilities of those providers, that—

(I) ensure that individuals who are hired as licensing inspectors in the State are qualified to inspect those child care providers and facilities and have received training in related health and safety requirements, and are trained in all aspects of the State's licensure requirements;

(II) require licensing inspectors (or qualified inspectors designated by the lead agency) of those child care providers and facilities to perform inspections, with—

(aa) not less than 1 precensure inspection, for compliance with health, safety, and fire standards, of each such child care provider and facility in the State; and

(bb) not less than annually, an inspection (which shall be unannounced) of each such child care provider and facility in the State for compliance with all child care licensing standards, which shall include an inspection for compliance with health, safety, and fire standards (inspectors may inspect for compliance with all 3 standards at the same time);

(III) require the ratio of licensing inspectors to such child care providers and facilities in the State to be maintained at a level sufficient to enable the State to conduct inspections of such child

care providers and facilities on a timely basis in accordance with Federal, State, and local law; and

(IV) require licensing inspectors (or qualified inspectors designated by the lead agency) of child care providers and facilities to perform an annual inspection of each license-exempt provider in the State receiving funds under this subchapter (unless the provider is an eligible child care provider as described in section 658P(6)(B)) for compliance with health, safety, and fire standards, at a time to be determined by the State.

(ii) Construction.—The Secretary may offer guidance to a State, if requested by the State, on a research-based minimum standard regarding ratios described in clause (i)(III) and provide technical assistance to the State on meeting the minimum standard within a reasonable time period, but shall not prescribe a particular ratio.

(L) Compliance with Child Abuse Reporting Requirements.—The plan shall include a certification that child care providers within the State will comply with the child abuse reporting requirements of section 106(b)(2)(B)(i) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(2)(B)(i)).

(M) Meeting the Needs of Certain Populations.— The plan shall describe how the State will develop and implement strategies (which may include alternative reimbursement rates to child care providers, the provision of direct contracts or grants to community-based organizations, offering child care certificates to parents, or other means determined by the State) to increase the supply and improve the quality of child care services for—

(i) children in underserved areas;

(ii) infants and toddlers;

(iii) children with disabilities, as defined by the State; and

(iv) children who receive care during nontraditional hours.

(N) Protection for Working Parents.—

(i) Minimum Period.—

(I) 12-Month Period.—The plan shall demonstrate that each child who receives assistance under this subchapter in the State will be considered to meet all eligibility requirements for such assistance and will receive such assistance, for not less than 12 months before the State or designated local entity redetermines the eligibility of the child under this subchapter, regardless of a temporary change in the ongoing status of the child’s parent as working or attending a job training or educational program or a change in family income for the child’s family, if that family income does not exceed 85 percent of the State median income for a family of the same size.

(II) Fluctuation in Earnings.—The plan shall demonstrate how the State’s or designated local entity’s processes for initial determination and redetermination of such eligibility take into account irregular fluctuations in earnings.

(ii) Redetermination Process.—The plan shall describe the procedures and policies that are in place to ensure that working parents (especially parents in families receiving assistance under the program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) are not required to unduly disrupt their employment in order to comply with the State's or designated local entity's requirements for redetermination of eligibility for assistance provided in accordance with this subchapter.

(iii) Period before Termination.—At the option of the State, the plan shall demonstrate that the State will not terminate assistance provided to carry out this subchapter based on a factor consisting of a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 3 months, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance at a job training or educational program, as soon as possible.

(iv) Graduated Phaseout of Care.—The plan shall describe the policies and procedures that are in place to allow for provision of continued assistance to carry out this subchapter, at the beginning of a new eligibility period under clause (i)(I), for children of parents who are working or attending a job training or educational program and whose family income exceeds the State's income limit to initially qualify for such assistance, if the family income for the family involved does not exceed 85 percent of the State median income for a family of the same size.

(O) Coordination with Other Programs.—

(i) In General.—The plan shall describe how the State, in order to expand accessibility and continuity of care, and assist children enrolled in early childhood programs to receive full-day services, will efficiently, and to the extent practicable, coordinate the services supported to carry out this subchapter with programs operating at the Federal, State, and local levels for children in preschool programs, tribal early childhood programs, and other early childhood programs, including those serving infants and toddlers with disabilities, homeless children, and children in foster care.

(ii) Optional Use of Combined Funds.—If the State elects to combine funding for the services supported to carry out this subchapter with funding for any program described in clause (i), the plan shall describe how the State will combine the multiple sets of funding and use the combined funding.

(iii) Rule of Construction.— Nothing in clause (i) shall be construed to affect the priority of children described in clause (i) to receive full-day prekindergarten or Head Start program services.

(P) Public-Private Partnerships.— The plan shall demonstrate how the State encourages partnerships among State agencies, other public agencies, Indian tribes and tribal organizations, and private entities, including faith-based and

community-based organizations, to leverage existing service delivery systems (as of the date of the submission of the application containing the plan) for child care and development services and to increase the supply and quality of child care services for children who are less than 13 years of age, such as by implementing voluntary shared services alliance models.

(Q) Priority for Low-Income Populations.—The plan shall describe the process the State proposes to use, with respect to investments made to increase access to programs providing high-quality child care and development services, to give priority for those investments to children of families in areas that have significant concentrations of poverty and unemployment and that do not have such programs.

(R) Consultation.—The plan shall include a certification that the State has developed the plan in consultation with the State Advisory Council on Early Childhood Education and Care designated or established pursuant to section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i)).

(S) Payment Practices.—The plan shall include—

(i) a certification that the payment practices of child care providers in the State that serve children who receive assistance under this subchapter reflect generally accepted payment practices of child care providers in the State that serve children who do not receive assistance under this subchapter, so as to provide stability of funding and encourage more child care providers to serve children who receive assistance under this subchapter; and

(ii) an assurance that the State will, to the extent practicable, implement enrollment and eligibility policies that support the fixed costs of providing child care services by delinking provider reimbursement rates from an eligible child's occasional absences due to holidays or unforeseen circumstances such as illness.

(T) Early Learning and Developmental Guidelines.—

(i) In General.—The plan shall include an assurance that the State will maintain or implement early learning and developmental guidelines (or develop such guidelines if the State does not have such guidelines as of the date of enactment of the Child Care and Development Block Grant Act of 2014) that are appropriate for children from birth to kindergarten entry, describing what such children should know and be able to do, and covering the essential domains of early childhood development for use statewide by child care providers. Such guidelines shall—

(I) be research-based, developmentally appropriate, and aligned with entry to kindergarten;

(II) be implemented in consultation with the state educational agency and the State Advisory Council on Early Childhood Education and Care (designated or established pursuant to section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i))); and

(III) be updated as determined by the State.

(ii) Prohibition on Use of Funds.—The plan shall include an assurance that funds received by the State to carry out this subchapter will not be used to develop or implement an assessment for children that—

(I) will be the sole basis for a child care provider being determined to be ineligible to participate in the program carried out under this subchapter;

(II) will be used as the primary or sole basis to provide a reward or sanction for an individual provider;

(III) will be used as the primary or sole method for assessing program effectiveness; or

(IV) will be used to deny children eligibility to participate in the program carried out under this subchapter.

(iii) Exceptions.—Nothing in this subchapter shall preclude the State from using a single assessment as determined by the State for children for—

(I) supporting learning or improving a classroom environment;

(II) targeting professional development to a provider;

(III) determining the need for health, mental health, disability, developmental delay, or family support services;

(IV) obtaining information for the quality improvement process at the State level; or

(V) conducting a program evaluation for the purposes of providing program improvement and parent information.

(iv) No Federal Control.—Nothing in this section shall be construed to authorize an officer or employee of the Federal Government to—

(I) mandate, direct, control, or place conditions (outside of what is required by this subchapter) around adopting a State's early learning and developmental guidelines developed in accordance with this section;

(II) establish any criterion that specifies, defines, prescribes, or places conditions (outside of what is required by this subchapter) on a State adopting standards or measures that a State uses to establish, implement, or improve such guidelines, related accountability systems, or alignment of such guidelines with education standards; or

(III) require a State to submit such guidelines for review.

(U) Disaster Preparedness.—

(i) In General.—The plan shall demonstrate the manner in which the State will address the needs of children in child care services provided through programs authorized under this subchapter, including the need for safe child care, for the period before, during, and after a state of emergency declared by the Governor or a major disaster or emergency (as such terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).

(ii) Statewide Child Care Disaster Plan.—Such plan shall include a statewide child care disaster plan for coordination of activities and

collaboration, in the event of an emergency or disaster described in clause (i), among the State agency with jurisdiction over human services, the agency with jurisdiction over State emergency planning, the State lead agency, the State agency with jurisdiction over licensing of child care providers, the local resource and referral organizations, the State resource and referral system, and the State Advisory Council on Early Childhood Education and Care as provided for under section 642B(b) of the Head Start Act (42 U.S.C. 9837b(b)).

(iii) Disaster Plan Components.—The components of the disaster plan, for such an emergency or disaster, shall include—

(I) evacuation, relocation, shelter-in-place, and lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

(II) guidelines for the continuation of child care services in the period following the emergency or disaster, which may include the provision of emergency and temporary child care services, and temporary operating standards for child care providers during that period; and

(III) procedures for staff and volunteer emergency preparedness training and practice drills.

(V) Business Technical Assistance.— The plan shall describe how the State will develop and implement strategies to strengthen the business practices of child care providers to expand the supply, and improve the quality of, child care services.

(3) Use of block grant funds -

(A) General requirement -The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter in accordance with subparagraphs (B) through (D).

(B) Child care services and related activities-

(i) In General.—The State shall use amounts provided to the State for each fiscal year under this subchapter for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, activities that improve access to child care services, including the use of procedures to permit enrollment (after an initial eligibility determination) of homeless children while required documentation is obtained, training and technical assistance on identifying and serving homeless children and their families, and specific outreach to homeless families, and any other activity that the State determines to be appropriate to meet the purposes of this subchapter (which may include an activity described in clause (ii)) with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs.

- (ii) Report by the Assistant Secretary for Children and Families.—
  - (I) In General.—Not later than September 30 of the first full fiscal year after the date of enactment of the Child Care and Development Block Grant Act of 2014, and September 30 of each fiscal year thereafter, the Secretary (acting through the Assistant Secretary for Children and Families of the Department of Health and Human Services) shall prepare a report that contains a determination about whether each State uses amounts provided to such State for the fiscal year involved under this subchapter in accordance with the priority for services described in clause (i).
  - (II) Penalty for Noncompliance.—For any fiscal year that the report of the Secretary described in subclause (I) indicates that a State has failed to give priority for services in accordance with clause (i), the Secretary shall—
    - (aa) inform the State that the State has until the date that is 6 months after the Secretary has issued such report to fully comply with clause (i);
    - (bb) provide the State an opportunity to modify the State plan of such State, to make the plan consistent with the requirements of clause (i), and resubmit such State plan to the Secretary not later than the date described in item (aa); and
    - (cc) if the State does not fully comply with clause (i) and item (bb), by the date described in item (aa), withhold 5 percent of the funds that would otherwise be allocated to that State in accordance with this subchapter for the first full fiscal year after that date.
  - (III) Waiver for Extraordinary Circumstances.—Notwithstanding subclause (II) the Secretary may grant a waiver to a State for one year to the penalty applied in subclause (II) if the Secretary determines there are extraordinary circumstances, such as a natural disaster, that prevent the State from complying with clause (i). If the Secretary does grant a waiver to a State under this section, the Secretary shall, within 30 days of granting such waiver, submit a report to the appropriate congressional committees on the circumstances of the waiver including the stated reason from the State on the need for a waiver, the expected impact of the waiver on children served under this program, and any such other relevant information the Secretary deems necessary.
- (iii) Child Care Resource and Referral System.—
  - (I) In General.—A State may use amounts described in clause (i) to establish or support a system of local or regional child care resource and referral organizations that is coordinated, to

the extent determined appropriate by the State, by a statewide public or private nonprofit, community-based or regionally based, lead child care resource and referral organization.

(II) Local or Regional Organizations.—The local or regional child care resource and referral organizations supported as described in subclause (I) shall—

(aa) provide parents in the State with consumer education information referred to in paragraph (2)(E) (except as otherwise provided in that paragraph), concerning the full range of child care options (including faith-based and community-based child care providers), analyzed by provider, including child care provided during nontraditional hours and through emergency child care centers, in their political subdivisions or regions;

(bb) to the extent practicable, work directly with families who receive assistance under this subchapter to offer the families support and assistance, using information described in item (aa), to make an informed decision about which child care providers they will use, in an effort to ensure that the families are enrolling their children in the most appropriate child care setting to suit their needs and one that is of high quality (as determined by the State);

(cc) collect data and provide information on the coordination of services and supports, including services under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431, et seq.), for children with disabilities (as defined in section 602 of such Act (20 U.S.C. 1401));

(dd) collect data and provide information on the supply of and demand for child care services in political subdivisions or regions within the State and submit such information to the State;

(ee) work to establish partnerships with public agencies and private entities, including faith-based and community-based child care providers, to increase the supply and quality of child care services in the State; and

(ff) as appropriate, coordinate their activities with the activities of the State lead agency and local agencies that administer funds made available in accordance with this subchapter.

(C) Limitation on Administrative Costs - Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter

by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term ‘administrative costs’ shall not include the costs of providing direct services.

(D) Assistance for Certain Families - A State shall ensure that a substantial portion of the amounts available after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 2015 through 2020 to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families including or in addition to families with children described in clause (i), (ii), (iii), or (iv) of paragraph (2)(M).

(E) Direct Services.—From amounts provided to a State for a fiscal year to carry out this subchapter, the State shall—

(i) reserve the minimum amount required to be reserved under section 658G, and the funds for costs described in subparagraph (C); and

(ii) from the remainder, use not less than 70 percent to fund direct services (provided by the State) in accordance with paragraph (2)(A).

(4) Payment rates. -

(A) In General.- The State plan shall certify that payment rates for the provision of child care services for which assistance is provided in accordance with this subchapter are sufficient to ensure equal access for eligible children to child care services that are comparable to child care services in the State or substate area involved that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs, and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access.

(B) Survey.—The State plan shall—

(i) demonstrate that the State has, after consulting with the State Advisory Council on Early Childhood Education and Care designated or established in section 642B(b)(1)(A)(i) of the Head Start Act (42 U.S.C. 9837b(b)(1)(A)(i)), local child care program administrators, local child care resource and referral agencies, and other appropriate entities, developed and conducted (not earlier than 2 years before the date of the submission of the application containing the State plan) a statistically valid and reliable survey of the market rates for child care services in the State (that reflects variations in the cost of child care services by geographic area, type of provider, and age of child) or an alternative methodology, such as a cost estimation model, that has been developed by the State lead agency;

(ii) demonstrate that the State prepared a detailed report containing the results of the State market rates survey or alternative methodology conducted pursuant to clause (i), and made the results of the survey or alternative methodology widely available (not later than 30 days after

the completion of such survey or alternative methodology) through periodic means, including posting the results on the Internet;  
(iii) describe how the State will set payment rates for child care services, for which assistance is provided in accordance with this subchapter—

- (I) in accordance with the results of the market rates survey or alternative methodology conducted pursuant to clause (i);
- (II) taking into consideration the cost of providing higher quality child care services than were provided under this subchapter before the date of enactment of the Child Care and Development Block Grant Act of 2014; and
- (III) without, to the extent practicable, reducing the number of families in the State receiving such assistance to carry out this subchapter, relative to the number of such families on the date of enactment of that Act; and

(iv) describe how the State will provide for timely payment for child care services provided under this subchapter.

(C) Construction.—

(i) No Private Right of Action.— Nothing in this paragraph shall be construed to create a private right of action if the State acted in accordance with this paragraph.

(ii) No Prohibition of Certain Different Rates.—Nothing in this subchapter shall be construed to prevent a State from differentiating the payment rates described in subparagraph (B)(iii) on the basis of such factors as—

- (I) geographic location of child care providers (such as location in an urban or rural area);
- (II) the age or particular needs of children (such as the needs of children with disabilities and children served by child protective services);
- (III) whether the providers provide child care services during weekend and other nontraditional hours; or
- IV) the State’s determination that such differentiated payment rates may enable a parent to choose high- quality child care that best fits the parent’s needs.

(5) Sliding fee scale-The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing (that is not a barrier to families receiving assistance under this subchapter) by the families that receive child care services for which assistance is provided under this subchapter.

(d) Approval of Application-The Secretary shall approve an application that satisfies the requirements of this section.

## **SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.**

- (a) No Entitlement to Contract or Grant-Nothing in this subchapter shall be construed-
- (1) to entitle any child care provider or recipient of a child care certificate to any contract, grant, or benefit; or
  - (2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

(b) Construction of Facilities -

- (1) In General-Except as provided for in section 658O(c)(6), no funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.
- (2) Sectarian agency or organization-In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(I).

**SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

(a) Reservation.—

(1) Reservation for Activities Relating to the Quality of Child Care Services.—A State that receives funds to carry out this subchapter for a fiscal year referred to in paragraph (2) shall reserve and use a portion of such funds, in accordance with paragraph (2), for activities provided directly, or through grants or contracts with local child care resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services and increase parental options for, and access to, high-quality child care, and is in alignment with a Statewide assessment of the State’s needs to carry out such services and care, provided in accordance with this subchapter.

(2) Amount of Reservations.—Such State shall reserve and use—

- (A) to carry out the activities described in paragraph (1), not less than—
  - (i) 7 percent of the funds described in paragraph (1), for the first and second full fiscal years after the date of enactment of the Child Care and Development Block Grant Act of 2014;
  - (ii) 8 percent of such funds for the third and fourth full fiscal years after the date of enactment; and
  - (iii) 9 percent of such funds for the fifth and each succeeding full fiscal year after the date of enactment; and

(B) in addition to the funds reserved under subparagraph (A), 3 percent of the funds described in paragraph (1) received not later than the second full fiscal year after the date of enactment and received for each succeeding full fiscal year, to carry out the activities described in paragraph (1) and subsection (b)(4), as such activities relate to the quality of care for infants and toddlers.

(3) State Reservation Amount.—Nothing in this subsection shall preclude the State from reserving a larger percentage of funds to carry out the activities described in paragraph (1) and subsection (b).

(b) Activities.—Funds reserved under subsection (a) shall be used to carry out no fewer than one of the following activities that will improve the quality of child care services provided in the State:

(1) Supporting the training and professional development of the child care workforce through activities such as those included under section 658E(c)(2)(G), in addition to—

(A) offering training and professional development opportunities for child care providers that relate to the use of scientifically-based, developmentally-appropriate and age-appropriate strategies to promote the social, emotional, physical, and cognitive development of children, including those related to nutrition and physical activity, and offering specialized training for child care providers caring for those populations prioritized in section 658E(c)(2)(Q), and children with disabilities;

(B) incorporating the effective use of data to guide program improvement;

(C) including effective behavior management strategies and training, including positive behavior interventions and support models, that promote positive social and emotional development and reduce challenging behaviors, including reducing expulsions of preschool-aged children for such behaviors;

(E) providing training and outreach on engaging parents and families in culturally and linguistically appropriate ways to expand their knowledge, skills, and capacity to become meaningful partners in supporting their children’s positive development;

(F) providing training corresponding to the nutritional and physical activity needs of children to promote healthy development;

(G) providing training or professional development for child care providers regarding the early neurological development of children; and

(H) connecting child care staff members of child care providers with available Federal and State financial aid, or other resources, that would assist child care staff members in pursuing relevant postsecondary training.

(2) Improving upon the development or implementation of the early learning and developmental guidelines described in section 658E(c)(2)(T) by providing technical assistance to eligible child care providers that enhances the cognitive, physical, social and emotional development, including early childhood development, of participating preschool and school-aged children and supports their overall well-being.

(3) Developing, implementing, or enhancing a tiered quality rating system for child care providers and services, which may—

(A) support and assess the quality of child care providers in the State;

(B) build on State licensing standards and other State regulatory standards for such providers;

(C) be designed to improve the quality of different types of child care providers and services;

- (D) describe the safety of child care facilities;
  - (E) build the capacity of State early childhood programs and communities to promote parents' and families' understanding of the State's early childhood system and the ratings of the programs in which the child is enrolled;
  - (F) provide, to the maximum extent practicable, financial incentives and other supports designed to expand the full diversity of child care options and help child care providers improve the quality of services; and
  - (G) accommodate a variety of distinctive approaches to early childhood education and care, including but not limited to, those practiced in faith-based settings, community-based settings, child-centered settings, or similar settings that offer a distinctive approach to early childhood development.
- (4) Improving the supply and quality of child care programs and services for infants and toddlers through activities, which may include—
- (A) establishing or expanding high-quality community or neighborhood-based family and child development centers, which may serve as resources to child care providers in order to improve the quality of early childhood services provided to infants and toddlers from low-income families and to help eligible child care providers improve their capacity to offer high-quality, age-appropriate care to infants and toddlers from low-income families;
  - (B) establishing or expanding the operation of community or neighborhood-based family child care networks;
  - (C) promoting and expanding child care providers' ability to provide developmentally appropriate services for infants and toddlers through training and professional development; coaching and technical assistance on this age group's unique needs from statewide networks of qualified infant-toddler specialists; and improved coordination with early intervention specialists who provide services for infants and toddlers with disabilities under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);
  - (D) if applicable, developing infant and toddler components within the State's quality rating system described in paragraph (3) for child care providers for infants and toddlers, or the development of infant and toddler components in a State's child care licensing regulations or early learning and development guidelines;
  - (E) improving the ability of parents to access transparent and easy to understand consumer information about high-quality infant and toddler care; and
  - (F) carrying out other activities determined by the State to improve the quality of infant and toddler care provided in the State, and for which there is evidence that the activities will lead to improved infant and toddler health and safety, infant and toddler cognitive and physical development, or infant and toddler well-being, including providing health and safety training (including training in safe sleep practices, first aid, and cardiopulmonary resuscitation) for providers and caregivers.
- (5) Establishing or expanding a statewide system of child care resource and referral services.

- (6) Facilitating compliance with State requirements for inspection, monitoring, training, and health and safety, and with State licensing standards.
- (7) Evaluating and assessing the quality and effectiveness of child care programs and services offered in the State, including evaluating how such programs positively impact children.
- (8) Supporting child care providers in the voluntary pursuit of accreditation by a national accrediting body with demonstrated, valid, and reliable program standards of high quality.
- (9) Supporting State or local efforts to develop or adopt high-quality program standards relating to health, mental health, nutrition, physical activity, and physical development.
- (10) Carrying out other activities determined by the State to improve the quality of child care services provided in the State, and for which measurement of outcomes relating to improved provider preparedness, child safety, child well-being, or entry to kindergarten is possible.

(c) Certification.—Beginning with fiscal year 2016, at the beginning of each fiscal year, the State shall annually submit to the Secretary a certification containing an assurance that the State was in compliance with subsection (a) during the preceding fiscal year and a description of how the State used funds received under this subchapter to comply with subsection (a) during that preceding fiscal year.

(d) Reporting Requirements.—Each State receiving funds under this subchapter shall prepare and submit an annual report to the Secretary, which shall include information about—

- (1) the amount of funds that are reserved under subsection (a);
- (2) the activities carried out under this section; and
- (3) the measures that the State will use to evaluate the State’s progress in improving the quality of child care programs and services in the State.

(e) Technical Assistance.—The Secretary shall offer technical assistance, in accordance with section 658I(a)(3), which may include technical assistance through the use of grants or cooperative agreements, to States for the activities described in subsection (b) at the request of the State.

(f) Constriction.—Nothing in this section shall be construed as providing the Secretary the authority to regulate, direct, dictate, or place conditions (outside of what is required by this subchapter) on a State adopting specific State child care quality activities or progress in implementing those activities.

## **SEC. 658H. CRIMINAL BACKGROUND CHECKS.**

(a) In General.—A State that receives funds to carry out this subchapter shall have in effect—

- (1) requirements, policies, and procedures to require and conduct criminal background checks for child care staff members (including prospective child care staff members) of child care providers described in subsection (c)(1); and
- (2) licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in subsection (c).

(b) Requirements.—A criminal background check for a child care staff member under subsection (a) shall include—

- (1) a search of the State criminal and sex offender registry or repository in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;
- (2) a search of State-based child abuse and neglect registries and databases in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;
- (3) a search of the National Crime Information Center;
- (4) a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System; and
- (5) a search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).

(c) Prohibitions.—

(1) Child Care Staff Members.—A child care staff member shall be ineligible for employment by a child care provider that is receiving assistance under this subchapter if such individual—

- (A) refuses to consent to the criminal background check described in subsection (b);
- (B) knowingly makes a materially false statement in connection with such criminal background check;
- (C) is registered, or is required to be registered, on a State sex offender registry or repository or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); or
- (D) has been convicted of a felony consisting of—
  - (i) murder, as described in section 1111 of title 18, United States Code;
  - (ii) child abuse or neglect;
  - (iii) a crime against children, including child pornography;
  - (iv) spousal abuse;
  - (v) a crime involving rape or sexual assault;
  - (vi) kidnapping;
  - (vii) arson;
  - (viii) physical assault or battery; or
  - (ix) subject to subsection (e)(4), a drug-related offense committed during the preceding 5 years; or

(E) has been convicted of a violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or of a misdemeanor involving child pornography.

(2) Child Care Providers.—A child care provider described in subsection (i)(1) shall be ineligible for assistance provided in accordance with this subchapter if the provider employs a staff member who is ineligible for employment under paragraph (1).

(d) Submissions of Requests for Background Checks.—

(1) In General.—A child care provider covered by subsection (c) shall submit a request, to the appropriate State agency designated by a State, for a criminal background check described in subsection (b), for each child care staff member (including prospective child care staff members) of the provider.

(2) Staff Members.—Subject to paragraph (4), in the case of an individual who became a child care staff member before the date of enactment of the Child Care and Development Block Grant Act of 2014, the provider shall submit such a request—

(A) prior to the last day described in subsection (j)(1); and

(B) not less often than once during each 5-year period following the first submission date under this paragraph for that staff member.

(3) Prospective Staff Members.—Subject to paragraph (4), in the case of an individual who is a prospective child care staff member on or after that date of enactment, the provider shall submit such a request—

(A) prior to the date the individual becomes a child care staff member of the provider; and

(B) not less than once during each 5-year period following the first submission date under this paragraph for that staff member.

(4) Background Check for Another Child Care Provider.—A child care provider shall not be required to submit a request under paragraph (2) or (3) for a child care staff member if—

(A) the staff member received a background check described in subsection (b)—

(i) within 5 years before the latest date on which such a submission may be made; and

(ii) while employed by or seeking employment by another child care provider within the State;

(B) the State provided to the first provider a qualifying background check result, consistent with this subchapter, for the staff member; and

(C) the staff member is employed by a child care provider within the State, or has been separated from employment from a child care provider within the State for a period of not more than 180 consecutive days.

(e) Background Check Results and Appeals.—

(1) Background Check Results.—The State shall carry out the request of a child care provider for a criminal background check as expeditiously as possible, but not to

exceed 45 days after the date on which such request was submitted, and shall provide the results of the criminal background check to such provider and to the current or prospective staff member.

(2) Privacy.—

(A) In General.—The State shall provide the results of the criminal background check to the provider in a statement that indicates whether a child care staff member (including a prospective child care staff member) is eligible or ineligible for employment described in subsection (c), without revealing any disqualifying crime or other related information regarding the individual.

(B) Ineligible Staff Member.—If the child care staff member is ineligible for such employment due to the background check, the State will, when providing the results of the background check, include information related to each disqualifying crime, in a report to the staff member or prospective staff member.

(C) Public Release of Results.—No State shall publicly release or share the results of individual background checks, except States may release aggregated data by crime as listed under subsection (c)(1)(D) from background check results, as long as such data is not personally identifiable information.

(3) Appeals.—

(A) In General.—The State shall provide for a process by which a child care staff member (including a prospective child care staff member) may appeal the results of a criminal background check conducted under this section to challenge the accuracy or completeness of the information contained in such member's criminal background report.

(B) Appeals Process.—The State shall ensure that—

(i) each child care staff member shall be given notice of the opportunity to appeal;

(ii) a child care staff member will receive instructions about how to complete the appeals process if the child care staff member wishes to challenge the accuracy or completeness of the information contained in such member's criminal background report; and

(iii) the appeals process is completed in a timely manner for each child care staff member.

(4) Review.—The State may allow for a review process through which the State may determine that a child care staff member (including a prospective child care staff member) disqualified for a crime specified in subsection (c)(1)(D)(ix) is eligible for employment described in subsection (c)(1), notwithstanding subsection (c). The review process shall be consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(5) No Private Right of Action.—Nothing in this section shall be construed to create a private right of action if a provider has acted in accordance with this section.

(f) Fees for Background Checks.—Fees that a State may charge for the costs of processing applications and administering a criminal background check as required by this section shall not exceed the actual costs to the State for the processing and administration.

(g) Transparency.—The State must ensure that the policies and procedures under section 658H are published on the Web site (or otherwise publicly available venue in the absence of a Web site) of the State and the Web sites of local lead agencies.

(h) Construction.—

(1) Disqualification for Other Crimes.— Nothing in this section shall be construed to prevent a State from disqualifying individuals as child care staff members based on their conviction for crimes not specifically listed in this section that bear upon the fitness of an individual to provide care for and have responsibility for the safety and well-being of children.

(2) Rights and Remedies.—Nothing in this section shall be construed to alter or otherwise affect the rights and remedies provided for child care staff members residing in a State that disqualifies individuals as child care staff members for crimes not specifically provided for under this section.

(i) Definitions.—In this section—

(1) the term ‘child care provider’ means a center-based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that—

(A) is not an individual who is related to all children for whom child care services are provided; and

(B) is licensed, regulated, or registered under State law or receives assistance provided under this subchapter; and

(2) the term ‘child care staff member’ means an individual (other than an individual who is related to all children for whom child care services are provided)—

(A) who is employed by a child care provider for compensation; or

(B) whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider.

(j) Effective Date.—

(1) In General.—A State that receives funds under this subchapter shall meet the requirements of this section for the provision of criminal background checks for child care staff members described in subsection (d)(1) not later than the last day of the second full fiscal year after the date of enactment of the Child Care and Development Block Grant Act of 2014.

(2) Extension.—The Secretary may grant a State an extension of time, of not more than 1 fiscal year, to meet the requirements of this section if the State demonstrates a good faith effort to comply with the requirements of this section.

(3) Penalty for Noncompliance.—Except as provided in paragraphs (1) and (2), for any fiscal year that a State fails to comply substantially with the requirements of this section, the Secretary shall withhold 5 percent of the funds that would otherwise be allocated to that State in accordance with this subchapter for the following fiscal year.

## **SEC. 658I. ADMINISTRATION AND ENFORCEMENT.**

### **(a) Administration-The Secretary shall-**

- (1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;
- (2) collect, publish, and make available to the public a listing of State child care standards at least once every 3 years;
- (3) provide technical assistance, such as business technical assistance, as described in section 658E(c)(2)(V), to States (which may include providing assistance on a reimbursable basis) which shall be provided by qualified experts on practices grounded in scientifically valid research, where appropriate, to carry out this subchapter;
- (4) disseminate, for voluntary informational purposes, information on practices that scientifically valid research indicates are most successful in improving the quality of programs that receive assistance with this subchapter; and
- (5) after consultation with the heads of any other Federal agencies involved, issue guidance and disseminate information on best practices regarding the use of funding combined by States as described in section 658E(c)(2)(O)(ii), consistent with laws other than this subchapter.

### **(b) Enforcement-**

(1) Review of compliance with state plan -The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State.

#### **(2) Noncompliance-**

(A) In general-If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that-

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.

(B) Additional sanctions-In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions,

including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

(C) Notice - The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

- (3) Issuance of rules-The Secretary shall establish by rule procedures for-
- (A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and
  - (B) imposing sanctions under this section.

(c) Request for Relief.—

(1) In General.—The Secretary may waive for a period of not more than three years any provision under this subchapter or sanctions imposed upon a State in accordance with subsection (b)(2) upon the State’s request for such a waiver if the Secretary finds that—

(A) the request describes one or more conflicting or duplicative requirements preventing the effective delivery of child care services to justify a waiver, extraordinary circumstances, such as natural disaster or financial crisis, or an extended period of time for a State legislature to enact legislation to implement the provisions of this subchapter;

(B) such circumstances included in the request prevent the State from complying with any statutory or regulatory requirements of this subchapter;

(C) the waiver will, by itself, contribute to or enhance the State’s ability to carry out the purposes of this subchapter; and,

(D) the waiver will not contribute to in- consistency with the objectives of this law.

(2) Contents.—Such request shall be provided to the Secretary in writing and will—

(A) detail each sanction or provision within this subchapter that the State seeks relief from;

(B) describe how a waiver from that sanction or provision of this subchapter will, by itself, improve delivery of child care services for children in the State; and

(C) certify that the health, safety, and well-being of children served through assistance received under this subchapter will not be compromised as a result of the waiver.

(3) Approval.—Within 90 days after the receipt of a State’s request under this subsection, the Secretary shall inform the State of approval or disapproval of the request. If the plan is disapproved, the Secretary shall, at this time, inform the State, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate of the reasons for the disapproval and give the State the opportunity to amend the request. In the case of approval, the Secretary shall, within 30 days of granting such waiver, notify and submit a report to the Committee on Education and the Workforce of the

House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the circumstances of the waiver including each specific sanction or provision waived, the reason as given by the State of the need for a waiver, and the expected impact of the waiver on children served under this program.

(4) External Conditions.—The Secretary shall not require or impose any new or additional requirements in exchange for receipt of a waiver if such requirements are not specified in this subchapter.

(5) Duration.—The Secretary may approve a request under this subsection for a period not to exceed three years, unless a renewal is granted under paragraph (7).

(6) Termination.—The Secretary shall terminate approval of a request for a waiver authorized under this subsection if the Secretary determines, after notice and opportunity for a hearing, that the performance of a State granted relief under this subsection has been inadequate, or if such relief is no longer necessary to achieve its original purposes.

(7) Renewal.—The Secretary may approve or disapprove a request from a State for renewal of an existing waiver under this subchapter for a period no longer than one year. A State seeking to renew their waiver approval must inform the Secretary of this intent no later than 30 days prior to the expiration date of the waiver. The State shall re-certify in its extension request the provisions in paragraph (2) of this subchapter, and shall also explain the need for additional time of relief from such sanction(s) or provisions approved under this law as provided in this subchapter.

(8) Restrictions.—Nothing in this subchapter shall be construed as providing the Secretary the authority to permit States to alter the eligibility requirements for eligible children, including work requirements, job training, or educational program participation, that apply to the parents of eligible children under this subchapter. Nothing in this subsection shall be construed to allow the Secretary to waive anything related to his or her authority under this subchapter.

## **SEC. 658J. PAYMENTS.**

(a) In General-Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year in an amount equal to its allotment under section 658O for such fiscal year.

(b) Method of Payment.

(1) In general-Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) Limitation -The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

(c) Spending of Funds by State -Payments to a State from the allotment under section 658O for any fiscal year may be obligated by the State in that fiscal year or in the succeeding fiscal year.

## **SEC. 658K. REPORTS.**

### **(a) Reports-**

#### **(1) Collection of Information by States**

(A) In General-A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

(B) Required Information-The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning-

- (i) family income;
- (ii) county of residence;
- (iii) the gender, race and age of children receiving such assistance;
- (iv) whether the head of the family unit is a single parent;
- (v) the sources of family income, including—
  - (I) employment, including self-employment;
  - (II) cash or other assistance under-
    - (aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and
    - (bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));
  - (III) housing assistance;
  - (IV) assistance under the Food Stamp Act of 1977; and
  - (V) other assistance programs;
- (vi) the number of months the family has received benefits;
- (vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);
- (viii) whether the child care provider involved was a relative;
- (ix) the cost of child care for such families;
- (x) the average hours per month of such care; during the period for which such information is required to be submitted; and
- (xi) whether the children receiving assistance under this subchapter are homeless children;

(C) Submission to the Secretary-A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

(D) Use of Samples -

(i) Authority -A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregate case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

(ii) Sampling and Other Methods -The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of the data submitted by the States.

(E) Prohibition.—Reports submitted to the Secretary under subparagraph (C) shall not contain personally identifiable information.

(2) Annual Reports-Not later than 1 year after the date of the enactment of the Child Care and Development Block Grant Act of 2014, and annually thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning-

(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(6);

(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

(E) the total number (without duplication) of children and families served under this subchapter; during the period for which such report is required to be submitted; and

(F) the number of child fatalities occurring among children while in the care and facility of child care providers receiving assistance under this subchapter, listed by type of child care provider and indicating whether the providers (excluding child care providers described in section 658P(6)(B)) are licensed or license-exempt.

(b) Audits -

(1) Requirement-A State shall, after the close of each program period covered by an application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

(2) Independent Auditor -Audits under this subsection shall be conducted by an entity that is independent of the State that receives assistance under this subchapter and be in accordance with generally accepted auditing principles.

(3) Submission-Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

(4) Repayment of amounts-Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitled under this subchapter.

## **SEC. 658L. REPORTS, HOTLINE, AND WEB SITE.**

(a) Report by Secretary.—Not later than July 31, 2016 and biennially thereafter, the Secretary shall prepare and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States. Such report shall contain a determination around whether each State that uses amounts provided under this subchapter has complied with the priority for services described in sections 658E(c)(2)(Q) and 658E(c)(3)(B).

(b) National Toll-Free Hotline and Web Site.—

(1) In General.—The Secretary shall operate, directly or through the use of grants or contracts, a national toll-free hotline and Web site, to—

(A) develop and disseminate publicly available child care consumer education information for parents and help parents access safe and quality child care services in their community, with a range of price options, that best suits their family's needs; and

(B) to allow persons to report (anonymously if desired) suspected child abuse or neglect, or violations of health and safety requirements, by an eligible child care provider that receives assistance under this subchapter or a member of the provider's staff.

(2) Requirements.—The Secretary shall ensure that the hotline and Web site meet the following requirements:

(A) Referral to Local Child Care Providers.—The Web site shall be hosted by 'childcare.gov'. The Web site shall enable a child care consumer to enter a zip code and obtain a referral to local child care providers described in subparagraph (B) within a specified search radius.

(B) Information.—The Web site shall provide to consumers, directly or through linkages to State databases, at a minimum—

(i) a localized list of all eligible child care providers, differentiating between licensed and license-exempt providers;

(ii) any provider-specific information from a Quality Rating and Improvement System or information about other quality indicators, to the extent the information is publicly available and to the extent practicable;

(iii) any other provider-specific information about compliance with licensing, and health and safety requirements to the extent the information is publicly available and to the extent practicable;

(iv) referrals to local resource and referral organizations from which consumers can find more information about child care providers; and

(v) State information about child care subsidy programs and other financial supports available to families.

(C) Nationwide Capacity.—The Web site and hotline shall have the capacity to help families in every State and community in the Nation.

(D) Information at All Hours.—The Web site shall provide, to parents and families, access to information about child care services 24 hours a day.

(E) Services in Different Languages.—The Web site and hotline shall ensure the widest possible access to services for families who speak languages other than English.

(F) High-Quality Consumer Education and Referral.—The Web site and hotline shall ensure that families have access to easy-to-understand child care consumer education and referral services.

(3) Prohibition.—Nothing in this subsection shall be construed to allow the Secretary to compel States to provide additional data and information that is currently (as of the date of enactment of the Child Care and Development Block Grant Act of 2014) not publicly available, or is not required by this subchapter, unless such additional data are related to the purposes and scope of this subchapter, and are subject to a notice and comment period of no less than 90 days.

#### **SEC. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.**

(a) Sectarian Purposes and Activities—No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

(b) Tuition -With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for-

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation;  
or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

## **SEC. 658N. NONDISCRIMINATION.**

### **(a) Religious Nondiscrimination -**

#### **(1) Construction -**

(A) In general -Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

(B) Exception -A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

#### **(2) Discrimination against child -**

(A) In general -A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

(B) Non-funded child care slots -Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

#### **(3) Employment in general -**

(A) Prohibition-A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) Qualified applicants-If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

(C) Present employees-This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

(4) Employment and admission practices-Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be

working directly with children in the provision of child care, or admissions because of the religion of such individual.

(b) Effect on State Law-Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

## **SEC. 6580. AMOUNTS RESERVED; ALLOTMENTS.**

(a) Amounts Reserved-

(1) Territories and possessions-The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

(2) Indians tribes-

(A) In General.—The Secretary shall reserve not less than 2 percent, of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

(B) Limitations.—Notwithstanding subparagraph (A), the Secretary shall only reserve an amount that is greater than 2 percent of the amount appropriated under section 658B, for payments described in subparagraph (A), for a fiscal year (referred to in this subparagraph as the ‘reservation year’) if —

(i) the amount appropriated under section 658B for the reservation year is greater than the amount appropriated under section 658B for fiscal year 2014; and

(ii) the Secretary ensures that the amount allotted to States under subsection (b) for the reservation year is not less than the amount allotted to States under subsection (b) for fiscal year 2014.

(3) National Toll-Free Hotline and Web Site.—The Secretary shall reserve up to \$1,500,000 of the amount appropriated under this subchapter for each fiscal year for the operation of a national toll-free hotline and Web site, under section 658L(b).

(4) Technical Assistance.—The Secretary shall reserve up to 1/2 of 1 percent of the amount appropriated under this subchapter for each fiscal year to support technical assistance and dissemination activities under paragraphs (3) and (4) of section 658I(a).

(5) Research, Demonstration, and Evaluation.—The Secretary may reserve 1/2 of 1 percent of the amount appropriated under this subchapter for each fiscal year to conduct research and demonstration activities, as well as periodic external, independent evaluations of the impact of the program described by this subchapter on increasing access to child care services and improving the safety and quality of child care services, using scientifically valid research methodologies, and to disseminate the key findings of those evaluations widely and on a timely basis.

(b) State Allotment -

(1) General rule-From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of-

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

(2) Young child factor-The term `young child factor' means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

(3) School lunch factor-The term `school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

(4) Allotment percentage -

(A) In general-The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

(B) Limitations-If an allotment percentage determined under subparagraph

(A)-

(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

(C) Per capita income-For purposes of subparagraph (A), per capita income shall be-

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) Payments for the Benefit of Indian Children -

(1) General authority-From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

(2) Applications and requirements—An application for a grant or contract under this section shall provide that:

(A) Coordination—The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

(B) Services on reservations —In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

(C) Reports and audits—The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

(D) Licensing and Standards.—In lieu of any licensing and regulatory requirements applicable under State or local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards that shall be applicable to Indian tribes and tribal organizations receiving assistance under this subchapter. Such standards shall appropriately reflect Indian tribe and tribal organization needs and available resources, and shall include standards requiring a publicly available application, health and safety standards, and standards requiring a reservation of funds for activities to improve the quality of child care services provided to Indian children.

(3) Consideration of secretarial approval—In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

(4) Three-year limit—Grants or contracts under this section shall be for periods not to exceed 3 years.

(5) Dual eligibility of Indian children —The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotments to the other States.

(6) Construction or renovation of facilities —

(A) Request for use of funds—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

(B) Determination-With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

(C) Limitation.—

(i) In General.—Except as provided in clause (ii), the Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if the use will result in a decrease in the level of child care services provided by the Indian tribe or tribal organization as compared to the level of child care services provided by the Indian tribe or tribal organization in the fiscal year preceding the year for which the determination under subparagraph (B) is being made.

(ii) Waiver.—The Secretary shall waive the limitation described in clause (i) if—

(I) the Secretary determines that the decrease in the level of child care services provided by the Indian tribe or tribal organization is temporary; and

(II) the Indian tribe or tribal organization submits to the Secretary a plan that demonstrates that after the date on which the construction or renovation is completed—

(aa) the level of child care services will increase; or

(bb) the quality of child care services will improve.

(D) Uniform procedures-The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph.

(d) Data and Information-The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotment provided for in subsection (b).

(e) Reallotments -

(1) In General-Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under Section 658(d), in the period for which the allotment is made available, shall be reallotted by the secretary to other States in proportion to the original allotments to the other States.

(2) Limitations -

(A) Reduction-The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount

that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

(B) Reallotments-The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) Amounts reallotted -For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(4) Indian Tribes or Tribal Organizations -Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.

(f) Definition-For the purposes of this section, the term `State' includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

## **SEC. 658P. DEFINITIONS.**

As used in this subchapter:

(1) Caregiver-The term `caregiver' means an individual who provides a service directly to an eligible child on a person-to-person basis.

(2) Child care certificate-The term `child care certificate' means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

(3) Child with a Disability.—The term `child with a disability' means—

(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401);

(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(C) a child who is less than 13 years of age and who is eligible for services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

(D) a child with a disability, as defined by the State involved.

(4) Eligible Child.—The term `eligible child' means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed 85 percent of the State median income for a family of the same size, and whose family assets do not exceed \$1,000,000 (as certified by a member of such family); and

- (C) who—
- (i) resides with a parent or parents who are working or attending a job training or educational program; or
  - (ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).
- (5) English Learner.—The term ‘English learner’ means an individual who is an English learner, as defined in section 8101 of the of the Elementary and Secondary Education Act of 1965, or who is limited English proficient, as defined in section 637 of the Head Start Act (42 U.S.C. 9832).
- (6) Eligible child care provider-The term ‘eligible child care provider’ means-
- (A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that-
    - (i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(F); and
    - (ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(I); applicable to the child care services it provides; or
  - (B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.
- (7) Family child care provider-The term ‘family child care provider’ means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.
- (8) Indian tribe-The term ‘Indian tribe’ has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).
- (9) Lead agency-The term ‘lead agency’ means the agency designated or established under section 658D(a).
- (10) Parent-The term ‘parent’ includes a legal guardian, foster parent, or other person standing in loco parentis.
- (11) Scientifically Valid Research.—The term ‘scientifically valid research’ includes applied research, basic research, and field-initiated research, for which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.
- (12) Secretary-The term ‘Secretary’ means the Secretary of Health and Human Services unless the context specifies otherwise.
- (13) Sliding fee scale-The term ‘sliding fee scale’ means a system of cost sharing by a family based on income and size of the family.
- (14) State-The term ‘State’ means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands
- (15) Tribal organization—

(A) In general-The term ‘tribal organization’ has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(B) Other organizations-Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

#### **SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES.**

(a) In General.— Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

(b) Parental Rights to Use Child Care Certificates.—Nothing in this subchapter shall be construed in a manner—

(1) to favor or promote the use of grants and contracts for the receipt of child care services under this subchapter over the use of child care certificates; or

(2) to disfavor or discourage the use of such certificates for the purchase of child care services, including those services provided by private or non-profit entities, such as faith-based providers.

#### **SEC. 658R. SEVERABILITY.**

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.

#### **SEC. 658S. MISCELLANEOUS PROVISIONS.**

Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need."

# Social Security Act, Part A of Title IV

## SEC. 418. FUNDING FOR CHILD CARE.

### (a) General Child Care Entitlement-

(1) General Entitlement-Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to the greater of-

(A) the total amount required to be paid to the State under section 403 for fiscal year 1994 or 1995 (whichever is greater) with respect to expenditures for child care under subsections 402(g) and (i) of section 402 (as in effect before October 1, 1995); or

(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the subsections referred to in subparagraph

(A).

### (2) Remainder -

(A) Grants -The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after the reservation described in paragraph (4) and after grants are awarded under paragraph (1), to make grants to States under this paragraph.

(B) Allotments to States -The total amount available to States under this paragraph, as determined under subparagraph (A), shall be allotted among the States based on the formula used for determining the amount of Federal payments to each State under section 403(n) (as such section was in effect before October 1, 1995.)

(C) Federal Matching of State Expenditures Exceeding Historical Expenditures -The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for fiscal year (as defined in section 1905(b), as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A).

### (D) Redistribution -

(i) In General -With respect to any fiscal year, if the Secretary determines (in accordance with clause (ii) that any amounts allotted to a State under this paragraph for such fiscal year will not be used by such State during the fiscal year for carrying out the purpose for which such amounts are allotted, the Secretary shall make such amounts available in the subsequent fiscal year for carrying out such purpose to 1 or more States which apply for such funds to the extent the Secretary determines that such States will be able to use such additional amounts for carrying out

such purpose. Such available amounts shall be redistributed to a State pursuant to section 403(n) (as such section was in effect before October 1, 1995) by substituting, “the number of children residing in all States applying for such funds” for “the number of children residing in the United States in the second preceding fiscal year.”

(ii) Time of determination and distribution - The determination of the Secretary under clause (I) for a fiscal year shall be made not later than the end of the first quarter of the subsequent fiscal year. The redistribution of amounts under clause (I) shall be made as close as practicable to the date on which such determination is made. Any amount made available to a State from an appropriation for a fiscal year in accordance with this subparagraph shall, for purposes of this part, be regarded as part of such State’s payment (as determined under this subsection) for the fiscal year in which the redistribution is made.

(3) Appropriation -For grants under this section, there are appropriated-

- (A) \$1,967,000,000 for fiscal year 1997;
- (B) \$2,067,000,000 for fiscal year 1998;
- (C) \$2,167,000,000 for fiscal year 1999;
- (D) \$2,367,000,000 for fiscal year 2000;
- (E) \$2,567,000,000 for fiscal year 2001;
- (F) \$2,717,000,000 for fiscal year 2002;
- (G) \$2,917,000,000 for each of fiscal years 2006 through 2010.

(4) Indian tribes -The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

(5) Data Used to Determine State and Federal Shares of Expenditures -In making the determinations concerning expenditures required under paragraphs (1) and (2)(C), the Secretary shall use information that was reported by the State on ACF Form 231 and available as of the applicable dates specified in clauses (i)(I), (ii),and (iii)(III) of section 403(a)(1)(D).

(b) Use of Funds-

(1) In general-Amounts received by a State under this section shall only be used to provide child care assistance. Amounts received by a State under a grant under subsection (a)(1) shall be available for use by the State without fiscal year limitation.

(2) Use for certain populations -A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

(c) Application of Child Care and Development Block Grant Act of 199-Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990, Page 18integrated

by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

(d) Definitions-As used in this section, the term "State" means each of the 50 States and the District of Columbia.