



**Executive Office of the President of the United States
Office of Management and Budget**

Office of Information and Regulatory Affairs
Human Resources and Housing Branch
New Executive Office Building
Room 10235
Washington, DC 20503

FAX TRANSMITTAL

*file - cl
federal employees
child care*

FAX: 202-395-6974

DATE: 11-24-99

TO: Nicole Rabner

FROM: JOE LACKEY

Total number of pages (Including Transmittal Sheet):

17

Recipient's Fax Number:

62878

Recipient's Telephone Number:

Comments:

Here is a copy of the draft OPM
regulation on payment of child care
expenses. You may call me on 54741.

Publication date: _____

6325-01

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 792

RIN: 3206-AI93

AGENCY USE OF APPROPRIATED FUNDS FOR CHILD CARE COSTS FOR LOWER INCOME EMPLOYEES

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing a rule to set forth how agencies may use appropriated funds to reduce child care costs for lower income Federal employees. The intended effect of this rule is to enable lower income employees to better afford child care.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Send written comments to Anice V. Nelson, Office of Personnel Management, Room 7315, 1900 E St. NW., Washington, DC 20415-1300.

FOR FURTHER INFORMATION CONTACT: Patricia Kinney, Office of Personnel Management, 1900 E St. NW, Room Washington, DC 20415, Phone: (202) 606-1313; Fax: (202) 606-2091.

SUPPLEMENTARY INFORMATION: Federal families are more challenged than ever before to meet the expenses of child care. Child care is a labor intensive service that requires adequate, trained staff to provide child care services that are safe and appropriate for children and their families. An increasing number of Federal families are finding that affordable child care is getting more difficult to find even when their own agencies sponsor on or near-site child care centers. Vacancy rates in Federally sponsored centers have grown due to the affordability problem. Despite efforts of non-profit organizations to raise funds through charitable contributions, the affordability of child care for lower income Federal employees remains out-of-reach since child care costs can translate into 25 to 50 percent of a Federal family's total family income.

Reduced child care tuition, as a result of agency contributions permitted by this law, can have significant impact on employees' ability to utilize safe and reliable child care. Benefits to the agencies include better recruitment and retention of qualified personnel, lower absenteeism and improved employee morale. Improved retention can result in significant recruitment and training cost savings to agencies. Over the past ten years, anecdotal evidence from on-site Federally sponsored child care centers has shown that more and more employees consider the availability of affordable child care as a major reason for choosing one job over another. An added benefit for agencies that sponsor on-site child care centers is that they can expect to see improved Federal employee participation in their centers. For small agencies that have been unable to provide agency-sponsored on-site child care centers, this law would permit them to assist their employees with a variety of other child care choices.

Section 643 of Pub. L. 106-58 authorizes the use of appropriated funds to assist lower income Federal workers to access child care services. This law, enacted by Congress, became effective on September 29, 1999, and remains in effect for one year. The law enables Federal agencies, for the first time, to assist their civilian employees with costs of child care. Until now, the only financial remedy for Federal employees was through limited fundraising conducted by non-profit boards of directors for Federal child care centers. That type of assistance has been inadequate for lower income employees. Financial assistance for Federal employees in non-Federal child care and for family child care has been non-existent.

Child care exists in a variety of forms. Because child care is not universally available through agency-sponsored child care centers, Pub. L. 106-58 permits agencies to work with a broad range of providers to ensure that child care is more affordable to lower income Federal employees.

Note: Use of pronouns we, you, and their variants throughout this part refers to the agency.

E.O. 12866, Regulatory Review

This proposed rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act:

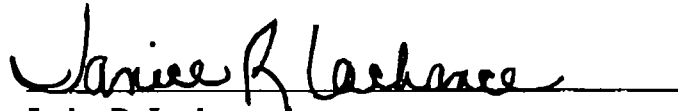
I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would only apply to Federal agencies and employees.

List of Subjects

5 CFR 792

Alcohol abuse, Alcoholism, Drug abuse, Government employees.

U.S. OFFICE OF PERSONNEL MANAGEMENT



Janice R. Lachance

Director

Accordingly, OPM is proposing to amend part 792 of title 5 of the Code of Federal Regulations as follows:

**PART 792--FEDERAL EMPLOYEES' HEALTH AND COUNSELING
PROGRAMS**

1. The authority citation for part 792, Subpart B continues to read as follows:

AUTHORITY: Sec. 201 of Pub. L. 91-616, 84 Stat. 1849, as amended and transferred to sec. 520 of the Public Health Services Act by sec. 2(b)(13) of Pub. L. 98-24 (42 U.S. C. 290dd-1) and sec. 413 of Pub. of Pub. L. 92-255, 86 Stat. 84, as amended and transferred to sec. 525 of the Public Health Service Act by sec. 2(b)(16)(A) of Pub. L. 98-24 (42 U.S.C. 290ee-1).

2. Subpart B is added to read as follows:

Subpart B--Agency Use of Appropriated Funds for Child Care Costs for Lower Income Employees--What is the new child care legislation and to whom does it apply?

Sec.

§792.201 What does the new law permit?

§792.202 What is the purpose of the new law?

§792.203 What are the benefits to my agency of providing such assistance to my lower income employees?

§792.204 Which agency funds can be used for the purpose of this law?

§792.205 Is the use of appropriated funds for this purpose mandatory?

§792.206 What is the definition of Executive agency in this proposed rule?

§792.207 What is the definition of civilian employee?

§792.208 What is the definition of contractor?

§792.209 What is the definition of a child?

§792.210 What children are eligible for this subsidy?

§792.211 Are children enrolled in summer programs and part-time programs eligible?

§792.212 Are part-time Federal employees eligible?

§792.213 What is the definition of a lower income Federal employee?

§792.214 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

§792.215 How can agencies take advantage of this new law?/When does this law become effective?

§792.216 What is the process for helping lower income employees with child care tuition?

§792.217 Are agencies required to negotiate with their Federal labor organizations about the provisions of this law?

§792.218 Should we notify anyone of our intention to make such a disbursement?

§792.219 Are there any conditions which the child care provider must meet in order to participate in this program?

§792.220 Who determines if a Federal employee qualifies as a lower income employee and how does this process occur?

§792.221 Is there a statutory cap on the amount or the percentage of tuition that will be subsidized?

§792.222 Do child care subsidies get paid to the employee using the child care?

§792.223 May we disburse funds to a child care provider or non-profit governing board before the employee utilizing the reduced tuition has enrolled his or her child in the child care center or family child care home?

§792.224 How will this work where there is a Federal child care center in a multi-tenant building?

§792.225 How long will the tuition assistance be in effect for an employee?

§792.226 Can these funds be used for children already enrolled in child care?

§792.227 Can we place special restrictions or requirements on the use of these funds and how else can we use these funds?/Can we restrict the disbursement of such funds to only one type of child care or to one location?

§792.228 May we use the funds to improve the physical space of the family child care homes or centers?

§792.229 For how long is the law effective?

§792.230 Are there any special reporting and oversight requirements related to this law?

§792.231 Who will oversee the disbursement and use of funds?

§792.232 Are sample memoranda and other documents available to assist us with this process?

Subpart B--Agency Use of Appropriated Funds for Child Care Costs for Lower

Income Families --What is the new child care legislation and to whom does it apply?

§792.201 What does the new law permit?

The law permits agencies to use appropriated funds from their salaries and expense accounts to assist lower income Federal employees with the costs of child care.

Employees can benefit from reduced tuition rates at Federal child care centers, non-Federal child care centers, and in family child care homes.

§792.202 What is the purpose of the new law?

The law is intended to make child care more affordable for lower income Federal employees through the use of agency appropriated funds.

§792.203 What are the benefits to my agency of providing such assistance to my lower income employees?

There are several benefits for the agencies beginning with improved recruitment and retention. Cost savings in recruitment and training costs can be significant. In addition, absenteeism rates related to child care problems can be reduced. Providing such subsidies can also increase morale, particularly among employees who cannot afford the child care located at or near a child care center that is sponsored by the agency. The use of funds for lower income employees who are enrolled or wish to enroll in Federal child care centers will increase the Federal participation rates where there is a regulatory requirement that at least 50 percent of the children enrolled are from Federal families.

§792.204 Which agency funds can be used for the purpose of this law?

You are permitted to use funds from your salaries and expense account for the purpose of this law.

§792.205 Is the use of appropriated funds for this purpose mandatory?

No. The decision to use appropriated funds for the purpose of this law is left to the discretion of the agency.

§792.206 What is the definition of Executive agency in this proposed rule?

The term Executive agency is defined by section 105 of title 5, United States Code, but does not include the General Accounting Office.

§792.207 What is the definition of civilian employee?

The term civilian employee, for the purposes of this regulation, means all appointive positions in an executive agency.

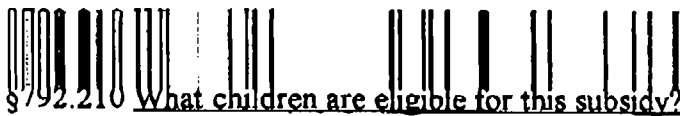
§792.208 What is the definition of contractor?

Section 643 of Pub. L. 106-58 says that child care services provided by contract are covered by this provision. Contractor applies to an organization or individual who provides child care services for which Federal families are eligible. The definition includes center-based child care and family child care homes. The term provider is typically used to denote contractor in the child care industry. For the purposes of this regulation, the term provider is used to denote both center-based child care and family child care homes.

§792.209 What is the definition of a child?

For the purposes of this regulation, a child is considered to be:

- (1) A recognized natural child who lives with the Federal employee in a regular parent-child relationship;
- (2) An adopted child;
- (3) A stepchild;
- (4) A foster child;
- (5) A recognized natural child for whom a judicial determination of support has been obtained; or
- (6) A recognized natural child to whose support the Federal employee makes regular and substantial contributions.



§792.210 What children are eligible for this subsidy?

Federal employees' children from birth to age 13 are covered by the law.

§792.211 Are children enrolled in summer programs and part-time programs eligible?

Yes, employees with school-age children (13 years of age and younger) who are

enrolled in summer school programs and part-time programs are eligible.

§792.212 Are part-time Federal employees eligible?

Yes, Federal employees who work part-time are eligible.

§792.213 What is the definition of a lower income Federal employee?

Each agency makes the determination of the definition of lower income Federal employee. Lower income Federal employee can be defined by an agency in a number of ways. Some type of total family income eligibility should be used to determine which families qualify as lower income employees and are eligible for a reduced tuition rate. You can use criteria such as those from:

- (1) The Child Care Development Block Grant as defined;
- (2) A formula based on a percentage of the State poverty level (as many States do for certain programs);
- (3) The military formula which is based on total family income;
- (4) Criteria established by non-profit governing boards which are used to determine tuition assistance awards;
- (5) Sliding scale fee structures that child care providers use to determine the amount of tuition each family pays; and
- (6) A formula based on a specific percentage of family income that should be used for tuition, thereby subsidizing the remaining amount.

Besides total family income, extraordinary financial situations are typically considered in the decision of the subsidy amount. OPM will provide examples of several models in their guidance.

§792.214 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

No. The law is broad in scope and includes non-Federal center-based child care as well as care in family child care homes.

§792.215 How can agencies take advantage of this new law?/ When does this law become effective?

The law became effective as of September 29, 1999. Agencies are permitted to spend funds once the regulations are promulgated.

§792.216 What is the process for helping lower income employees with child care tuition?

The process can be summarized in 8 steps:

- (1) After completing your collective bargaining obligations, where applicable, notify the Congressional committees of your decision to use a specific amount of appropriated funds for this purpose;
- (2) Determine how you will structure the program;
- (3) Determine how you will administer the program;
- (4) Advertise the program;
- (5) Conduct the application process;
- (6) Make the tuition assistance determinations and notify the families (parents are then charged a reduced tuition rate by the provider);
- (7) Provide the funds to the provider or non-profit governing board; and

(8) Report the results to OPM.

§792.217 Are agencies required to negotiate with their Federal labor organizations about the provisions of this law?

You are reminded of your obligation to negotiate or consult, as appropriate, with the exclusive representatives of your employees on the implementation of these regulations under Title 5, Sec. 7117, U.S. Code.

§792.218 Should we notify anyone of our decision to make such a disbursement?

Yes, you must provide prior notice to the House Subcommittee on Treasury, Postal Service and General Government and to the Senate Subcommittee on Treasury and General Government. This is a Congressional notification requirement.

§792.219 Are there any conditions which the child care provider must meet in order to participate in this program?

Yes, the provider, whether center-based or family child care, must be licensed and/or regulated by the State and/or local authorities where the child care service is provided. You must sign a memorandum of understanding (MOU) with the child care provider so that both parties understand the terms under which the program will operate.

§792.220 Who determines if a Federal employee qualifies as a lower income employee and how does this process occur?

You make the determination using certain income criteria mentioned above or you can choose to work with a non-profit governing board of a child care center to make the determination. You can also work with a child care provider to determine which income

eligible criteria are suitable. The Federal employee must complete an application form for the assistance and follow the guidelines you have established for submitting their application.

§792.221 Is there a statutory cap on the amount or the percentage of tuition that will be subsidized?

No, the law does not specify a cap.

§792.222 Do child care subsidies get paid to the employee using the child care?

No. The child care subsidy is paid to the child care provider or to a non-profit governing board that pays the provider.

§792.223 May we disburse funds to a child care provider or non-profit governing board before the employee utilizing the reduced tuition has enrolled his or her child in the child care center or family child care home?

Yes, you may wish to disburse one lump sum to the provider or non-profit governing board who will be responsible for marketing the center to lower income families, tracking the utilization, and providing you with regular reports.

§792.224 How will this work where there is a Federal child care center in a multi-tenant building?

You may disburse funds to an entity of a Federal Executive Board or a Federal Executive Association or to any similar interagency organization; or you may choose to disburse the funds to a non-profit board at the child care center. You may also choose to disburse the funds to the child care provider. In any case, funds from the agencies would

be pooled together for the benefit of the families qualified for tuition assistance and enrolled at the child care center. The designated organization would then make the individual tuition assistance determinations for the eligible families. Because the law requires that your funds be used for your civilian employees, the tracking system must include information about the number of your employees who were able to make use of child care services as a result of this law.

§792.225 How long will the tuition assistance be in effect for an employee?

The tuition assistance, in the form of a reduced tuition rate, will be in effect from the time the decision for a particular family is made and the child is enrolled in the program, until the child is no longer enrolled, but not later than September 29, 2000.

§792.226 Can these funds be used for children already enrolled in child care?

Yes, the funds can be used for children currently enrolled in child care as long as their families meet the tuition assistance eligibility requirements established by your agency.

§792.227 Can we place special restrictions or requirements on the use of these funds and how else can we use these funds?/Can we restrict the disbursement of such funds to only one type of child care or to one location?

Yes, depending on your staffing needs and your employees' situations, including the local availability of child care, you may choose to:

- (1) Fund employees using family child care homes;
- (2) Fund employees using your on-site child care center;

(3) Fund families using community, non-Federal child care centers; or

(4) Restrict the use of such funds to one or more locations.

It is up to you to determine whether there will be any restrictions on the use of your appropriated funds for child care tuition costs.

§792.228 May we use the funds to improve the physical space of the family child care homes or centers?

No, the legislation specifically addresses making the child care more affordable for lower income employees.

§792.229 For how long is the law effective?

The law is effective for one year, ending September 30, 2000.

§792.230 Are there any special reporting requirements and oversight requirements related to this law?

Yes, you are responsible for tracking the utilization of your funds and reporting the results to OPM. OPM will provide a reporting form to you. OPM is required to provide a report to the appropriations committees no later than September 1, 2000.

§792.231 Who will oversee the disbursement and use of funds?

You will be responsible for tracking the utilization of these funds. You may

appoint a representative to do so.

§792.232 Are sample memoranda and other documents available to assist us with this process?

Yes, OPM will provide you with sample documents such as memoranda of understanding, sample tuition assistance applications, sample sliding fee scales, and sample child care marketing tools.

OFFICE OF MANAGEMENT AND BUDGET***Legislative Reference Division
Labor-Welfare-Personnel Branch*****Telecopier Transmittal Sheet**FROM: Kathryn ThompsonPHONE: 395-7596DATE: 9/16/99

TIME: _____

Pages sent (including transmittal sheet): 3**COMMENTS:**

Here is the copy of the final on Rep.
Morella's child care letter which you requested.

TO:Nicole Rahner**PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.**



**UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415**

OFFICE OF THE DIRECTOR

SEP - 8 1999

Honorable Constance A. Morella
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Morella:

I want to express our appreciation for the support that you have given to Federal employees. H.R. 206, the Federal Employees Child Care Affordability Act, is yet another example of your leadership. I was very pleased that the House Government Reform Committee has acted favorably on your bill and that the House FY00 Treasury and General Government Appropriations Act contains your child care language.

As you are aware, because of the prohibitive costs of child care, many lower income Federal workers cannot avail themselves of quality, affordable, accessible child care centers for their children. They must choose, instead, arrangements with potential inferior quality and even unsafe environments. The cost of child care for some Federal families can reach as high as 50% of their gross annual income for the care of just one child. National annual child care costs range from approximately \$4,000 to \$7,000 for preschoolers and from \$8,000 to \$14,000 for infants. Because many Federal families earn salaries just above the eligibility levels for child care subsidies from the states, they receive no assistance with these high tuition costs. A 1992 OPM study, conducted when child care tuition rates were considerably less, revealed that Federal parents cited a lack of affordability as their number one reason for not being able to use the child care centers available to them at or near their places of work.

Child care spaces are available in both the Federal and private sectors. In space controlled by the General Services Administration, for example, the current vacancy rate is 18%. Those centers are required to deliver programs that are nationally accredited, promoting quality child care choices for Federal employees. However, our lower income families cannot avail themselves of the services due to their expense. H.R. 206 would permit agencies, at their discretion, to use appropriated funds to assist with these costs.

Honorable Constance A. Morella
Page Two

Your legislation has the potential to increase the availability of quality, accessible child care to many Federal families, allowing them to work with peace of mind that their children are cared for in safe centers that have quality staff and programs. I look forward to working with you on the enactment and implementation of this important provision.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in black ink, reading "Janice R. Lachance". The signature is fluid and cursive, with the first name "Janice" being more prominent and the last name "Lachance" following in a similar style.

Janice R. Lachance
Director

Draft Statement

Statement on Signing of Treasury Postal

Today, I signed a bill that funds the Treasury Department and also contains several important improvements in family planning and child care. This bipartisan bill will give people who work for the federal government access to more affordable child care and new flexibility in family planning. It will require health plans participating in the Federal Employees Health Benefits Program (FEHBP) that provide prescription drug coverage to provide prescription contraceptive coverage as well while providing an exception for plans that object to this requirement on religious grounds. The bill also gives government agencies flexibility that will allow them to make child care more affordable for lower-income Federal employees. While this bill is not perfect, it does show that we can make progress on when we work in a bipartisan fashion.



August 20, 1999

M E M O R A N D U M

TO: Congressional staff

RE: Child Care provisions contained in S.1059, the DoD
Authorization Conference Agreement

As you know, we strongly support provisions contained in both the House and Senate FY 2000 Treasury Appropriations measures that would permit executive branch agencies to use their appropriated funds to subsidize child care for lower graded federal employees.

This simple, straightforward language requires no new government spending or appropriations and will permit each federal agency to determine what, if any, funds it has for this purpose. It is almost identical to current law which has permitted DoD to subsidize child care expenses for the uniformed military for the last 10 years.

It has recently come to our attention that S.1059, the DoD Authorization legislation conference agreement contains language extending DoD's ability to provide child care subsidies to civilian employees of the Department of Defense as well as to contract employees of the Defense Department and anyone else authorized by the Secretary of Defense to receive child care subsidies. Further information on this provision is attached.

If the child care provision for executive branch federal employees is not included in the final FY 2000 Treasury bill, this will result in a situation where uniformed military, civilian DoD employees, DoD contract employees and anyone else authorized by the Secretary of Defense may receive taxpayer subsidies for child care while lower-graded federal employees in other federal agencies will not even be eligible for them, even if the facility DoD employees patronize is located in the federal building where these non-eligible employees work.

NTEU would very much appreciate your assistance in insuring that the child care language remains in the final version of the Treasury Appropriations measure. If you need additional information, please feel free to call. Thanks very much.

Sue Shaw

Susan Shaw
508-3718

Attachment

Colleen Kelley - President



CHILD CARE PROVISIONS CONTAINED IN DEFENSE AUTHORIZATION

CONFERENCE AGREEMENT (S.1059)

The DoD Authorization conference agreement expands P.L.101-189 which, since 1989, has permitted DoD to use its funds to subsidize child care expenses for the uniformed military. (Section 584)

These provisions:

1) extend the ability of DoD to provide financial assistance to eligible civilian providers of child care and youth services, including family home day care providers.

2) give the Secretary of Defense the discretion to provide financial assistance to members of the armed forces and to other eligible federal employees. This indicates that subsidies will be available to civilian employees of DoD, as well as to contract employees of DoD or anyone else authorized by the Secretary of Defense. It also seems to imply that other agencies could ask the Secretary of Defense for permission to provide subsidies to their own employees as well.

3) require eligible providers to comply with regulations concerning provision of child care services.

4) appear to permit a situation where uniformed military, DoD civilian employees, DoD contract employees, and anyone else authorized by the Secretary of Defense, would be able to place their children in federal child care facilities and receive subsidies toward the cost while non-DoD federal employees who actually work where the center is located would not receive similar subsidies and may not even be able to afford to use the center.

5) make no provision or restriction on the amount of subsidy that can be provided to an individual employee - either uniformed military or civilian.

6) provide no definition of the income level of any employee - either uniformed military or civilian that would be eligible for subsidies.



FROM THE DESK OF:

**SUSAN SHAW
NTEU LEGISLATION DEPARTMENT
901 E STREET, NW SUITE 600
WASHINGTON, DC 20004**

PHONE: 202-508-3718

FAX: 202-508-3708

TO:

Nicole Rabner

FAX#:

456-6687

TOTAL NUMBER OF PAGES:

3

COMMENTS:

FYI -

Susan Shaw

Honorable Constance A. Morella
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Morella:

I want to express our appreciation for the support that you have given to Federal employees. H.R. 206, the Federal Employees Child Care Affordability Act, is yet another example of your leadership. I was very pleased that the House Government Reform Committee has acted favorably on your bill and that the House FY00 Treasury and General Government Appropriations Act contains your child care language.

As you are aware, because of the prohibitive costs of child care, many lower income Federal workers cannot avail themselves of quality, affordable, accessible child care centers for their children. They must choose, instead, arrangements with potential inferior quality and even unsafe environments. The cost of child care for some Federal families can reach as high as 50% of their gross annual income for the care of just one child. National annual child care costs range from approximately \$4,000 to \$7,000 for preschoolers and from \$8,000 to \$14,000 for infants. Because many Federal families earn salaries just above the eligibility levels for child care subsidies from the states, they receive no assistance with these high tuition costs. A 1992 OPM study, conducted when child care tuition rates were considerably less, revealed that Federal parents cited a lack of affordability as their number one reason for not being able to use the child care centers available to them at or near their places of work.

Child care spaces are available in both the Federal and private sectors. In space controlled by the General Services Administration, for example, the current vacancy rate is 18%. Those centers are required to deliver programs that are nationally accredited; and yet, our lower income families cannot avail themselves of the services due to their expense. H.R. 206 would permit agencies, at their discretion, to use appropriated funds to assist with these costs. We do not anticipate any increased budget requests as a result of this new authority.

Your legislation has the potential to increase the availability of quality, accessible child care to many Federal families, allowing them to work with peace of mind that their children are cared for in safe centers that have quality staff and programs. I look forward to working with you on the enactment and implementation of this important provision.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Janice R. Lachance
Director

Message Sent To:

Bruce D. Long/OMB/EOP@EOP
Lisa B. Fairhall/OMB/EOP@EOP
Daniel LaPlaca/OMB/EOP@EOP
David H. Morrison/OMB/EOP@EOP
Mary Jo Siclari/OMB/EOP@EOP
Eugene J. Devine/OMB/EOP@EOP
Jack A. Smalligan/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
John W. Kelly/OMB/EOP@EOP
Julie L. Haas/OMB/EOP@EOP
Jennifer E. Brown/OMB/EOP@EOP
Joseph F. Lackey Jr./OMB/EOP@EOP
Jaki M. Hurwitz/OMB/EOP@EOP
Robert J. Pellicci/OMB/EOP@EOP

Record Type: Record

To: Nicole R. Rabner/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: ACTION - - OPM letter to Rep. Morella (R-MD) on Child Care Legislation

Nicole:

We have two questions regarding OPM's draft child care letter to Rep. Morella (R-MD) that has been submitted to OMB for clearance (see below). We understand that you have reviewed this draft letter, and responded to LRD with no objection.

In light of the two existing proposals on this issue - - Rep. Morella and Senator Jeffords (R-VT) - - and your sensitivity toward maintaining the Administration's neutrality in the Treasury General Government Appropriations Conferees letter as to these differing versions, do you believe that clearance of this OPM letter could be construed as support for Rep. Morella's position over Jeffords? If we decide to clear this letter, should we then modify the current language in the Conferees letter?

For your information, I have attached a draft one-pager that our Branch has prepared on the child care issue. I hope this will be helpful background. We welcome any comment you may have on our draft one-pager.

OPM is anxious for us to clear their letter as soon as possible so that it makes it up to the Hill before Congress returns from recess. **If you are comfortable that transmittal of this letter is not inconsistent with the neutral position in the draft Conferees letter, we are prepared to recommend that LRD clear the OPM draft.** We felt that it was important to touch base with you on this point. Please advise.

Note on the OPM letter: We recommend one change (see strike-through at the end of the fourth paragraph) to the sentence where OPM states that they expect no increased budget requests as a result of new agency authority to use, at agency discretion, available appropriated funds to assist with child care costs. We believe that in practice, this authority could lead to increased budget requests as it will be difficult to take away any tuition assistance from employees once it has been offered. Agencies will likely build this funding into their bases in order to maintain funding of the subsidy from year to year.



L_Childcare00.wp

Thanks.

- Dan L. (5-1484).

Honorable Constance A. Morella
U.S. House of Representatives

Washington, D.C. 20515

Dear Representative Morella:

I want to express our appreciation for the support that you have given to Federal employees.

H.R. 206, the Federal Employees Child Care Affordability Act, is yet another example of your leadership. I was very pleased that the House Government Reform Committee has acted favorably on your bill and that the House FY00 Treasury and General Government Appropriations Act contains your child care language.

As you are aware, because of the prohibitive costs of child care, many lower income Federal workers cannot avail themselves of quality, affordable, accessible child care centers for their children. They must choose, instead, arrangements with potential inferior quality and even unsafe environments. The cost of child care for some Federal families can reach as high as 50% of their gross annual income for the care of just one child. National annual child care costs range from approximately \$4,000 to \$7,000 for preschoolers and from \$8,000 to \$14,000 for infants. Because many Federal families earn salaries just above the eligibility levels for child care subsidies from the states, they receive no assistance with these high tuition costs. A 1992 OPM study, conducted when child care tuition rates were considerably less, revealed that Federal parents cited a lack of affordability as their number one reason for not being able to use the child care centers available to them at or near their places of work.

Child care spaces are available in both the Federal and private sectors. In space controlled by the General Services Administration, for example, the current vacancy rate is 18%. Those centers are required to deliver programs that are nationally accredited; and yet, our lower income families cannot avail themselves of the services due to their expense. H.R. 206 would permit agencies, at their discretion, to use appropriated funds to assist with these costs. ~~We do not anticipate any increased budget requests as a result of this new authority.~~

Your legislation has the potential to increase the availability of quality, accessible child care to many Federal families, allowing them to work with peace of mind that their children are cared for in safe centers that have quality staff and programs. I look forward to working with you on the enactment and implementation of this important provision.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Janice R. Lachance
Director

Message Copied To:

Lisa B. Fairhall/OMB/EOP@EOP
Kathryn C. Thompson/OMB/EOP@EOP
Daniel N. Mendelson/OMB/EOP@EOP
Bruce D. Long/OMB/EOP@EOP
Gina C. Mooers/OMB/EOP@EOP
Karen S. Dooley/OMB/EOP@EOP
Janet R. Forsgren/OMB/EOP@EOP
Charles E. Kieffer/OMB/EOP@EOP

CHILD CARE FOR FEDERAL EMPLOYEES

Subcommittee: Treasury, Postal Service, and General Government

Ranking: High ____ Medium ____ Low X

2000 Budget Policy: The FY2000 Budget is silent on this matter.

Latest House Action: The House-passed bill (section 643) contains language, supported by Rep. Morella (R-MD) and House Democrats, that would provide greater access to child care services for Federal employees. It states that Federal agencies "may use appropriated funds otherwise available for salaries and expenses" to provide child care through Federal or leased facilities, provided that such amounts be used to make these services more affordable for lower-income employees. The House Floor SAP (sent 07/15/99) is silent on this provision.

This provision is identical to H.R. 206 (sponsored by Morella, with 53 co-sponsors). In an OMB-cleared report (sent 05/19/99 to Rep. Morella) DoD expressed no objection to H.R. 206 and lauded its potential benefits. In addition, OPM provided technical assistance in drafting H.R. 4280, the predecessor to H.R. 206 in the 105th Congress, which passed the House on 10/05/98.

Latest Senate Action: The Senate-passed bill (title VII) contains language, supported by Senator Jeffords (R-VT), somewhat similar to the House-passed version. As in the House-passed version, Federal agencies may use agency funds to provide child care services as long as such funds are used to make child care services more affordable to lower-income employees. **In addition**, the provision would impose child care facility standards, require provider accreditation, authorize child care agreements with private entities, and support pilot projects to test innovative approaches to child care. We understand that Senator Landrieu (D-LA) offered language similar to Rep. Morella's House language but it was rejected in favor of the Jeffords' language. The Senate Floor SAP (sent 07/01/99) is silent on this provision.

This provision is similar to S. 813 (sponsored by Jeffords, with 5 co-sponsors - including Landrieu) and H.R. 28 (sponsored by Gilman (R-NY) with 6 co-sponsors - including Morella). H.R. 28 does not, however, contain language on the use of agency funds. In an OMB-cleared letter (sent 06/15/99), GSA expressed its support for H.R. 28, while suggesting technical edits.

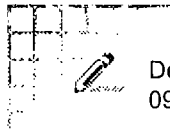
Latest Conference Action: The Conferees letter (pending as of 08/24/99) states that: "The Administration supports language that would allow Federal agencies the flexibility to use appropriated funds to provide child care services, as well as language that would improve the quality of federally-sponsored child care."

Solution/Options: Be silent on our position on either provision, leaving the decision entirely in the hands of the Conferees.

Justification: Silence should avoid upsetting either Morella or Jeffords. Although OPM prefers the House-passed provision, the Administration could work with either provision.

FY 1999 Appropriations Action: Both the House- and Senate-passed versions of the FY 1999 bill contained provisions identical to the current provisions. Both provisions were dropped in conference after objection from Rep. Thomas (R-CA), Chair of the Committee on House Administration, because the quality standards required by the Senate version were "unattainable" for the Legislative Branch. In order to avoid any further unpleasantness, both provisions were deleted. We have also been informed that Rep's. Thomas and Johnson (R-CT) have raised the same concerns with this year's bill.

Prepared By/Date: Daniel LaPlaca (5-1484), 8/24/99



Devorah R. Adler
09/03/99 02:18:08 PM

Record Type: Record

To: Nicole R. Rabner/WHO/EOP@EOP

cc:

Subject: summary of CHIP announcement

We would absolutely love it if the First Lady would do this event. Chris also pointed out that including the TANF Medicaid issue would position her nicely against Giuliani.

Please call with questions.

Devorah

Health Care Coverage Report and Initiative (Late September/Early October): The President and First Lady could release a new Families USA report stating: that enrollment in the new CHIP program is increasing; enrollment in some states is lagging behind; and that that we still face some challenges in Medicaid enrollment, especially in regards to welfare reform. The President and the First Lady could also: (1) release a new TANF regulation establishing financial incentives to enroll eligible individuals in the Medicaid program; (2) announce a new Back to School campaign to distribute applications for and information about CHIP through school systems around the country; (3) release the second Federal Interagency Task Force Report on Children's Health Insurance Outreach, including new outreach efforts by the Postal Service, Americorps and the Department of Transportation; and (4) direct the Department of Education and HHS to develop a plan to make school-based screening for health insurance a standard part of school enrollment, like immunizations.

Congressional and Intergovernmental Affairs (S)



den -
From GSA,
executive
order idea -
thoughts?
Nicole

TO: Nicole Rabner

PHONE: _____

FAX: 456-2878

FR: Rachel Hirschberg

PHONE: _____

FAX: _____

DATE: 11/16/98

PAGES: 9

COMMENTS: Let me know what you think.
Also look at the 3 articles. Those articles
really show how important standards in child
care facilities are.

-Rachel

PROVISION OF H.R. 4104 RELATING TO CHILD CARE IN FEDERAL FACILITIES

Sec. 646 – Child Care Services for Federal Employees – authorizes executive agencies to use agency funds to provide child care in a Federal or leased facility as long as funds are applied to improve the affordability of child care for lower income Federal employees – **LEGISLATION REQUIRED**

Sec. 702 – Providing Quality Child Care in Federal Facilities –

(a) **Definitions** – Could be done by Executive Order as long as restricted to Executive agencies

(b) **Executive Branch Standards and Compliance --**

(1) **State and Local Licensing Requirements --** Can be done by Executive Order

(2) **Health, Safety and Facility Standards –** Can be done by Executive Order

(3) **Accreditation Standards –** Has been done by Executive Memorandum; could be done again in Executive Order

(4) **Evaluation and Compliance –** Can be done by Executive Order

(5) **Disclosure of Prior Violations to Parents and Facility Employees –** Can be done by Executive Order

(c) **Legislative Branch Standards and Compliance –** Requires the Legislative Branch to follow the same guidelines as Executive agencies – **REQUIRES LEGISLATION**

(d) **Application –** Requires the Administrator to delegate responsibilities for compliance and review to the heads of agencies with 8 or more centers – Could be done by Executive Order

(e) **Technical Assistance, Studies and Reviews –** Authorizes the Administrator to provide technical assistance to other agencies -- This is already permissible pursuant to the Economy Act, 31 U.S.C. 1535, but could also be put in an Executive Order

(f) **Council –** requires the Administrator to establish Interagency Council. This has been accomplished but could have been required by Executive Order

(g) **Authorization of Appropriations –** **REQUIRES LEGISLATION**

Sec. 703 – Child Care Services for Federal Employees

(a) General – Authorizes an executive agency to use agency funds to provide child care services for civilian employees – **REQUIRES LEGISLATION**

(b) Affordability – Agency funds provided to center must be used to improve affordability – **REQUIRES LEGISLATION IN THIS PROVISION**

(c) Regulations – OPM issues regulations – **REQUIRES LEGISLATION**

Sec. 704 – Miscellaneous provisions (Our proposed Tribble Amendments)

(a)(1) Availability of centers; percentage goals – Would allow children of onsite federal contractors to be counted as “federal children” and would require that 50% of the children in federally sponsored child care centers nationwide be Federal children rather than on a center by center basis. Sets policy to ensure that 50% rule is met – **REQUIRES LEGISLATION**

(a)(2) Allows the Administrator to enter into Public/Private Partnerships to increase the capacity, quality, affordability, or range of child care and related services and waive subsection (a)(3) and paragraph (1) of the subsection – An Executive Order can encourage the Administrator to enter into public/private partnerships but cannot waive the provisions of the statute that requires Federal priority if Federal children are involved and Federal funds are used to equip or establish the center

(b) Payment of Costs of Training Programs – Expands the current authority to allow Executive agencies to pay for training costs in addition to travel and subsistence at child care training programs – **REQUIRES LEGISLATION**

(c) Provision of Child Care by Private Entities – Revises 40 U.S.C. 490b(d) to allow private entities to assist in defraying the general operating expenses of a child care center in exchange for slots at the center and an amendment to allow Federal agencies to provide services as defined in 40 U.S.C. 490b(b)(3) in exchange for reserved slots for federal children – **REQUIRES LEGISLATION**

(d) Pilot Projects – Amends 40 U.S.C. 490b to include a new subsection (f) which would authorize agencies to conduct a pilot project for a two year period – **REQUIRES LEGISLATION**

(e) Background checks – Requires that the employees of each child care center in Federal owned or leased space undergo a criminal history background check. Could be done by Executive Order (has been done by Executive Memorandum but this wording clearly covers all Executive agencies and methods by which child care is provided in the space)

Sec. 705 – Lactation Support in Federal Child Care Facilities – Requires that all centers in either an executive or legislative facility opened 1 year after the enactment of the Act provide a lactation area or room in the facility – To the extent that this applies only to the Executive branch, could be done by Executive Order

THE DENVER POST

Sunday, November 15, 1998



Greg Rodriguez, 15 months, laughs with his mother, Jacqueline, as he watches in Hunter's Children's Hospital room. Hunter suffered brain damage when severely shaken at his day-care center.

The Denver Post / Glen Martin

Day-care search ended in tragedy for Aurora couple

By Kristen Go
Denver Post Staff Writer

When Greg and Jacqueline Rodriguez wanted to put their toddler in day care, they did everything right.

The Aurora couple went to resource and referral agencies, checked licensing records, interviewed references and visited several child-care homes and centers. They finally settled on Shawna Pint, whose licensing records for her 2-year-old home day care showed no complaints or hints of trouble.

"I wanted someone like me," Jacqueline said. "I wanted a mother."

"A substitute mother," Greg added.

But now their son, 15-month-old Hunter, is at Children's Hospital suffering from shaken-baby syndrome — with brain damage allegedly inflicted by Pint, 29, almost four weeks ago.

After their own heartbreaking experience and in light of last week's state audit that revealed faulty criminal checks and inspection standards for child-care providers, the Rodriguezes say they'll never again put their son or the child they're expecting in day care.

"We're never going to let him go," Greg said as he and Jacqueline kept a watchful eye on their son's hospital crib. "Never, ever, no matter what we have to do."

Just before Pint began caring for Hunter, another licensed provider watched him. But Jacqueline pulled him out "because I had a feeling about it."

Jacqueline said the state's day-care system is "appalling." When she was trying to find ways to stay home with Hunter, she had considered working at a day-care center, but the pay was too low.

These days the couple literally live at the hospital and still don't know what they'll do as far as job schedules once Hunter comes home. Jacqueline, 28, works in sales at Oppenheimer Funds, and Greg, 32, works in customer service at Pentax.

Hunter has been at Children's since Oct. 19. At first he was in intensive care. His brain was bleeding and swollen. Doctors don't know the extent of damage, and they don't know if Hunter will make a full recovery. The boy may be released later this week.

His parents said that since the incident, the toddler acts more like an infant. His neck bobbles and needs to be supported, he no longer walks, and his vision is impaired.

The Rodriguezes don't talk about Pint, who has been arrested for investigation of felony child abuse.

"It's just so hard," Jacqueline said. "It just takes away everything you have. It takes away all of your trust. Just everything. It just makes you feel so violated."

actors from continuing, but you still have to use your judgment and check references and act on your own.

While the state is supposed to run prospective providers through a criminal-screening process, it does not check civil court records for things such as lawsuits filed by parents.

Two years ago, Lori Hernandez shut down her home day care to start a business that screens providers for parents. During her nine years as a day-care provider, she says she only was inspected twice.

"As a child-care provider, I knew what the loopholes were in the system," she said. "I have kids that had to be put in day care. I knew that the system wasn't good enough."

Wheelock College, a small teachers college in Boston, discovered state inspectors' heavy caseloads when it conducted a nationwide survey in 1997. Colorado officials told Wheelock that inspectors were responsible for 500 child-care homes. While state officials say that number has dropped to between 400 and 450, that still would rank Colorado as the worst in the nation based on the 1997 numbers from other states.

Colorado's neighbors fared better. Arizona had 82 facilities per inspector, Wyoming had 120 to 200, Utah 185 and Nebraska 250.

"If (caseload) is an indication of how good the licensing system is in the state," said Sheri Azer, a program associate at Wheelock College's Center for Career Development in Early Care and Education.

"If you have a high caseload, it means there's not enough staff to effectively regulate all the child-

take up to 72 working hours. If a match is made, CBI notifies both Human Service's child-care division and the day-care facility.

If a current day-care employee is arrested after the CBI has screened them, a flag pops up in the system. The bureau notifies the state and day-care center.

Because CBI relies in part on local law enforcement agencies to report arrests, the system is not always complete. The audit team found the 20 criminals by screening them through a judicial database. CBI had no record for the crimes of those 20 individuals, the audit said.

Human Services is feverishly trying to determine if the 20 criminals identified by the audit are current or former child-care workers or relatives. The department is also working on a better computerized screening system.

"We are committed to dealing with these loopholes immediately," said Oxana Golden, the director of Human Service's child-care division.

Part of the reason why so many employees need to be screened is that wages are so low that the day-care industry has an annual turnover rate of up to 50 percent, said Elsnach, the department spokesman.

"Sometimes there is a lag time between the time when someone is hired and the time when information comes back from the CBI," Elsnach said.

The Post reviewed the files of five day-care centers with the highest number of complaints since January 1997. The Post found that two day-care centers had no records of fingerprints or CBI back-

THE SUNDAY DENVER POST

Voice of the Rocky Mountain Empire

★★★50¢ — May vary outside metro Denver

Alarm sounds on day care

State inspectors' load highest in U.S.

By Patricia Callahan
and Kristen Go
Denver Post Staff Writers

Colorado's day-care system is in trouble.

For the third time in 10 years, a state audit has found alarming loopholes in the procedures Colorado has set up to protect children in day care.

The most recent audit showed 20 criminals — including a convicted murderer and a child abuser — may be working or living in child-care homes and centers. State officials last week vowed to find them and make sure it doesn't happen again.

But a decade ago, they said the same thing.

In 1988, auditors found 15 convicted felons and sex offenders who had slipped through the

screening process for child-care workers and their families.

"It doesn't look good," said Dwight Eismach, spokesman for the state's department of human services. "But trying to put things in perspective, they're very small numbers in terms of the numbers of names going through this system."

To determine how widespread the flaws in the system are, The Denver Post reviewed the three audits, analyzed computer records of more than 1,700 complaints and interviewed day-care providers, parents, experts and state employees in charge of the system. The investigation revealed:

■ All three audits found a backlogged inspection system fraught with overburdened state inspectors. The most recent audit found

that 1,233 facilities — nearly a quarter of those reviewed — were overdue for inspection, and more than eight out of 10 of those were at least three months past due.

■ A Boston teachers college recently found that Colorado's home day-care inspectors carry the highest caseload of any state in the nation.

■ New employees at child-care centers are allowed to work with children before criminal background checks are completed. The process can take as few as two weeks and as many as eight weeks. The state relies on the employers themselves to submit new workers' fingerprints to the Colorado Bureau of Investigation, so state child-care inspectors don't know if those checks have been made until

Please see CARE on 9A



The Denver Post / Shannon Stanley

Sonia Bhasin paints at day care last week. She's one of 150,000 children in licensed facilities in the state. The licensing and inspection system is under renewed scrutiny.

Sunday, November 15, 1998

THE DENVER POST

State day-care system in trouble

CARE from Page 1A

they pull a facility's personnel files during an inspection.

■ The state decides which child-care facilities are high-risk and inspects them the most frequently, while those with good records can go years without an inspection. But the recent audit said the state needs to be more accurate in assigning risk factors.

And experts agree that predicting which centers are going to have serious problems isn't always easy. For instance, a Greeley baby died last week and an Aurora toddler remains hospitalized — both allegedly shaken by their licensed day-care providers. Neither of those two day-care homes was labeled high risk.

Nearly 150,000 children are cared for in 8,025 licensed centers and homes in Colorado.

Child-care workers and advocates say a small number of problem centers give the industry a bad name. A Post computer-assisted analysis of 1,721 child-care complaints revealed that 5 percent of all facilities received nearly two-thirds of the complaints from January 1997 to September 1998.

And many parents are pleased with their day-care choice. Vicky Peters, a Safeway bakery manager, said her child-care center in Arvada prepared her 5-year-old son for kindergarten.

"I found he had a lot more patience in sitting down and doing tasks," she said. "Before he went to day care, he wouldn't do anything like that."

While countless child-care workers are exemplary, all sides agree the state's current system of overseeing day-care centers and homes needs reform.

They differ on what kind of overhaul is needed.

State Rep. Penn Pfiffner, R-Lakewood, wants to abolish licensing and simply have the state investigate complaints. Legislators have given the department of human services many chances to change the system since the first critical audit 10 years ago, and the department repeatedly has failed, he said.

"We cannot continue as a state government to let people use our licensing to lull parents into a false sense of security," said Pfiffner, a member of the Legislative Audit Committee. "We need to turn to



The Denver Post • Shaun Stanley

Kayla Whiting plays at a day-care center. Day-care inspections are falling further behind, auditors say.

care) programs."

State Sen. Doug Linkhart, D-Denver, vice chairman of the audit committee, thinks the state should continue licensing day-care facilities. He plans to introduce new laws to outlaw alcohol use by day-care workers after the recent audit detailed alarming instances of child-care workers drinking on the job.

In one case, a police officer observed a day-care provider so impaired by alcohol that the worker almost dropped an infant. Another child-care worker was found driving with a child in her car while her blood-alcohol content was more than twice the legal limit, the audit said.

Linkhart and others want to force the human services department to use two criminal justice databases — instead of just one — to screen potential child-care workers and their families.

Currently, day-care workers must mail their fingerprints to the Colorado Bureau of Investigation. The bureau archives fingerprints and names made from arrests and screens the day-care workers through those archived screenings

ground checks for some employees.

Despite the chilling evidence in the audit report, some of the area's largest day-care centers don't dispute the findings. The Summit of the Twelve, which represents a coalition of day-care providers and advocates of early childhood development, said last week that it

wants to see change in the system.

"The safety and education of children are at stake here," said Larry Neal, a summit member and owner of several day-care centers.

Patricia Callahan's e-mail address is Pmcallahan@aol.com. Kristen Go's e-mail address is Gogrlik@aol.com.

Greater Denver

Steve Myers, City Editor — (303) 892-5201 • e-mail — metro@denver-rmn.com

Felons working in day care

Audit finds unsettling security flaws in state's regulation of industry

By John Sanko

News Capital Bureau

A state audit of Colorado's child-care system found several deficiencies that shocked lawmakers Monday.

Among the findings:

■ Twenty child-care providers with criminal records — including child abuse and murder — slipped by state background checks between 1994 and 1997.

■ More than a dozen day-care

providers were reported drunk on the job.

■ The state was at least three months behind in inspecting a fourth of the 721 day-care providers with the poorest records.

The botched checks so alarmed lawmakers that they demanded an immediate review to see if any of those 20 people are still in the day-care business.

"It should make us cringe," said Sen. Tilman Bishop, R-Grand Junction, chairman of the legislative audit committee. "It's an eye-opener, and it's a red flag."

Deputy State Auditor Joanne Hill said the 20 people with criminal backgrounds were found

when her staff ran names through the state Judicial Department's Integrated Colorado On-line Network. They may be day-care providers or living in a day-care home.

The 20 were not detected in background checks conducted by the Colorado Bureau of Investigations because that agency's database does not include information on convictions nor does it include all arrests, auditors said.

Hill said it didn't take auditors long to get the 20 names of people "convicted of serious crimes, including misdemeanor child abuse, domestic violence, driving while impaired, drug offenses and

14 felonies, ranging from forgery to murder."

Karen Beye, managing director of the Department of Human Services, said her agency is working to coordinate background checks with the Judicial Department to close the cracks in the system.

Auditors also urged new laws to restrict alcohol use during child-care hours.

Over four years, the Child Care Division got 13 complaints about alcohol abuse by providers, six of which could not be verified. Two providers closed their doors before inquiries were complete.

See **AUDIT** on 12A

Auditors urge laws against alcohol use

AUDIT from 4A

In one case, a child-care provider had a blood-alcohol content of 0.236 percent, more than twice the legal limit for drunken driving, when she was arrested while driving with an infant in her car.

In another case, a neighbor phoned local police about a provider drinking while caring for five infants. A police officer said the provider almost dropped an infant when he showed up.

Another deficiency state auditors found was the lack of timely state inspections.

"The division is not consistently focusing its efforts on the high-risk facilities," the report said.

There are 721 facilities in the highest risk categories because of problems found in the past. They must be inspected more frequently than other facilities. But auditors found that a third of them are at least one month past due for inspections and 187 of them were at least three months behind.

About 21 percent of all facilities were at least one month past due for inspections.

The Child Care Division faced critical audits in 1988 and 1995. Legislators on Monday called for a review in six months to determine if improvements have been made.

Rep. Penn Pfiffner, R-Lakewood, said perhaps the state should stop the licensing system and investigate facilities when parents file complaints.

"It is increasingly apparent that what we are doing as a state might now be misleading parents," he said. "Neither the division nor the public have assurances that child care facilities are adequate."

file -

after-school care

ESEA & 21st Century

Community Learning

Centers

—

THE CURRENT 21st CENTURY COMMUNITY LEARNING CENTERS PROGRAM IN COMPARISON TO THE HELP COMMITTEE'S DRAFT PROPOSAL

October 26, 1999

The 21st Century Community Learning Centers Program. The 21st Century Community Learning Centers program, a discretionary grant program from the U.S. Department of Education to local school districts in collaboration with their community partners, is a key component of the Administration's effort to keep children safe and help them learn after school. Congress has supported this initiative by appropriating \$200 million for after-school programs in fiscal year 1999, up from \$40 million in FY1998 and \$1 million in FY1997). Direct administrative costs for the program have amounted to just above 1 percent of the total program authorization for running the discretionary grant competition and providing for evaluation funds.

Through these grants, 468 communities have established or expanded school-based after-school programs for our nation's children in a community schools environment. These grants are enabling 1,601 rural and inner-city schools – 75 percent of which have 50 percent or more of their students in poverty-- to provide programs that will serve 400,000 students and 200,000 community members after school, weekends and summers, in safe, drug-free, and supervised environments. They are located in 49 states, the District of Columbia, and the Virgin Islands. These Centers provide academic enrichment and support; recreational, artistic, sports, and cultural activities; opportunities for children to participate in community service projects; nutritional and health services; access to technology and telecommunications; and they promote parent involvement and lifelong learning that can directly and indirectly benefit their children. Specifically,

- 97% of 1999 Grantees proposed to partner with CBOs
- 74% will partner with colleges or universities
- 97% propose recreation activities
- 91% propose tutoring or homework assistance
- 86% propose helping students meet state academic standards
- 81% propose safety and substance abuse prevention
- 28% propose ESL courses
- 80% propose to serve adults
- 20% serve preschoolers

The Charles Stewart Mott Foundation provides \$83 million in support of training and technical assistance to grantees, research and evaluation support, outreach, and efforts to promote access and equity. Data from local grantees indicate that children in jeopardy of academic failure have succeeded because of the program.

The Administration's Reauthorization Proposal for the 21st Century Program. The Department of Education through The Educational Excellence Act for All Children of 1999 is proposing the following revisions to the current law:

- **Require school districts to match grant funds while extending the grant period up to five years.** Experience with other programs shows that providing core funding for five years while requiring local communities to commit their own resources, including with other federal resources, through a matching requirement can help ensure that programs remain in place after the grant expires. A matching requirement also will enable more children and adults to be served nationwide.
- **Strengthen the requirement that schools and community organizations should collaborate by involving both parties in planning and implementing the project.**
- **Allow up to 10 percent of the funds in a given year to be awarded to community-based organizations.** In some neighborhoods, community organizations may have facilities that are superior to or more centrally located than the local public schools. In other areas, community organizations may wish to provide services within the schools, and the school district may prefer that such an organization serve as the grantee. To provide flexibility to communities in these situations, we propose to extend eligibility to receive 21st Century Community Center grants to community organizations with the concurrence of the local school district, while maintaining the current community schools focus of the program.
- **Clarify the targeting to inner cities, rural areas, and small cities with a substantial need for expanded learning opportunities** because of, for example, a high proportion of low-achieving students and lack of resources to establish or expand community learning centers.
- **Emphasize the establishment or expansion of after-school, weekend, and summer programs that offer expanded learning opportunities in a safe, drug-free environment.** The current statute requires grantees to provide a broad array of services that benefit the entire community. The Department believes that 21st Century programs should continue to serve the broad needs of their community, but we also believe that, first and foremost, programs must provide expanded learning opportunities to children.

The HELP Committee Draft Proposal. The draft committee proposal bifurcates the current activities of the 21st Century Community Learning Centers program as administered by the department of Education into a separate and discrete community schools program for life-long learners and a discrete school-aged day care program for children and youth that discourages an academic focus. Both are formula grant programs from the federal level to the states. The community schools program, continuing under the name of the 21st Century Community Learning Centers program, would be administered by the Department of Education. The newly proposed Non-School Hours Care program would be administered by the Department of Health and Human Services.

Major Issues with the Draft Proposal. Several immediate and costly differences in the current law and the proposal are immediately evident:

- **Weakens the 21st Century Program's Ability to Leverage Local Resources.** By bifurcating the 21st Century into two separate programs and not adopting the proposed match for the 21st

Century program, the ability to leverage school and community resources around a learning community will be more than cut in half. Unlike previous community schools and afterschool legislation, 21st Century has gained the fiscal support of Congress and the public using existing school facilities and resources to provide extended learning opportunities to children and a range of services to adults. According to data from the annual Mott Foundation survey, this year conducted in conjunction with JCPenney by Lake, Snell, and Perry/The Tarrance Group, the voting public believes that school districts and parent groups are responsible for setting up afterschool programs. Interest in school districts increased from fourth place last year to first place this year. According to Republican pollster David Sackett with the Tarrance Group, this is because the schools are seen as a trusted place by communities and a familiar institution for families.

- **Leaves Out Learning Which is Critical to a Quality Afterschool Program.** Research on the effectiveness of afterschool programs show that critical elements of a successful program include: coordinating learning with the regular school day, linkages between school-day teachers and afterschool staff, and providing diverse educational enrichment opportunities. The Non-School Hours Care proposal prevents an academic focus, thus countering program effectiveness research, in favor of care. However, both parent and public polling data indicate that parents don't want babysitting in an afterschool program but want activities like computer literacy, the arts, community service, and reinforcement of basic skills. Annual performance reports on individual 21st Century projects also document the effects of afterschool programs on student achievement. Finally, major states like California and cities like Boston, Chicago, and Los Angeles are moving toward a model of legislating programs linked with the academic program of the school.
- **Reverses the Trend of Collaboration Between Schools and CBOs.** A requirement of the 21st Century program is collaboration with a local partner in the design and implementation of the program. Ninety percent of our funded programs have established partnerships between the schools and their local CBOs. All training of grantees includes their local partners and the Mott Foundation has established a Collaboration Taskforce. The Administration's reauthorization proposal seeks to strengthen this collaboration requirement. Establishing separate programs administered by separate agencies under one authority moves in the opposite direction of collaboration.
- **May Not Target Program as Effectively on Poor Children.** The Non-School Hours Program requires local grantees to target 30 percent of their grant money to subsidize care for low-income children. In contrast, through the current discretionary grant competition, funds are targeted to needy communities while serving a broad array of communities. For example, 75 percent of the current 1,601 21st Century Community Learning Centers (schools) have 50 percent or more of their students in poverty, and half of the grantees are in rural communities. Under proposed state formula grant, fewer poor children may receive services.
- **Dilutes Direct Program Services Through Administrative Costs – Up to \$120 Million Diverted to Administrative Overhead.** Administrative costs for the two state formula programs could be dramatically higher in comparison to the current program. Under Subpart

1, states could use up to 15 percent of their funds for administrative costs (\$60 million). Subpart 2, the Non-School Hours Care program, would siphon off 7% of the funds now used for direct services to children for administrative costs (monitoring, evaluating, training and technical assistance, and grant administration). In the current draft paper, that represents \$28 million. States would then be allowed to take 8% off the top of their funds for training and technical assistance and administration. This represents another \$30 million being pulled away from direct services for kids. In total, therefore, almost \$120 million dollars would be diverted for administrative overhead.

- **Includes Training and Technical Assistance Costs Not Currently Borne By Taxpayers.** All training and technical assistance activities for the 21st Century program administered by the Department of Education are currently paid for by the Charles Stewart Mott Foundation in a unique public-private partnership that has reinvented the way government works. Under the draft proposal, training and technical assistance would be funded with federal tax dollars.
- **May Curtail Access to the USDA Snack Program.** Currently, children and youth served by 21st Century Centers are eligible for snacks under the USDA feeding program because the school-based 21st Century Centers provide educational activities in the afterschool hours. Community-based organizations and other private entities funded under Subpart 2 are not likely to be eligible for these funds due to Subpart 2's discouragement of academic activities and the education requirements for the Snack Program.

21st Century notes per the Jeffords draft

October 18, 1999

The draft includes a dramatically rewritten 21st Century formula program that would be divided into parts (and divide an \$800 million authorization) for 1) community schools; and 2) afterschool.

- **21st Century**

1) By requiring ED to transfer funds to HHS for the after school program, these funds would count against the ED budget, but not HHS's budget. Is that the intent? Why should funds for an HHS program count against the ED budget?

2) Why should Ed funds be used to cover HHS's administrative costs if the after school program is transferred to HHS? Why should ED funds have to cover HHS's administrative costs if Part B of the after school program is transferred to HHS? And why does ED not receive comparable administrative costs to run their portion of the program? Currently, ED's administrative costs are far below the 7 percent recommended. ED spent ½ of 1 percent on administering the grant competition bringing in peer reviewers and the program uses ½ of 1 percent on evaluation. That means, ED spent no more than 1 percent on administrative and evaluation-type activities in FY 99.

3) How would the draft actually ensure that existing grantees are not cut? The current draft looks like it actually would reduce funding to current grantees. The Administration is requesting \$600 million for the program for FY 2000. If that is successful, an \$800 authorization divided in half results in a \$200 million cut to existing grantees.

4) How would the switch to a State formula program work? What happens if a State's allocation under the formula is less than the current grantees in the State receive?

5) How would the revised program ensure continuity between the academic enrichment activities funded under this part and what happens during a child's regular school day?

6) How would school-based programs compete for funds under the revised after-school program? The draft says that priority is given to programs that remove barriers such as lack of transportation. However, school-based programs may not have transportation barriers to remove. In fact, non-school programs will likely spend a significant part of their grant dollars to provide for transportation, rather than providing direct programming.

- **Early Childhood Learning Fund**

1) Is the early learning fund an amendment to the ESEA and is the intent that funds appropriated for this program count against Department of Education funding or HHS's funding?

2) What is the early learning program intended to accomplish? Why is there nothing on program outcomes and how can states hold projects accountable for anything without knowing what the intended outcomes are? Are there expected outcomes for children and families? In other words, why are we providing these funds for young children and their families— what benefits should they receive as a result of the services?

3) How would the early learning fund address the issue of the quality of early childhood services? (Note: Set asides were required in both CCDBG and Head Start to get focus on the quality issue because not enough was happening on the improving quality side of programs)

without the set aside. Why would it be any different with the early learning fund?)

4) Why is there no specific funding authorized for early childhood professional development in literacy readiness? If professional development is just one of many allowable uses of funds, how will the proposal ensure it is addressed?

3)

6) How does the early learning program relate to Head Start and the Early Head Start programs?

7) Why is there only one mention of public schools when many public schools provide early childhood services?

8) How would the early learning fund ensure connects or linkages between early childhood programs and the elementary schools those children will be attending?

9) How would States set priorities for awarding early childhood learning funds? Is there any targeting to high poverty areas in the program?