To: Office of Child Care, Administration for Children and Families, United States Department of Health and Human Services
From: Southern Education Foundation
Date: August 28th, 2023
Re: Docket ID Number: ACF-2023-0003-0001

The Southern Education Foundation (SEF) appreciates the opportunity to provide comments to the United States Health and Human Services division of Administration for Children and Families regarding the proposed rule changes to improve child-care access, affordability, and stability in the Child Care and Development Fund (CCDF) as posted in the Federal Register.

SEF is the nation's oldest education and civil rights organization, founded in 1867 with the explicit mission of advancing creative solutions to ensure equity and excellence in education for students living in low-income households and students of color in the South. We envision a world where every student, regardless of background, enjoys an education that propels them toward the opportunity-rich life they deserve, from cradle to career.

Decades of research continually highlight the positive effects of affordable, high-quality early care and education (ECE), especially for families living in poverty.[1] Greater access to ECE services also benefits the nation at large, eventually leading to more American participation in the workforce and yielding a 13% return on the government's financial investment.[2] The changes described in this notice of proposed rulemaking (NPRM) are critical steps forward as the nation deals with a child-care crisis that will only worsen as the funds from the American Rescue Plan Act expire over the next year. However, we would also like to acknowledge that without additional funding invested in the Child Care and Development Block Grant (CCDBG), implementing the proposed changes will come with tradeoffs. As it stands, only one in six eligible children receives assistance under CCDF.[3] Acknowledging that significant Congressional action is required to fully implement these changes without stretching existing federal resources, we comment below on several of the proposed rule changes. Our comments focus solely on the proposals and modifications in the NPRM and are not exhaustive of the broader sector improvements that would benefit children, families, and providers.

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[1] Office of the Assistant Secretary for Planning and Evaluation. (2014) *The Short- and Long- Term Impacts of Large Public Early Care and Education Programs.* https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//139051/rb_longTermImpact.pdf

[2] García, J. L., Heckman, J., Leaf, D. E., & José Prados, M. (2016). *Quantifying the Life-cycle Benefits of an Influential Early Childhood Program.* https://heckmanequation.org/wp-content/uploads/2017/01/w23479.pdf

[3] Office of the Assistant Secretary for Planning and Evaluation. (2022) *Factsheet: Estimates of Child Care Eligibility & Receipt for Fiscal Year 2019*. https://aspe.hhs.gov/reports/child-care-eligibility-fy2019.

Proposed Priority 1: Lower families' child-care costs

Prohibit family copayments that are a barrier to child care access

American families are responsible for the majority of ECE costs, shouldering 52% of the burden, while the K-12 public school system is free, financed entirely by the public sector.[4] With ECE programming frequently costing families more than the individual costs of college tuition and rent,[5] early childhood costs perpetuate a system where a child's development depends more on their family's socioeconomic status than their own developmental needs. This is a particularly salient issue given what is known as the life-cycle income problem, or the idea that most people have children much earlier than their peak earning years, resulting in higher poverty levels for younger children.[6]

A 2019 report by the Center for American Progress found that low-income families making less than 200% of the federal poverty level (FPL) spend an average of 35% of their income on child care, while families at 600% of the FPL pay only 7%.[7] More recent data shows that the average annual cost of care for two children in a southern state is $19,355 – a staggering 65% of the FPL for a family of four. For families making 600% of the FPL, or $180,000 a year, the cost of care is only 11% of their income.[8] Low-income families face a disproportionate burden when it comes to affording care for their children. We believe this burden can be reduced by requiring that copayments will not exceed 7% of a family's income, a benchmark set by the U.S. Department of Health and Human Services in its 2016 CCDF Final Rule, based on findings from the U.S. Census Bureau.[9] It is important to note that the 7% figure is a cap, and whenever possible, states should strive to lower copayment rates for their lowest-earning families.

While a 7% cap for family copayments would be a step forward for families in states that exceed the 7% copayment threshold, such as those in Florida, North Carolina, and Texas,[10] the current CCDF reimbursement rates still present a significant barrier for both families and providers. Nine southern states reimburse providers at rates lower than the 75% level recommended by the Administration for Children and Families.[11] This means that many providers must either operate at a loss when accepting children who receive subsidies or must charge families the difference between reimbursement rates and private-pay rates. In Georgia, reimbursement rates are set at an untenable 25%, and the most recent child-care market rate survey found that 70% of participating providers were charging families the full difference in cost

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[4] The BUILD Initiative. (2017). *Finance and Quality Rating and Improvement Systems.* https://buildinitiative.org/wp-content/uploads/2017/01/FinanceQRIS.pdf

[5] Southern Education Foundation (2023). *States facing up to the staggering costs of child care.* https://southerneducation.org/resources/blog/2023/02/14/costs-of-child-care/

[6] Bruenig, M. (2019). *Family Fun Pack.* People's Policy Project. https://www.peoplespolicyproject.org/projects/family-fun-pack/

[7] Malik, R. (2019). *Working Families Are Spending Big Money on Child Care.* Center for American Progress. https://www.americanprogress.org/article/working-families-spending-big-money-child-care/

[8] Child Care Aware of America. (2022). *2022 Child Care Affordability Analysis.* https://info.childcareaware.org/hubfs/2022_CC_Afford_Analysis.pdf

[9] Child Care and Development Fund (CCDF) Program; HHS Notice of Final Rule, 81 Fed. Reg. 67438 (September 30, 2016) https://www.govinfo.gov/content/pkg/FR-2016-09-30/pdf/2016-22986.pdf

[10] Administration for Children and Families (2021). *State/Territory Plan, 2022-2024.* https://www.acf.hhs.gov/sites/default/files/documents/occ/4.5.1-FFY2022.pdf

[11] First Five Years Fund. (2023) *Child Care Provider Reimbursement Rates Explained.* https://www.ffyf.org/child-care-provider-reimbursement-rates-explained/

between the CCDF payment rate and their posted rate.[12] This is a no-win situation for both families and providers. While we commend the Administration's recent action to consider states reimbursing at lower than 50% as out of compliance with the equal access provision of the CCDBG Act,[13] we urge you to consider requiring higher provider payment rates to ensure equal access for families and adequate resources for providers.

Allow lead agencies to waive copayments for additional families

As shown above, low-income families spend a significantly higher share of their income on ECE than higher earning families. SEF supports the proposal to waive copayments for families who earn up to 150% of the FPL. However, we also acknowledge that many families making more than 150% of the FPL still struggle to afford basic necessities, and we believe there should be additional flexibility to waive copayments at higher-income thresholds and consideration of a sliding fee scale for those earning more than 150% of the FPL. Additionally, we support encouraging the waiving of copayments for families with children with a disability, and would like to see waivers extended to other vulnerable populations, including but not limited to families receiving Temporary Assistance for Needy Families (TANF), children with incarcerated parents, children of teen parents, children experiencing homelessness, and ECE educators.

Proposed Priority 2: Increase parents' child-care options and strengthen payment practices
Building supply with grants and contracts

SEF supports the proposal to require that states use grants and contracts to build and increase the supply of child-care services, including at a minimum, the use of grants and contracts for infant and toddler care, care for children with disabilities, and nontraditional hour care. In almost every state in the South, Black children under age six have the highest share of parents working nontraditional hours compared to other racial groups. Working nontraditional hours is also most common among one-parent and low-income households.[14] We know there is a serious shortage of child care for this population, as well as for children with disabilities and the infant-toddler population, and we appreciate the Administration's special attention to these populations. To truly meet families' needs, we encourage the use of grants and contracts to include all types of child-care providers, including family child care (FCC) and family-friend-neighbor (FFN) care, because parents who work nontraditional hours often rely more on family and friends to care for their children than their peers.[15]

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[12] Georgia Department of Early Care and Learning. (2022). *Georgia Child Care Market Rate Survey 2021.* https://www.decal.ga.gov/documents/attachments/GAMR2021_Rept_Final_5-9-2022.pdf

[13] Administration for Children and Families. (2023). *Child Care and Development Fund Payment Rates.* https://www.acf.hhs.gov/occ/news/child-care-and-development-fund-payment-rates

[14] Urban Institute. (2021). *State Snapshots of Potential Demand for and Policies to Support Nontraditional-Hour Child Care.* https://www.urban.org/projects/state-snapshots-potential-demand-and-policies-support-nontraditional-hour-child-care

[15] Home Grown. (n.d.). *Home-Based Child Care Fact Sheet.* https://homegrownchildcare.org/wp-content/uploads/2023/05/Home-Grown-Child-Care-Fact-Sheet-final.pdf

Sustainable payment practices

We support the proposal to pay child-care providers prospectively and based on enrollment, which would better align with the payment practices of the private-pay system. The high costs of providing child care, combined with the need to remain affordable for parents, means that most child-care providers operate on razor-thin margins. Child-care providers cannot afford a reduction in payment due to children's absences or to wait for payment until after providing care.

Some providers are discouraged from accepting children with subsidies altogether. For example, in recent child care market surveys, 10% of providers in South Carolina and 8% in Virginia who did not participate in child-care subsidy programs indicated that it was because reimbursement payments took too long to receive.[16] Paying prospectively and based on enrollment will help support the stability of providers and encourage more providers to participate in their state programs.

Thank you again for the opportunity to respond to this proposal. If you have any questions about the content of this response, please contact Fred Jones, SEF's senior director of public policy and advocacy via email at fjones@southerneducation.org or Allison Boyle, SEF's ECE policy and research specialist, at aboyle@southerneducation.org. We look forward to your review.

Sincerely,

Raymond Pierce
President and CEO
Southern Education Foundation

[16] Virginia Department of Social Services. (2018). *Virginia's Child Care Subsidy Program* https://www.dss.virginia.gov/files/division/cc/interested_subsidy_vendors/notices/Market_Rate_Survey.pdf; South Carolina Department of Social Services (2021). *South Carolina Child Care Market Rate Study.* https://www.scchildcare.org/media/73888/SC-Child-Care-Market-Rate-Study-for-2020-Final-Report-March-2021.pdf