



# Early Care and Education Consortium

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Office of Child Care  
370 L'Enfant Promenade, SW  
Washington, DC 20024  
Attn: Cheryl Vincent, Office of Child Care  
**Re: Child Care and Development Fund Program (ACF–2013-0001)**

Dear Ms. Vincent,

On behalf of the members of the Early Care and Education Consortium (ECEC) and our nearly 7,000 licensed child care centers nationwide, thank you for the opportunity to offer comments on the proposed Child Care and Development Fund (CCDF) Program.

ECEC's Member Centers operate in all 50 states and serve nearly one million children daily, and approximately one-third of them access child care through CCDF vouchers and contracts. ECEC is the largest organized alliance of licensed child care centers in the nation, as well as the largest alliance of CCDF-participating child care centers. ECEC Members strive to provide the highest quality services possible – nationally, 74 percent of ECEC Member centers participate in QRIS and one-third are at the highest levels – and they invest enormous time and resources to do so.

The changes made in the proposal are a significant and positive shift for raising the bar on the quality of care and services to families supported by CCDF. Many of the provisions send an important message to the States about the intent of CCDF as a work support *and* a child development program. However, there are also some provisions that merit further attention.

All children deserve access to the highest possible quality of care, and parents need to know their children are safe and learning while they are in care. That being said, we are concerned about additional requirements without additional resources, especially with tight budgets and investments that are needed for enrolling children and supporting Providers. Without investment, the tension that creates difficult choices among quality, access and affordability will continue.

Parent choices for child care options are dependent upon what is available in their area and what they can afford to pay. Quality counts and quality costs. The level at which States reimburse Providers directly affects the level of quality parents are able to access with the subsidy. Subsidy reimbursement rates in most States are far below the cost of providing child

care, making it difficult – and in some cases impossible – for families receiving the subsidy to access child care and for Providers accepting subsidy families to operate responsibly.

Fees from parents, coupled with subsidy payments, go directly into program operations. Child care programs are businesses with constant and ongoing expenses, including the high labor costs associated with care, education and supervision of the enrolled children. **ECEC Members report that inadequate subsidy reimbursement rates are the primary obstacle blocking quality improvement in programs that serve low-income families.**

Another significant challenge in serving families using CCDF funds is being able to provide continuity of care for these children as their families' financial circumstances change with their employment status. This frequently means the children are withdrawn from their child care settings, often several times in a short period. Routine and consistency are vitally important for healthy child development. The disruption of the relationship and interactions established between a child and his teacher are detrimental to early learning success. Although States need to have flexibility in eligibility policies, too often their attempts to ensure accountability become bureaucratic and punitive. This includes needless paperwork for families, financial losses and payment lags for providers and traumatic disruptions for all when children are suddenly dis-enrolled.

ECEC Members firmly believe that subsidy should only be used in licensed settings, and these updated regulatory policies will help build the pathway to make this possible.

Thank you for your effort to strengthen CCDF, and for considering the following specific comments on the proposal.

**Throughout the specific comments, requests for new language are highlighted in yellow, and requests for deletions are ~~struck out~~.**

### **Comments on Subpart A – Goals, Purposes and Definitions**

**Section 98.1:** ECEC appreciates the enhancements to the Purposes of CCDF which highlight the importance of high quality and highly effective settings that promote learning, child development, school readiness and success. We also applaud the focus on expanding those high quality choices, minimizing disruptions to this care, and the added focus on before- and after-school care. These are very important messages to the States, reinforcing what current law allows.

### **Comments on Subpart B – General Application Procedures**

**Section 98.11:** As multi-site operators, ECEC Members report both successes and challenges in States that administer CCDF locally. For example, the added resources that are made possible in some Florida Early Learning Coalitions to reward programs for providing for higher levels of quality or for educational scholarships for teachers are of great value. But in Texas, the

differences in paperwork, rules and answers to compliance questions vary across Local Workforce Boards. In Colorado, eligibility is determined at the county level, along with policies governing pay for absent days, holidays, and reimbursement rates and families may lose their child care benefit if they move across the street into a different county.

Aligning policies at the State level provides more consistency for families and providers. Statewide administrative procedures and processes must be streamlined and consistently applied regardless of geographical location, even in a model of local program delivery. This is essential for program integrity and to minimize multiple administrative processes that are both costly and divert funding sorely needed for access and quality improvements.

- Section 98.11 (3): “The contents of the written agreement **determined by the State should be applied consistently within the state by the local governing/oversight entities with the same responsibilities** for administering the CCDF program. ~~may vary based on the role the entity is asked to assume or the type of project undertaken, but~~ and must include, at a minimum, tasks to be performed, a schedule for completing tasks, a budget which itemizes categorical expenditures consistent with CCDF requirements at § 98.65(h), and indicators or measures to assess performance.”

**Section 98.14:** ECEC appreciates the addition of these agencies and entities as collaborating participants in the development of the CCDF State Plan, and suggests adding the administrators of the Child and Adult Care Food Program.

- Section 98.14: **“(J) Child and Adult Care Food Program (CACFP)”**

**Section 98.16:** The proposal makes significant improvements to the State Plan and creates a momentum for States to move toward continuity of high-quality care for children. ECEC Members have recommendations to further strengthen the State Plans.

- Section 98.16 (g)(6): Revise to set a time frame to make job search eligibility a meaningful policy in the States.
  - “... (which must include **not less than 60 days** for ~~some period of~~ job search)”
- Section 98.16 (h): ECEC applauds the addition of this section, and suggests adding two provisions to strengthen the “family-friendly” goals for the States. These are needed to help align subsidy practices with the private market and promote continuity of care without threat of job loss or financial penalty. Too often, record-keeping is in the way of being child-focused. One recommendation is to better accommodate absent days, time off from employment including medical or family leave, and holidays recognized by a child care Provider but not recognized by the State (or vice versa). While some Lead Agencies have taken steps to reduce the burden on families applying for and receiving subsidies, others continue to have significant hurdles in place. Onerous requirements,

such as requiring fingerprinting of parents and others who are picking up children from child care programs or child support cooperation requirements that deter parents from seeking assistance should not be authorized.

- “(4) Family-friendly policies which take into account the need for absent-days, parent/guardian sick days or family leave, holidays and vacation-days, and to include pay based on child enrollment, versus child attendance.”
  - “(5) Policies that ease the burden of obtaining and sustaining child care assistance for parents.”
- Section 98.16(i): The new requirement for a description of how child care services and activities will address supply shortages through the use of grants and contracts should also identify shortages in supply of high-quality child care Providers, including for specific locations and populations such as children with disabilities, school-age children, and geographically-dispersed military children.
  - Section 98.16(k): ECEC suggests adding another provision regarding parent copayments for child care assistance, to allow child care Providers to charge above the copay. Currently, some States allow this practice while others specifically prohibit the practice. Colorado is one of only 11 states that do not allow Providers to charge families above their copay rate. This is a key concern for ECEC Members that operate in Texas too, where the policy varies by Local Workforce Board. This restriction makes it an impossible challenge to sustain quality standards at low reimbursement rates, and contributes to a prevalent disincentive for high-quality Providers to accept subsidized children, thus reducing the options for families to choose high quality care. Simply lifting the ban at the State level allows Providers the option to charge parents, but is not a requirement to charge parents. This change will support Providers in their efforts for continuous quality improvement, and will expand parent choice among higher quality Providers of their choosing.
    - “(k) A description of the sliding fee scale(s) (including any factors other than income and family size used in establishing the fee scale(s)) that provide(s) for cost sharing by the families that receive child care services for which assistance is provided under the CCDF and how co-payments are affordable for families, pursuant to § 98.42. This shall also include a description of the criteria established by the Lead Agency, if any, for waiving contributions for families; this provision shall not preclude a State from allowing Providers to charge above the copay, not to exceed the private pay rate.”
  - Section 98.16 (n): ECEC greatly appreciates the concept of studies documenting the true cost of quality. However, we are concerned about the place of not yet proven “alternative methodologies” in relation to subsidy reimbursement rates especially without other significant changes such as driving State and Federal dollars toward these payments, and a related requirement to use study findings to actually pay for the cost of care. The information from a study will not drive sufficient payment; indeed, knowing the data now from market rate surveys doesn’t drive the payments. Having a different

set of study results will not change the decision process in the current environment. The current methodology is obviously flawed. But ECEC offers that the research methodology is not the only problem. In addition to directing much-needed funding to payment rates to really drive equal access, the State Plan should call for a multi-year plan to move from the current State policy for payment toward paying for the actual cost of care (and the 75<sup>th</sup> percentile if using a market price study/market rate survey).

- Section 98.16(n): “Payment rates and a summary of the facts, including a biennial valid local market price study and a cost study model ~~or an alternative approved methodology~~, relied upon to determine that the rates provided are sufficient to ensure equal access pursuant to Sec. 98.43, which must include a description of how the quality of Providers of child care services for which assistance is provided under this part is taken in to account when determining payment rates; a description of any gap between current state payment rates and the 75<sup>th</sup> percentile of a valid local market price study; and a description of the multi-year plan the State will implement to move to paying for the cost of care and/or reimbursement at the 75<sup>th</sup> percentile as the baseline, with enhanced rates for higher quality care, if using a market price study.”
- Section 98.16 (o): This provision should be revised to ensure that complaints are substantiated and handled effectively.
  - “A detailed description of the hotline established or designated by the State for receiving parental complaints, the process by which Providers can contest complaints, the process the State uses to determine if a complaint is substantiated, how the State maintains a record of substantiated parental complaints, and how it makes information regarding those substantiated complaints available to the public on request, pursuant to § 98.32”
- Section 98.16 (q): ECEC applauds this important step in requiring States to provide a rationale for exemption from licensure. ECEC continues to advocate for requirements at the State and Federal level for *all* non-relative Providers to be licensed. All children deserve access to the highest possible quality of care, and parents need to know their children are safe and learning.
- Section 98.16 (t): ECEC appreciates the addition of payment practices to the State Plan. ECEC has been advocating for this provision in Congress and State legislatures, and we suggest additional provisions to be included as a framework for States to use:
  - “...including timely reimbursement for services, how payment practices support providers’ provision of high quality child care services, and practices to promote the participation of child care providers in the subsidy system such as:
    - payment based on the accepted practice of child enrollment, not child attendance

- permission for prospective reimbursement payment that allows a child to attend child care and the parent to go to work or school and assures the Provider of payment while an eligibility case is being reviewed.
- guaranteed reimbursement payment to Providers for families certified as “eligible” including assuming responsibility for notifying the Providers when changes in child/family eligibility occur;
- allowing Providers to charge above the copay when the CCDF reimbursement rate is below the 75% percentile, but not to exceed the private pay market rate; and
- a description of whether and how attendance, billing, and payment processes are automated, and whether and how attendance, billing, and payment processes are both family-friendly and Provider-friendly.”

### Comments on Subpart C – Eligibility for Services

**Section 98.20:** ECEC supports the new provision that requires States take into account the developmental needs of the child when authorizing child care services. Under this proposed change, Lead Agencies would not be restricted to limiting authorized child care services based on the work, training, or educational schedule of the parent. Further, ECEC strongly supports a 12-month eligibility period which ensures the continuity for the child, support for working parents and a reliable revenue stream for Providers.

ECEC Members also appreciate the flexibility to authorize care for extended periods of time, if deemed in the best interest of the child. This can include wrap-around care alignment to Head Start operating hours or alignment to the school-year calendar for a school-age child in need of after-school care and education enrichment.

ECEC Members operate in many States where the administrative costs to States for continuous monitoring and re-determination of eligibility are high, creating significant burden on parents and potential upheaval of care because of punitive policies. Contract changes, copay changes, shift work and seasonal employment mean children drop in and out of eligibility. Families and Providers can never be assured of consistent enrollment needed for the viability of their business operations. Conversely, ECEC Members have also seen positive outcomes for children, families and the stability of the community child care infrastructure that can be achieved when the subsidy policies focus on the child.

ECEC recommends that ACF clarify in the final rule, however, that families retain the right to report changes in work status or income when such changes contribute to the family’s economic stability. For instance, a family might benefit from an increase in work hours and would need to have assistance for more hours of child care to accept that increase in work hours from their employer. This also helps maintain continuity of care for the young child, and is a family-friendly policy promoting child well-being.

## Comments on Subpart D – Program Operations (Child Care Services) Parental Rights and Responsibilities

**Section 98.30:** ECEC members fully appreciate the importance of parent choice. As businesses in the marketplace, parent choice is the “driver” for ECEC Members to provide the highest quality, the best developmental opportunities for young children, and the most support for working families.

Although parent choice is possible through the subsidy system, ECEC Members know from first-hand experience that the level of subsidy provided by CCDBG funds does not always allow for *high-quality* choices. Parents should have a choice among *licensed* child care Providers who uphold a standard of acceptable quality, promoting all domains of a child’s development, and are on a pathway of continuous quality improvement. Federal and State legislatures and administering agencies must develop strategies to create a pathway to child care excellence for all Providers who care for unrelated children for a fee, and that pathway must lead to policy in which subsidy may only be used in licensed settings.

We support the provision (clarified by previous ACF Policy Interpretation) to call for higher standards of quality to be applied to those who accept CCDF funds, as long as States allow Providers plenty of lead time to achieve the required quality level. These expectations cannot be met overnight and must be achieved through numerous incremental improvements not only at the program level, but in State policy and State systems.

North Carolina’s recent law to require subsidy only in the highest levels of QRIS is possible because of more than a decade of system-building and investment. But ECEC Members see States “running to the finish line” on this policy. States should first assess the landscape of currently-operating child care programs (as in Washington) and include Providers’ input in developing the standards at the different levels in the QRIS (as in Colorado). Then States need to take the time to pilot implementation of the standards (as in Alabama). After the completing the pilot, States need to take the time to make applicable changes to the QRIS prior to statewide roll-out (as in Georgia). States need to look at alternative pathways like national accreditation to get to the higher tiers (as in Michigan). If States aren’t getting Providers to participate, they need to look at the barriers such as the cost of meeting and sustaining the standards compared to the subsidy reimbursement rate and any grants or financial incentives offered by the QRIS, and state personnel (as in Maryland). Continuous review of an established QRIS is also an important function (as in Illinois and Ohio).

**Section 98.32:** In order to provide due process, States must have a procedure for Providers to contest complaints and a process for determining if the alleged infractions are substantiated. Only substantiated infractions or parent complaints should be made available for public release.

- Section 98.32 (c): “Make information regarding **substantiated** such parental complaints available to the public on request”

- Section 98.32 “(e) “Establish a process to investigate complaints and for child care Providers to contest complaints;”

**Section 98.33:** Consumer education is crucial. No matter how they pay for care, many parents need guidance about what they are choosing, what they can actually expect, and what their choices are to meet their family’s needs. It is imperative to raise the bar on the supply of care from which they are choosing. Including consumer education about licensure and highlighting the rationale for exemptions must also be included in State policy.

ECEC Members have the following suggestions for strengthening the consumer education proposal:

- Section 98.33(a)(1): Full transparency requires clear disclosure by the State of any corrective actions taken and whether the Provider is now in compliance.
  - “(iv) Any corrective action taken by the Provider and whether the Provider is now in compliance.”
- Section 98.33(b)(2): To help parents understand the standards related to the type of care they are choosing:
  - “Describe the standards used to assess the quality of child care Providers and how the standards for center-based care, family child care, and in-home child care differ;”
- Section 98.33(c): To increase transparency and help parents to know what level of care they are choosing:
  - “For families that receive assistance under this part, provide information about the child care options available to them as described in paragraphs (a) and (b), and specific information about the child care Provider selected by the parent, including health and safety requirements met by the Provider described at 98.41(a), any licensing or regulatory requirements met by the provider, whether the Provider is licensed or license-exempt, any voluntary quality standards met by the Provider pursuant to paragraph (b), and any history of violations of health and safety, licensing or regulatory requirements, any corrective action taken by a Provider to resolve these violations and whether the Provider is now in compliance with applicable health and safety, licensing or regulatory requirements.”

### **Comments on Subpart E – Program Operations (Child Care Services) Lead Agency and Provider Requirements**

**Section 98.40:** As stated above regarding Sec. 98.30, parents should have a choice among *licensed* child care Providers that uphold a standard of acceptable quality, promoting all domains of a child’s development, and are on a pathway of continuous quality improvement. Federal and State legislatures and agencies must develop strategies to create a pathway to

child care excellence for all providers who care for children unrelated to them for a fee, and that pathway must lead to policy in which subsidy may only be used in licensed settings. Regardless of how a parent pays for care, the provider should be licensed. ECEC applauds the important step in requiring states to provide a rationale for exemption from licensure. ECEC continues to advocate for all non-relative providers to be licensed. All children deserve access to the highest possible quality of care, and parents need to know their children are safe and learning while they are in care.

**Section 98.41(a)(2):** Children need to be safe, and we need to know who is caring for them. Background checks are *one* of the ways this can be accomplished.

To proactively and rigorously protect the well-being of children, to be feasible in the States and effective for Providers, ECEC urges the following additions to the background check proposal:

- States should allow for a provisional hiring of a candidate while waiting for the background check results. This provisional hire is not to be alone with children until the results indicate the candidate has passed the background check.
- Background checks should be required for all full-time and part-time employees/contract workers of child care centers, including administrative, food service and maintenance staff on site while children are in care.
- Background checks should be portable with the individual across State lines and from job to job in the early childhood field, given the high rates of turnover in this field
- States should establish 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 to challenge the accuracy or completeness of the information.
- Ensure States have an affirmative obligation to alert employees and their employers of any new violations which would cause an individual to fail a background check, and that absent such violations a background check is valid for five years
- Background check expenses should not exceed a State's cost for conducting the background check. States should disclose how costs are calculated.
- Employee backgrounds need only be checked in States where the employee or applicant has lived, looking back five years.
- Compliance with State and Federal background check laws and regulations should not put Provider employers out of compliance with Civil Rights Act of 1964 and the Equal Employment Opportunity Commission. "Private right of action" does not address this, because in this case it is the Equal Employment Opportunity Commission (EEOC) bringing legal action against the child care Provider.
- Time frames for States to process background checks for child care employees.

Many States lack the infrastructure to carry out comprehensive checks expeditiously. Staff and equipment are needed to conduct the checks and report results. ECEC Members report that each State has different capabilities regarding what they are able to check. In some States, checks may be automated in some counties and not in others, and in some State systems not all

counties may report. States report absence of appropriate legislation, lack of appropriate agency support, and lack of funding and technology as obstacles.

The final regulation should call for States to implement these new risk management policies within six months, unless there are significant implementation barriers requiring legislative changes or regulatory actions. When these circumstances are documented, the implementation timeline may be extended for up to 12 months.

**Section 98.41(a)(3):** Part of raising the bar on the basic quality of child care is raising the expectation of what the early childhood workforce should know and be able to do. This is important for ensuring child safety, supporting developmental growth and learning, and is an important reminder about professionalizing this field of work.

Research indicates a direct relationship between the early childhood-specific training and education of a caregiver and the quality of care received by a child. However, resources to support and programs to provide training and education that is intentional, sequential, and competency-based in the early childhood field are limited.

Regulation should allow multiple pathways to advancement of the workforce. ECEC Members, like the larger child care community, participate in training provided by child care resource and referral agencies, community colleges, and other institutions of higher education. Many ECEC Members offer their own research-based training and professional development programs for staff. ECEC Members also rely on the opportunity to “grow” teachers from a pipeline that starts with high school students seeking part time or seasonal employment.

A specific number of pre-service training hours can be a challenge: child care centers must comply with staff-child ratio requirements which means a new employee may be needed immediately in the classroom at any given time. Training and education programs must be available and accessible in a timely manner, but this is not always the case. Teacher training requirements cannot overlook the labor market dynamics that condition realities for the early childhood workforce. This includes Department of Labor regulations require paying wages during training (which usually means overtime). Workforce reforms must include resources to achieve those reforms.

ECEC Members report the content of that training is a more significant measure than a specific number of training hours. Training must be intentional, sequential, and leading to improved classroom practice and forwarding a career in the field.

States vary significantly in definitions of “pre-service” and “training hours.” Our members report widespread inconsistencies in the types and formats of training allowed to satisfy regulatory requirements including factoring CDA credentials or other formal education when determining if a new hire has met some or all of the pre-service requirements. Members acknowledge the need for an orientation to the specific child care setting before new hires are allowed to care for children.

**ECEC Members recommend against setting a national number of training hours in this regulation.** The CCDF regulation *should* include a requirement for States to have a basic statewide requirement for “pre-service or orientation training” as well as ongoing annual training, and provide a description of the training content and definition they use for “training hours.” Some States still fall short of having a basic entry requirement at all. The State Plan should describe two phases of “pre-service or orientation” training: first, the training an employee must have before entering a center classroom; then, the training that must be obtained in a reasonable amount of time while under the day-to-day supervision of a staff member who has satisfied the training and background check requirements.

Annual in-service/ongoing training is a priority for ECEC Members. Mentoring is also a critical component, as is an underlying commitment to working with young children and their unique developmental needs. In addition to a documented qualification, teacher effectiveness and the interaction between the adult and the child in the classroom matter.

States need additional resources to expand the availability of online training as well as community colleges and universities offering coursework and degrees in early childhood education. Teachers and Provider employers need resources to support release time, tuition and fees, and other costs of training and education.

Formats should include training and education locally, online and through distance-learning opportunities, through both community-based training and institutions of higher education. Online training is a smart approach if the State permits such training to satisfy a requirement for training hours; States like Ohio have been slow to adopt online delivery to satisfy training requirements either to comply with basic licensing or to advance in the State’s Quality Rating and Improvement System. The CCDF regulation can move States like Ohio forward on this issue by calling for online training as an appropriate format.

Research-based professional development offered by ECEC Member organizations to their own teachers and staff must not only be allowed, but leveraged to move the field forward. Resources are needed to access training and educational opportunities, as well as incentives and awards for educational achievements.

Further, a candidate for employment with a CDA or higher should have that education taken in to account when determining satisfaction of pre-service or orientation hours.

**Section 98.41(d):** ECEC strongly supports the move away from self-certification of compliance. Guidance should include parameters that ensure the rigor of the licensing inspection process is not compromised by the increase in workload without accompanying staff resources. Intrinsic to raising the bar on the quality of care is monitoring and supporting compliance. But without adequate federal and state funding, States will be challenged to regulate and monitor child care in a meaningful way.

Ohio reportedly already conducts annual inspections of all Providers, even those license-exempt who care for children who pay with a subsidy. In California, however, the proposed monitoring requirement would be impractical with current staffing, so significant changes would need to be made. ECEC members in California are concerned about what would need to be done to meet increased monitoring requirements and whether more inspections would mean less rigorous inspections. New Mexico reportedly has already flagged this proposal as a “hardship,” but ECEC members in Hawaii call this a step toward a more level playing field among providers. ECEC members in Georgia expressed concern that the supportive partner relationship they have with licensing consultants would diminish, as would access to department staff. ECEC members in Colorado report that in order to avoid “diluting” inspections while increasing the reach of those inspections, the licensing department budget would have to be increased to hire more licensing specialists. ECEC Members that serve school-age children are also concerned about the added caseload of appropriately monitoring out-of-school time programs.

ACF and the States should consider how to make the work of monitors for other programs or initiatives work collaboratively with CCDF so that a required “visit” can accomplish other goals. Other monitors might include CACFP, a state-funded preK program, or assessors with a Quality Rating and Improvement System.

Further, ECEC members suggest looking to North Carolina’s approach for training their licensing validators, providing checklists and tools related to continuum-based areas like curriculum. Georgia has an “ask the expert” web site where an inspector or child care center can post a question and “the expert” responds to help provide consistent communication.

**Section 98.41(e):** ECEC opposes this new provision to exempt in-home Providers from these basic health and safety regulations. All children deserve basic health and safety protection and in-home child care Providers should not be exempt from basic health and safety requirements.

**Section 98.42:** ECEC suggests adding another provision regarding parent copayments for child care assistance, to allow child care Providers to charge above the copay, not to exceed the private pay rate. Currently, some States allow this practice while others specifically prohibit the practice. Colorado is one of only 11 states that do not allow Providers to charge families above their copay rate. This is a top concern for ECEC Members that operate in Texas, too. This restriction is a disincentive for high-quality Providers to accept subsidized children, thus reducing the options for families to choose high quality care. Simply lifting the ban at the State level gives Providers the option to charge parents. It does not create a requirement to charge parents. This change will support Providers in their efforts for continuous quality improvement, and will expand parent choice among higher quality Providers of their choosing.

- “(e) This provision shall not preclude a State from allowing Providers to charge above the copay, not to exceed the private pay rate.”

**Section 98.43:** While ECEC greatly appreciates the concept of studies documenting the true cost of quality, we are concerned about the place of not yet proven “alternative methodologies” in

relationship to subsidy reimbursement rates, especially without other significant changes such as driving state and federal dollars toward these payments and a requirement to use the study findings to actually pay Providers for the cost of care. Knowing the information from an alternative study methodology will not drive sufficient payment; indeed, knowing the information now from market rate surveys does not drive the payments.

Few, if any, States even make a pretense of choosing a payment rate based what it takes to offer care. Generally the decision is based on State budget spreadsheets. Having a different set of study results alone will not change the decision process in the current environment. The current methodology is flawed. But ECEC offers that the research methodology is not the only problem. In addition to directing much-needed funding to payment rates to really drive equal access, ECEC recommends that the regulations include additional guidance for States on conducting valid, reliable market rate surveys with sufficiently representative information on Providers' prices, as well as cost model studies.

### **Comments on Subpart F – Use of Child Care and Development Funds**

**Section 98.50(b)(3):** ECEC supports the clarification that child care funds must support a mix of both grants and contracts for the payment of direct services. Contracts, sufficiently funded, are an essential way to address the short supply of care for children including those at risk, with disabilities, and those living in very low-income and rural communities.

**Section 98.51(a)(2):** The professional development system described in the proposal should also incorporate in-house training offered by child care organizations and Providers to fulfill training hour requirements. Such training should meet state regulatory criteria, support pathways for staff to attain credentials, and assist programs to achieve QRIS recognition and Accreditation status. Approval for trainers and quality of content should be handled on a statewide basis, not locally.

**Section 98.51(a)(2):** The regulation should include curriculum guidelines:

- Section 98.51(a)(2): “(vii) States shall provide flexibility for child care Providers to choose among high quality age appropriate curricula as identified by the State in an open process.”

**98.54(b)(1):** The regulation should clarify that funds can be used to ensure facilities comply with the on-going requirements of the Americans with Disabilities Act.

### **Comments on Subpart H – Program Reporting Requirements**

**Section 98.71:** Reporting should also capture the status of licensure as well as data on the numbers of subsidy-eligible children who are not served and on waiting lists. This is important so that the supply of care, consumer education, and overall quality and access can be continually addressed and advocated for in a state.

- Section 98.71(a)(8): “The type(s) of child care in which the child was enrolled (such as family child care, in-home care, or center-based child care and whether the Provider was licensed or license-exempt.)”
- Section 98.71(a): “(16): whether the child has a disability, is at risk, or has special health care need.”
- Section 98.71 (b)(1): “The number of child care Providers that received funding under CCDF as separately identified based on the types of Providers and whether they are licensed or license-exempt.”
- Section 98.71 (b): “(5) “to the extent practicable, the number of children on the waiting list for CCDF services; and (6) the number of children served through funds spent directly from the TANF Block Grant if that data is available.”

ECEC recognizes and applauds the effort from the Office of Child Care for the work to advance the goals of the CCDF program. We hope that our comments will help strengthen the work nationally and in the States. Thank you again for your consideration.

Sincerely,

M.-A. Lucas  
Executive Director