



Child Care Options for Foster Parents, Relative Caregivers and Legal Guardians

California offers a variety of child care subsidy programs. Many programs streamline enrollment for children receiving child welfare services. For instance, in some cases income requirements are waived, and/or children with involvement in Child Protective Services (CPS) through the California Department of Social Services (DSS) may be given priority enrollment status.

Below is a description of the eligibility requirements for the primary child care subsidy programs in California, including special considerations each program may have for children receiving child welfare services. The information that follows is complicated, and certain counties have unique policies, but specific questions can always be answered by staff at your county's Child Care Resource & Referral (R&R) agency. You can find your county's R&R by entering your zip code here:

<http://childcareaware.org/parents-and-guardians/parent-information/about-child-care-resource-referral>.

I. Programs with automatic eligibility for children in the child welfare system regardless of income

1. California Department of Education Child Care Programs (Non-CalWORKs)
2. State Preschool Programs
3. Title IV-E Foster Parent Child Care Program
4. Head Start

II. Programs that do not have automatic eligibility for children in the child welfare system, but families may qualify based on income

5. CalWORKs

III. Other Child Care Programs and Local Programs

I. Programs with automatic eligibility for children in the child welfare system regardless of income

1. California Department of Education Child Care Programs (Non-CalWORKs)

(A) Automatic Eligibility

- *Parents, foster parents, legal guardians, and relative caregivers* automatically qualify on behalf of children in their care who have open child welfare cases through CPS or at-risk status, regardless of income or need.¹
- The law makes no reference to with whom or where the child must be placed.

(B) Priority Enrollment

Children with open CPS or at-risk status are prioritized on child care waitlist.

- Children with open CPS cases must be enrolled before children with at-risk status.
- If unable to enroll a child in the first priority category, the agency must then refer the family to the local resource and referral agency (R&R) to locate services for the child.²

**Please note that child care enrollment is subject to available funding and space.*

(C) Paying for Child Care

- Families with CPS status *may* be exempt from family fees for up to 12 months.
- Families with at-risk status *may* be exempt from family fees for up to 3 months.
- Cumulative period for exemption from fees may not exceed 12 months.³

(D) Required Documentation

Written referral, dated within the six months immediately preceding the date of application for services, from a legal, medical, social service agency or emergency shelter. Written referral must include:

- (a) A statement from
 1. The local county welfare department's CPS unit certifying that the child is receiving child protective services and that child care and development services are a necessary component of the child's protective services plan; or
 2. A legally qualified professional certifying that the child is at risk of abuse or neglect and that the child care and development services are needed to reduce or eliminate that risk; and
- (b) The probable duration of the CPS plan or the at-risk situation; and
- (c) The name, address, telephone number and signature of the legally qualified professional who is making the referral.⁴

(E) Child Care Time Limits

- Children with at-risk status are eligible for up to three months, but the time limit may be extended if the child starts receiving protective services.
- Children with open CPS cases are eligible for up to twelve months, but the time limit may be extended if the county child welfare agency recertifies the child care referral.⁵

TIP → Make sure the eligibility (or Alternative Payment) worker evaluates whether the family qualifies for child care based on other eligibility criteria before terminating child care.

Once the family runs up against the child care time limits based on CPS eligibility, child care must be continued without disruption so long as the family qualifies for child care based on other eligibility criteria, including income and need requirements (parent must work, attend school, etc.) for child care.⁶

Children and their siblings not living with their biological or adoptive parents are considered their own family when determining income eligibility and family fee payments for non-CalWORKs CDE child-care.⁷ Because a minor's income is likely low, *most families* meet the income eligibility requirement for child care services.

2. California State Preschool Program

Full-day CSPPs are subject to the same regulations as non-CalWORKs CDE child care programs, but have other unique qualifying criteria and age requirements listed below.

A. Automatic Eligibility and Priority Enrollment for Open CPS Cases and At-Risk Status

Children, ages 3 and 4, with open CPS cases or at-risk status:

- automatically qualify for part-time and full-time CSPP, regardless of income or where they live, and
- have priority enrollment status.⁸

3. Title IV-E Foster Parent Child Care Program

The Foster Parent Child Care Program is the subsidized child care component of the Title IV-E Foster Care Program in California. *Check with your local child welfare department, or your local R&R agency to find out whether the county offers Title IV-E Foster Parent Child Care.*

A. Eligibility and Need Requirements

Eligibility and need criteria must both be met.

(1) Eligibility Requirements: Child must be AFDC-FC eligible, which requires that the child

- was removed from the physical custody of his/her parent, relative, or legal guardian by a juvenile court order or pursuant to a voluntary placement agreement,
- be deprived of parental support, and
- lives in a licensed group home, with an approved relative, an approved nonrelative extended family member, a licensed nonrelative (foster parent), or a non-related legal guardian.⁹

(2) Need Requirements: Foster Parent, relative caregiver, or legal guardian must

- attend foster parent training,
- work (while the child is not in school),
- attend administrative case/judicial reviews, or
- attend case conferences or team meetings on behalf of the child.¹⁰

4. Head Start

A. Children in Foster Care or Who Live with Relative Caregivers Automatically Qualify

- Children in foster care *who do not live with their parent(s)* automatically qualify for Head Start.
 - If the biological or adoptive parent has physical custody of the child or if the child is adopted during enrollment, the parent must qualify based on one of the other requirements, such as income.
 - If the child reunifies with the biological or adoptive parent, or is adopted *after* enrollment into Head Start, the child may remain in the program for *that year and the subsequent year*, based on her foster care status at time of enrollment.
- Children of parent(s) receiving kinship care payments on their behalf.
- *When a child moves from Early Head Start (ages 0-3) to Head Start (ages 3-5), the family will be reevaluated for eligibility.*¹¹

B. Priority Enrollment Encouraged for Children in the Child Welfare System

- The Office of Head Start *encourages*, but does not require, Head Start programs to prioritize enrollment for children with open child welfare cases.¹²

C. Required Documentation

- Foster parents, legal guardians or other caregivers must show proof that the child is in foster care.¹³

II. Programs that do not have automatic eligibility for children in the child welfare system, but families may qualify based on income

5. CalWORKs

A. CalWORKs Child Care: Stages 1, 2 & 3

California Department of Social Services (DSS) administers CalWORKs Stage 1 and California Department of Education (CDE) administers CalWORKs Stages 2 and 3.¹⁴ Stages 1 and 2 are entitlement programs. Stage 3 has capped funding and is only available to the extent funds permit.¹⁵

- Stage 1 provides child care for current CalWORKs participants who work or participate in welfare-to-work activities. It also supports former CalWORKs participants if Stage 2 funds are insufficient or unavailable.¹⁶
- Stage 2 provides child care for families with incomes at or below 70 percent of the State Median Income (SMI) who receive CalWORKs cash aid, received CalWORKs cash aid within the last 24 months, or are eligible for a lump-sum diversion payment or diversion services.¹⁷
- Stage 3 is for families with incomes at or below 70% SMI that are transitioning or have transitioned off CalWORKs as well as those who have received a lump-sum diversion payment or diversion services.¹⁸

B. No Special Considerations for Children In The Child Welfare System

- No special eligibility or priority enrollment for children in the child welfare system.
- Child care eligibility solely based on the CalWORKs participant's status.¹⁹
- Relative caregivers who qualify for non-income based cash aid, "Non-Needy Relative Caregiver CalWORKs," do not qualify for CalWORKs child care.

III. Other Child Care Programs and Local Programs

1. Transitional Kindergarten (TK)

TK is the first year of a two-year kindergarten program, using a modified kindergarten curriculum that is age and developmentally appropriate for 5 year-olds born between September 2 and December 2.²⁰ To learn more about TK, see TK California at <http://www.tkcalifornia.org/about-tk/about-tk.html> and CDE's TK Frequently Asked Questions at <http://www.cde.ca.gov/ci/gs/em/kinderfaq.asp>.

- TK is optional for all children who turn 5 years old between September 2 and December 2, but children who meet the age requirement *must be admitted* if parent exercises option. .
- School districts *may* allow Kindergarten-age students to enroll in TK.²¹
- Public school districts must offer TK.²²
- No income or need requirements.
- Maximum TK school-day is 4 hours, but some schools offer extended-day TK.²³
- Check with your local school district to learn more about its TK program and requirements.²⁴

2. Resource and Referral Agency (R&R)

Contact your local Resource and Referral Agency (R&R) to find out about other state and locally funded child care programs. Search for the nearest R&R by zip code at <http://childcareaware.org>.

Legal Disclaimer

This publication is intended to provide general information about the topic covered. It is made available with the understanding that the Child Care Law Center is not engaged in rendering legal or other professional advice. We believe it is current as of April 2015 but the law changes often. If you need legal advice, you should consult an attorney who can specifically advise or represent you.

Endnotes

¹ See Cal. Educ. Code § 8263(a).

² Cal. Educ. Code § 8263(b)(1)(A); Cal Code Regs. tit. 5, § 18106(a)

³ Cal. Educ. Code § 8273.1 (a)-(c)); Cal. Code Regs. tit. 5, § 18110(a).

⁴ Cal. Code Regs. tit. 5, § 18092. “‘Legally qualified professional’ means a person licensed under applicable laws and regulations of the State of California to perform legal, medical, health or social services for the general public. Cal. Code Regs. tit. 5, § 18078 (l).

⁵ Cal. Educ. Code § 8263(b)(1)(B)-(C).

⁶ *Id.* § 8263 (c).

⁷ Cal. Code Regs. tit. 5, § 18078(f).

⁸ *Id.* §§ 8235(a)-(b), 8239(d), 8236(a); Cal. Code Regs. tit. 5, § 18131 (a).

⁹ Cal. Welf. & Inst. Code § 11402 (a)-(d); MPP § 45-202.511-.513.. For definitions of “relative” and “nonrelative extended family member,” see Cal. Welf. & Inst. Code § 11400(m)(n).

¹⁰ Cal. Dep’t of Soc. Servs., All County Letter 05-23 (2005).

¹¹ 45 CFR §§ 1305.2(l) & 1305.7(c); U.S. Dep’t of Health & Human Servs., Information Memorandum 10-04 (2010) (defining “child welfare system” as a “[a] system which includes preventative, protective, foster care and adoption services.”); See U.S. Dep’t of Health & Human Servs., Office of Head Start, Eligibility, Recruitment, Selection, Enrollment and Attendance, http://eclkc.ohs.acf.hhs.gov/hslc/standards/Policy%20Clarifications%20and%20FAQs/i_pc_actual.htm (last visited April 21, 2015)(offering an example that the program should base eligibility on the income of a grandparent who is caring for a grandchild who lives with him/her, even if the child is not receiving protective services).

¹² U.S. Dep’t of Health & Human Servs., Information Memorandum 10-04 (2010) (“The purpose of this IM is to reinforce the Head Start commitment to serving abused and neglected children through its grantees and delegate agencies...OHS encourages Head Start/Early Head Start to prioritize children in the public child welfare system when establishing criteria and selecting children and families for Head Start/Early Head Start Services.”

¹³ U.S. Dep’t of Health & Human Servs., Office of Head Start, Eligibility, Recruitment, Selection, Enrollment and Attendance, http://eclkc.ohs.acf.hhs.gov/hslc/standards/Policy%20Clarifications%20and%20FAQs/i_pc_actual.htm (last visited April 21, 2015).

¹⁴ Cal. Welf. & Inst. Code §§ 11323.6 & 11323.8 ; Cal. Educ. Code § 8351(a), 8353(b); Dep’t of Social Servs., Child Care, <http://www.cdss.ca.gov/cdssweb/PG78.htm> (last visited April 21, 2015).

¹⁵ Cal. Welf. & Inst. Code § 11323.2(a) (requiring that people who qualify for CalWORKs Stage 1 must receive services: “Necessary supportive service shall be available to every participant in order to participate in the program activity to which he or she is assigned or to accept employment or the participant shall have good cause for not participating under subdivision (f) of Section 11320.3.”). See also Cal. Welf. & Inst. Code § 11325.23(d) (“Supportive services reimbursement shall be provided for any participant in a self-initiated training or education program approved under this subdivision.”); MPP § 47-220.2. Cal. Educ. Code § 8353(a) (requiring that “[a] family leaving cash aid under the CalWORKs program shall receive up to two years of child care, if otherwise eligible, as needed to continue the family’s employment.”); Although the entitlement is contingent on the availability of funds, the Legislature makes clear its intention to ensure that funds are sufficient. See Cal. Educ. Code § 8359.1; Cal. Welf. & Inst. Code § 11322.4.

¹⁶ Cal. Educ. Code § 8351(a), (c); MPP §§ 47-101 *et seq.*

¹⁷ Cal. Educ. Code §§ 8263.1 (a) & 8353 (a); Cal Code Regs. tit., 5 §§ 18406 (a), 18408 (d), 18078(m) (defining “parent” as “biological parent, adoptive parent, stepparent, foster parent, caretaker relative, legal guardian, domestic partner of the parent as defined in Family Code section 297, or any other adult living with a child who has

responsibility for the care and welfare of the child”); Cal. Welf. & Inst. Code § 11266.5(b) (explaining that the CalWORKs lump-sum diversion program is a one-time cash aid payment for people who qualify and who do not need CalWORKs cash aid for an extended amount of time);

¹⁸ Cal. Educ. Code § 8354 (a); Cal Code Regs. tit. 5, § 18421.

¹⁹ MPP §§ 47-110(c)(4), 47-220.1-3.

²⁰ Cal. Educ. Code § 48000 (c)(3), (d).

²¹ Cal. Dep’t. of Educ., Transitional Kindergarten FAQs: Frequently asked questions (FAQs) regarding California state law relating to kindergarten, <http://www.cde.ca.gov/ci/gs/em/kinderfaq.asp> (last visited April 21, 2015)(see question 4, “Can students who are age-eligible for kindergarten attend TK? Although this is a local decision, the CDE recommends that districts establish criteria to determine selection requirements for kindergarten eligible children who enroll in TK. Children who are age-eligible to attend kindergarten, but choose to enroll in TK will need a signed Kindergarten Continuance Form verifying that the parent/guardian agrees to have his/her child continue in kindergarten for one additional year. A sample form, in English and other languages, is available.)

²² *Id.* at question 17, “Is a district required to offer TK and kindergarten programs?”

²³ *See* Cal. Educ. Code §§37202, 46110; *Id.* at question 20, “How many minutes does a TK program have to offer?”

²⁴ Cal. Educ. Code § 46111(a)(1), 48000 (a)(4), (b).

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About the Child Care Law Center

The Child Care Law Center works to break down the legal barriers standing between families in need and good, affordable child care. We educate parents and child care providers, advise advocates and policymakers, provide legal information and referrals, and litigate high-impact cases.

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