SEF SOUTHERN EDUCATION FOUNDATION

February 2, 2026 **Electronic Submission**

The Honorable Robert F. Kennedy Jr.
Office of the Secretary
Office of Child Care, Administration for Children and Families
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, D.C. 20201

Re: Restoring Flexibility in the Child Care and Development Fund (CCDF); RIN: 0970-AD20, Federal Register Document Number: 2025-24272

Dear Secretary Kennedy:

The Southern Education Foundation (SEF) appreciates the opportunity to provide comments to the United States Department of Health and Human Services' Administration for Children and Families regarding the Notice of Proposed Rulemaking (NPRM) entitled Restoring Flexibility in the Child Care and Development Fund (CCDF), as published in the Federal Register.

SEF is the nation's oldest education and civil rights organization, founded in 1867 with the explicit mission of creating and advancing education opportunities 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 increased workforce participation and yielding at least a 13% return on the government's investment.[2]

While SEF recognizes the Department of Health and Human Services' (Department) stated intent to provide states with increased administrative flexibility and reduced implementation burdens,

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[1] Davis Schoch, A., Simons Gerson, C., Halle, T., & Bredeson, M. (2023). *Children's learning and development benefits from high-quality early care and education: A summary of the evidence* (OPRE Report #2023-226). https://acf.gov/opre/report/childrens-learning-and-development-benefits-high-quality-early-care-and-education#:~:text=Citation,of%20Health%20and%20Human%20Services.

[2] García, J. L., Heckman, J. J., Leaf, D. E., & Prados, M. J. (2017). *Quantifying the life-cycle benefits of a prototypical early childhood program.* https://heckmanequation.org/wp-content/uploads/2017/12/abc_comprehensivecba_JPE-SUBMISSION_2017-05-26a_sjs_sjs.pdf

we are concerned that rescinding core requirements finalized in the 2024 Child Care and Development Fund Final Rule (45 CFR 98.45(i)) risks undermining child care affordability, child care provider stability, and equal access, particularly in Southern states where child care supply challenges are most acute. These concerns are particularly clear in the South, where long-standing underinvestment, rural geography, and workforce composition have contributed to persistent child care supply shortages and affordability challenges across states.[3]

SEF recognizes CCDF is a federal program that enables families, within states, across Congressional districts, to afford safe, high-quality early care and education for their children while parents work or attend school.[4] As it stands, only 1 in 7 eligible children receives assistance under CCDF.[5] In this context, changes that reduce federal baseline protections, without accompanying increases in Child Care and Development Block Grant (CCDBG) funding, are likely to result in trade-offs that disproportionately impact families and providers with the fewest alternatives.

Recognizing the fiscal and administrative constraints under which states and the federal government operate, we comment below on several of the proposed changes outlined in the NPRM. Our comments focus solely on the proposals and modifications contained in this rulemaking and are not exhaustive of the broader sector improvements that would benefit children, families, and providers.

Proposed Priority 1: Lower families' child care cost
Prohibit family copayments that are a barrier to child care access

American working families are responsible for the majority of ECE costs, shouldering 52% of the financial burden, while the K–12 public school system is free and financed entirely by the public sector.[6] With ECE programming frequently costing families more than college tuition or rent, early childhood costs perpetuate a system in which a child's development depends more on their family's socioeconomic status than on developmental need. This challenge is compounded by what is known as the life-cycle income problem, or the idea that most people have children

[3] Child Care Aware® of America. (2025). An uneven start: 2025 state funding for child care & early learning. https://www.childcareaware.org/an-uneven-start-2025-state-funding-for-child-care-early-learning/
[4] Office of Child Care. (2025). Child Care and Development Fund (CCDF) program. https://acf.gov/occ/fact-sheet
[5] Office of the Assistant Secretary for Planning and Evaluation (ASPE). (2024). *Factsheet: Estimates of child care subsidy eligibility & receipt for fiscal year 2021*. https://aspe.hhs.gov/reports/child-care-eligibility-fy2021
[6] Landscape of Early Care and Education Financing. (2024) *Transforming Financing: A Framework for a More Equitable and Sustainable Early Care and Education System*. https://www.newamerica.org/education-policy/reports/transforming-financing/landscape-of-early-care-and-education-financing/

well before reaching peak earning years, resulting in higher poverty rates among younger children.[7]

Low-income families spend a significantly higher share of their income on child care than higher-income families. For example, a 2019 report by the Center for American Progress found that low-income families earning 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 or higher spend substantially smaller shares, often in the single digits and low teens as a percentage of income.[8] We believe this burden can be reduced by maintaining the requirement that copayments do not exceed 7 percent of a family's income, a cap established in the 2024 CCDF Final Rule, based on findings from the U.S. Census Bureau.[9]

The 2026 NPRM proposes to remove the federal requirement limiting family copayments to 7 percent of household income, allowing states to set copayments at their discretion so long as they are not deemed a barrier to participation. While states may retain these policies at their discretion, the absence of a clear federal requirement risks widening disparities in affordability and access across states. For example, prior to the 2024 CCDF Final Rule, federal analyses identified states including Florida, North Carolina, and Texas among those where families could be required to pay more than 7 percent of household income toward child care costs, depending on income tier and state policy design.[10]

SEF is concerned that removing this clear federal standard will result in uneven implementation across states and increased cost burdens for families least able to absorb them. It is important to note that the 7 percent figure represents a cap, not a target, and that states may, whenever possible, strive to lower copayment rates for families with the lowest incomes. Many states have used available flexibility to set maximum family copayments at or below this level. According to Child Care Aware of America, 29 states and the District of Columbia reported maximum family copayments at or below 7 percent of household income.[11] States within SEF's Southern footprint that fall into this category include Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Texas, Virginia, and West Virginia. Retaining a clear federal cap provides clarity, consistency, and protection for families across state lines.

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

[8] 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/

[9] U.S. Census Bureau. (2024). *Rising Cost of Child Care Services a Challenge for Working Families.* https://www.census.gov/library/stories/2024/01/rising-child-care-cost.html

[10] Office of Child Care. (2025, January 14). 2024 Child Care and Development Fund final rule: https://acf.gov/occ/faq/2024-ccdf-final-rule

[11] Child Care Aware of America. (2024). A snapshot of state responses in draft FY 2025–2027 Child Care and Development Fund (CCDF) plans. https://info.childcareaware.org/hubfs/SnapshotofStateCCDFPlanResponsesUpdated.pdf

Proposed Priority 2: Increase parents' child care options and strengthen payment practices

Building supply with grants and contracts

SEF supports the use of grants and contracts to build and increase the supply of child care services, including, at a minimum, care for infants and toddlers, children with disabilities, and families in underserved geographic areas. In many communities, particularly across the South, families' child care options remain constrained by persistent supply shortages that voucher-based systems alone have not resolved.[12]

The 2026 NPRM proposes rescinding the 2024 requirement that states use grants and contracts to expand child care supply for these populations, while noting that states may continue these practices voluntarily. SEF is concerned that removing this requirement will exacerbate existing child care deserts, particularly in rural and low-income Southern communities, where market conditions have proven insufficient to generate and sustain the level of supply needed to truly meet families' needs.[13]

Grants and contracts offer providers predictable funding that supports staffing, facilities, and ongoing operations, helping to stabilize care in communities where supply is limited.[14] These approaches can and should support a diverse range of providers, including center-based programs, family child care, and other community-based providers, especially those serving families who work nontraditional hours and whose care needs are not well met by standard market models.[15] Retaining a clear federal requirement for the use of grants and contracts helps ensure continued, intentional investment in expanding child care supply for families who would otherwise have limited or no meaningful options.[16]

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[12] Malik, R., Hamm, K., Schochet, L., Novoa, C., Workman, S., & Jessen-Howard, S. (2018, December 6). *America's child care deserts in 2018*. https://www.americanprogress.org/article/americas-child-care-deserts-2018/

[13] U.S. Department of the Treasury. (2021). The economics of child care supply in the United States. https://home.treasury.gov/system/files/136/The-Economics-of-Childcare-Supply-09-14-final.pdf

[14] Office of Child Care. (2024, October 1). *2024 CCDF rule explainer: Building supply with grants and contracts for direct services*. https://childcareta.acf.hhs.gov/sites/default/files/new-occ/resource/files/2024%20CCDF%20Final%20Rule%20Explainer_Grants%20and%20Contracts.pdf

[15] Urban Institute. (2021). *Using contracts to support the child care workforce*. https://www.urban.org/sites/default/files/publication/104344/using-contracts-to-support-the-child-care-workforce.pdf

[16] Sotolongo, J., Novo, C., & Workman, S. (2020). Grants and contracts: A strategy for building the supply of subsidized infant and toddler child care. https://www.americanprogress.org/article/grants-contracts-strategy-building-supply-subsidized-infant-toddler-child-care/

Sustainable Payment Practices

SEF supports payment practices that align with the private-pay child care market, including paying providers prospectively and based on enrollment.[17] Child care providers operate on razor-thin margins and rely on predictable revenue to cover fixed costs such as payroll, rent, insurance, and licensing.[18] Reductions in payment due to children's absences or delays in reimbursement can create significant financial strain and undermine providers' ability to participate in subsidy programs.[19]

The NPRM proposes rescinding the requirement for prospective payment and payment based on enrollment in favor of increased state flexibility. SEF cautions that flexibility without a clear federal floor risks destabilizing provider participation in CCDF and reducing parent choice in practice.[20] Some providers are discouraged from accepting children who receive subsidies altogether because of delayed or unpredictable payments, limiting families' access to care even when subsidies are available.[21] Payment practices that provide timely, predictable reimbursement, consistent with private-pay norms, support provider stability and encourage broader participation in subsidy programs, thereby expanding families' real options within the child care system.[22]

Program Integrity and Oversight

Child care is foundational to the health and well-being of our nation, families, young children, and the economy.[23] SEF recognizes CCDF is a federal program that enables families, within states, across Congressional districts, to afford safe, high-quality early care and education for

[17] Administration for Children and Families. (2024). Improving Child Care Access, Affordability, and Stability in the Child Care and Development Fund (CCDF). Federal Register, 89(42), 15366-15417. https://www.govinfo.gov/app/details/FR-2024-03-01/2024-04139

[18] First Five Years Fund. (2025). Cost estimation models: Increasing child care stability through more accurate provider payment rates. https://www.ffyf.org/resources/2025/12/cost-estimation-models-increasing-child-care-stability-through-more-accurate-provider-payment-rates

[19] Slicker, G., Barbieri, C. A., & Collier, Z. K. (2025). Populations served by child care centers accepting subsidies and linkages with state subsidy policies. https://www.tandfonline.com/doi/full/10.1080/10409289.2025.2537462?scroll=top&needAccess=true

[20] Bipartisan Policy Center. (2021). Payment practices to stabilize child care. https://bipartisanpolicy.org/wp-content/uploads/2021/01/BPC-ECH_Payment-practices_RV5.pdf

[21] New America & Child Care Aware® of America. (2021). Make child care more stable: Pay by enrollment. http://newamerica.org/education-policy/briefs/make-child-care-more-stable-pay-by-enrollment/

[22] New America & Child Care Aware® of America. (2025). Big changes in federally supported child care payments are coming in 2025. http://newamerica.org/new-practice-lab/blog/big-changes-in-federally-supported-child-care-payments-are-coming-in-2025/

[23] First Five Years Fund. (2026). Safeguarding access to affordable child care. https://www.ffyf.org/resources/2026/01/briefing-room-safeguarding-access-child-care/#print

their children while parents work or attend school.[24] Without it, early care and education would be unaffordable, causing increased financial strain, employment disruption, stress, and instability for families across the country.[25] While the CCDF already has safeguards in place, fraud incidents can still occur from time to time. SEF recognizes the importance of program integrity and accountability within CCDF and understands leaders have a responsibility to address problems that deprive eligible families anxiously stuck on waiting lists of the care they rely on. Ensuring that public resources are used appropriately is critical to maintaining public trust and the long-term sustainability of the child care subsidy system.

The NPRM references concerns related to fraud as a rationale for rescinding certain requirements finalized in the 2024 CCDF Final Rule, including provisions related to payment practices. SEF notes, however, that existing CCDF regulations already require states to maintain robust systems for program integrity, including processes to identify, investigate, and recover improper payments through record reviews, audits, quality control procedures, and staff training.[26]

Importantly, payment practices that support provider stability, such as prospective payment and payment based on enrollment, are not inherently incompatible with strong oversight.[27] States retain the ability to verify attendance, review billing records, conduct compliance monitoring, and enforce corrective actions where violations occur, regardless of whether payments are issued prospectively or retrospectively.[28]

SEF is concerned that framing provider-stabilizing payment practices as a primary fraud risk may inadvertently discourage states from adopting approaches that support provider participation and parent choice, even where adequate oversight mechanisms are already in place. Program integrity and provider stability are not mutually exclusive, and effective administration of CCDF depends on balancing both. Maintaining clear federal expectations that support stable payment practices, alongside existing oversight requirements, helps ensure that CCDF continues to serve families effectively while safeguarding public funds.

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[24] Office of Child Care. (2025). Child Care and Development Fund (CCDF) program. https://acf.gov/occ/fact-sheet

[25] Lynch, K. E. (2024). The Child Care and Development Block Grant: Background and funding (CRS Report No. RL30785). crsreports.congress.govhttps://www.congress.gov/crs_external_products/RL/PDF/RL30785/RL30785.44.pdf

[26] Program integrity, 45 C.F.R. § 98.68 (2024). https://www.law.cornell.edu/cfr/text/45/98.68

[27] Bipartisan Policy Center. (2026). The Child Care and Development Fund: How recent administrative actions may impact states, families, and the workforce. https://bipartisanpolicy.org/explainer/the-child-care-and-development-fund-how-recent-administrative-actions-may-impact-states-families-and-the-workforce/

[28] Office of Child Care. (2025, January 14). 2024 Child Care and Development Fund final rule. https://acf.gov/occ/faq/2024-ccdf-final-rule

Conclusion

The changes proposed in this NPRM carry significant implications for child care affordability, access, and stability for families and providers participating in the Child Care and Development Fund. While SEF recognizes the importance of administrative flexibility and program integrity, we are deeply concerned that rescinding core requirements finalized in the 2024 CCDF rule can undermine progress toward more affordable, accessible, and stable child care, particularly in communities where supply constraints and provider participation challenges are most acute.

Clear federal standards related to family copayments, the strategic use of grants and contracts to build supply, and payment practices that support provider stability have played an important role in advancing the statutory goals of CCDF. Preserving these requirements helps promote consistency across states, supports equal access for families receiving child care assistance, and strengthens the child care infrastructure on which working families rely.

SEF appreciates the opportunity to comment on this proposed rule. We urge the Department to adopt the recommendations outlined in this letter as you seek to publish the final rule.

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; Dr. Lee Johnson III, SEF's Early Childhood Education Senior Fellow, at ljohnson@southerneducation.org; or Allison Boyle, SEF's Research and Policy Specialist, at aboyle@southerneducation.org.

Sincerely,

Raymond C. Pierce

Raymond Pierce
President and CEO
Southern Education Foundation