

**Smith, Ashleigh, CYFD**

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**From:** Mark Schinnerer [REDACTED]  
**Sent:** Tuesday, August 13, 2019 4:38 PM  
**To:** CYFD-ECS-PublicComment  
**Subject:** 8.16.2 NMAC Public Comment

Related to the proposed language in the definitions at 8.16.2.7.RR:

“Notice of provisional employment” means a written notice issued to a child care center or home applicant indicating the BCU reviewed the applicant’s fingerprint based federal or New Mexico criminal record and made a determination that the applicant may begin employment under direct physical supervision until receiving background eligibility. A notice may also indicate the applicant must receive a complete background eligibility prior to beginning employment.

In light of this new two-step process, how quickly will the BCU complete their initial review and make a determination the applicant may begin employment under direct physical supervision? It is typically not the case we have the luxury of time when hiring new staff. It is most always to fill a vacancy. This 'review' and 'determination' must occur within a short period time, say an hour or two at the most. Otherwise, the applicant will move on to another job position.

Mark Schinnerer  
CEO  
CARC, INC.  
P.O. Drawer 1808  
Carlsbad, NM 88221  
[REDACTED]

**Smith, Ashleigh, CYFD**

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**From:** Teena Dehne [REDACTED]  
**Sent:** Wednesday, August 28, 2019 11:00 AM  
**To:** CYFD-ECS-PublicComment  
**Subject:** [EXT] Public Comment

8.16.2.22 E(1)(c) The director must check the persons authorized to pick up the child(ren), to include parents and guardians, through the New Mexico Department of Public Safety Sex Offender Registry and the United States Department of Justice Sex Offender Registry and keep this documentation in the child's file;

This proposed revision does not give any direction as to what to do with this information other than retain it in the child's file. If the person on the registry is the child's parent, does this mean the parent will not be able to pick the child up or drop the child off? Participate in parent teacher conferences?

We understand the intention - to keep all our children safe. However, we feel that this proposed revision could have serious unintended consequences. Children who's parents or other close family are on the registries would potentially be ostracized from our facilities. This would be putting children in harm's way - not protecting them.

Also, this would put an undue administrative burden on facilities. No visitor is ever allowed unsupervised access to children - whether they are a child's authorized pickup or not. Is this not sufficient to reasonably ensure the safety of the children in our facilities?

*Teena L. Dehne, CFO*

***Building Bridges Child Development Center, Inc.  
Eastern Child Development Center, Inc.  
Parkside Child Development Center, Inc.***

***<http://www.tlcdevelopmentcenters.org/>***

**Smith, Ashleigh, CYFD**

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**From:** Cpc Silver City <cpc.grantcounty.nm@gmail.com>  
**Sent:** Wednesday, August 28, 2019 4:13 PM  
**To:** CYFD-ECS-PublicComment  
**Subject:** [EXT] Public Comment  
**Attachments:** CYFD proposed changes.pdf

The staff of Community Partnership for Children would like to input our concerns for the proposed changes in the attached letter sent by CYFD.

In reference to **background check eligibility** per regulations included in 8.16.2NMAC

Currently the requirement states that an individual without approved background clearance cannot be left alone unsupervised with children.

Aligning the new procedures MUST guarantee that programs will receive an immediate (2-3 days) turn around process on eligibility results. Otherwise, this will greatly impact the operation of the programs in maintaining adult to child ratios.

Perhaps an email notice could be sent out to notify the center that the background check has been approved and is on its way via mail, allowing the employee to report to the classroom to fill the vacancy.

Regards,  
Staff of Community Partnership for Children

Terry Anderson  
Executive Director/Project Coordinator

Anita Rios  
Mentor/Facilitator

Kelli McGhiey  
Financial Administrator

Romeo Cruz  
Content Manager

Community Partnership for Children  
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[REDACTED]

# State of New Mexico

## CHILDREN, YOUTH and FAMILIES DEPARTMENT

MICHELLE LUJAN GRISHAM  
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BRIAN BLALOCK  
CABINET SECRETARY

TERRY L. LOCKE  
DEPUTY CABINET SECRETARY

WNMU Preschool/Child Development Center  
PO Box 680  
Silver City, NM 88062

Dear Child Care Provider:

July 29, 2019

This letter serves as notice that Children, Youth and Families Department (CYFD) will hold two formal public hearings to propose regulation changes.

The first public hearing will be held on Thursday, August 29, 2019, at 10:00 am. CYFD is proposing changes to the following regulations:

- 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification
- 8.16.2 NMAC – Child Care Licensing, Child Care Centers, Out of School Time Programs, Family Child Care Homes, and other Early Care and Education Programs
- 8.17.2 NMAC – Social Services – Non-Licensed Child Care, Requirements Governing Registration of Non-Licensed Family Child Care Homes

The significant proposed changes to the rules are to amend the background check requirements to add language to incorporate a two-step clearance process for staff members. A notice of provisional employment or background check eligibility will be required prior to commencing employment and will include a timeline for issuance of the notice. These amendments are required for CYFD to comply with federal requirements. In addition, language will be included in 8.16.2 NMAC and 8.17.2 NMAC, requiring policies and procedures ensuring that a registered sex offender does not have access to the facility where children are present and requiring household members reaching the age of 18 to submit their background check within 30 days after their eighteenth birthday.

The second public hearing will be held on Friday, August 30, 2019, at 10:00 am. CYFD is proposing changes to the following regulations:

- 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers

The significant proposed changes to the rule are to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services. Pursuant to the continuation of this rule change, amendments were made to the following sections: 8.15.2.9 NMAC; 8.15.2.12 NMAC; and 8.15.2.13 NMAC.

The public hearings will be held in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The purpose of these public hearings is to receive public comment regarding proposed changes to the above regulations. Any interested member of the public may attend the hearings and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views or arguments on the proposed rules during the hearing. Copies of the proposed rules may be found at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from 1120 Paseo de Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Written public comment, including presentation of data, views or arguments on the proposed rules, from any interested member of the public, may also be submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "Public Comment," or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing.

**PLEASE BE ADVISED THAT THESE PROPOSED REGULATION CHANGES DO NOT AFFECT CURRENT ELIGIBILITY TO FAMILIES.** If you have any questions, please call Kimberly Brown at 505-841-4821 or 1-800-832-1321.

Sincerely,

Alejandra Rebolledo Rea, Acting Division Director  
Early Childhood Services, Children, Youth and Families Department

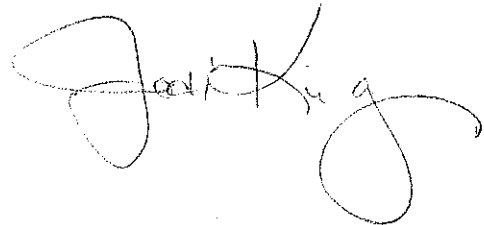
Jodi King

Count Your Blessings Preschool

I am concerned about the unforeseen results of reviewing all aspects of backgrounds of parents who may or may not be on the sex offender registry for all programs licensed through CYFD. Although we absolutely want to ensure our children are safe, our concerns are the following for parents and guardians of children:

- Many sex offenders have their own children or are guardians of children.
- Violating the rights of parents and guardians who have children who by law have the right to parent and have the right to access their own child;
- Potential liability of small businesses and CYFD for violation of providing access to their own children and education;
- Ostracize individuals creating community backlash;
- Children not having the access to safe, quality childcare, because a parent or a guardian is not able to transport their child to and from childcare, pre-k. This may result in children being with unsafe and unlicensed child care situations.
- There is also no guidance from CYFD on what to do or how to handle the situation AFTER the check.

We also are concerned that there is no delineation between child sex offenders and predators from those that might have an adult offense. Again, we want to protect our children, but also need to consider circumstances surrounding individual parents and guardians and their rights as a parent.

A handwritten signature in black ink, appearing to read "Jodi King". The signature is fluid and cursive, with a large loop at the end of the last name.



August 29, 2019

Kimberly Brown  
Child Care Services Bureau  
Children, Youth and Families Department  
P.O. Box 5160  
Santa Fe, NM 87502-5160

Thank you for the opportunity to provide public comment with regard to the proposed child care regulatory changes published in the New Mexico Register by the New Mexico Children, Youth and Families Department (CYFD).

We appreciate the opportunity to provide written comments and we will also testify at the public hearing on August 29 and August 30, 2019.

Our comments are based on supporting family economic stability and the healthy development of children. As child care providers, operating small businesses throughout the state, our lens gives us an "on the ground" view of the costs of operating a child care program, as well as the challenges families face every day.

We have reviewed the proposed regulations and offer comments and suggestions aligned with the Child Care and Development Block Grant Act of 2014 to increase the number and percentage of children whose care is paid for with a child care subsidy in high-quality child care.

We look forward to working with you so that together we can support the well-being of New Mexico children.

Sincerely,

Sondra Carpenter

**New Mexico Child Care and Education Association (NMCCEA) Public Comments related to the notice of rulemaking impacting the child care subsidy assistance program as published in the New Mexico Register**

On June 17, 2019, the Annie E. Casey Foundation 2019 KIDS COUNT Data Book<sup>1</sup> was released, which marked the 30<sup>th</sup> year that the annual 50 state report ranking states on child well-being was published. New Mexico ranked 50<sup>th</sup> against all states, below Louisiana ranked 49<sup>th</sup> and Mississippi ranked 48<sup>th</sup>. We can and should do better for our children.<sup>2</sup>

There are many factors related to child well-being (e.g., parents employed earning wages to support their children, young children with access to high-quality child care – not just pre-k, but high-quality child care during the infant and toddler years as brain development is fastest forming the foundation for all future development – social, emotional, physical, and cognitive development, mothers with access to prenatal care to reduce the likelihood of low birthweight babies, which research shows puts them at higher risk for developmental delays, etc.). We know that improving child well-being can't be achieved with a magic wand, but it can be improved through state regulations that guide program implementation and state investments that support both children and family economic stability.

It is through the lens of supporting children and family economic stability that we offer our comments below. We are also glad to meet with you and discuss these concepts further so that one day, the KIDS COUNT Data Book will list New Mexico at the top of all states instead of the bottom.

**8.15.2.7 DEFINITIONS and 8.15.2.9 PRIORITIES FOR ASSISTANCE**

*The proposed regulation eliminates the definition of the “waiting list” for child care services and also reduces eligibility for child care assistance from 200% of the federal poverty level to 160%.*

**Comment:** The dual implication of these changes is concerning. Reducing the income eligibility for assistance affects not just the ability of parents to work, but also the types of child care settings in which the children of low wage parents will spend their time. Either the assumption is that parents who can't afford the cost of child care on their own will reduce their hours or not work, or that their children will be in unlicensed care because without child care assistance, working parents can't access the licensed market.

As of April 2019, there were 20,092 children in New Mexico receiving CYFD child care subsidies.<sup>3</sup> This pales in comparison to the 84,002 children under age 6 and 177,043 children between age 6 and 11 below 200% of the federal poverty level.<sup>4</sup> Since children age 13 and younger are eligible, the universe of potentially eligible children below 200% of the federal poverty level exceeds 261,000 children in New Mexico.

Limiting child care assistance to children in families below 160% of the federal poverty level means at least 36,293 children (16,468 under age 6 and 19,825 between ages 6 and 11) will be in families who are no longer eligible for child care assistance. Maybe their parents will choose not to work or reduce their hours given the cost of child care. Or, maybe their parents will continue to work and choose unlicensed care where the quality and safety are unknown. The only thing we know for sure is that reducing child care assistance for more than 36,000 children is not likely to improve either family economic stability or child well-being.



**Household lens.** Research shows that a lack of reliable and dependable child care leads to a reduction in parent income, hours worked, work performance and advancement opportunities.<sup>5</sup> Children live in families. Undermining parent employment means that a child lives in a household that may struggle to pay rent, purchase food, and cover other basic necessities. This in turn undermines child development and well-being, the very policies that child care assistance is designed to promote.

**Child lens.** Research shows that children with access to high-quality child care are more likely to develop nurturing, responsive, and continuous relationships with their caregivers<sup>6</sup> which is important for social and emotional development and such children are more likely to experience developmental gains across domains (e.g., social, emotional, physical, and cognitive development).<sup>7</sup> The first three years of life are crucial for social-emotional and cognitive development and overall mental health.<sup>8</sup>

**Employer lens.** Research shows a relationship between child care instability and employers' dependability on a stable workforce<sup>9</sup> as well as a cost to employers in absenteeism due to child care instability resulting in an estimated loss of \$3 billion annually.<sup>10</sup> A study of low income families in Maryland found that the odds of experiencing a child care related work disruption were 75% lower for parents receiving a subsidy than parents not receiving a subsidy.<sup>11</sup>

Whether the lens is related to parents, children, or employers, reducing eligibility from 200% of the federal poverty level to 160% doesn't promote child well-being. In fact, it is very likely to reduce the well-being of children.

**Waiting List elimination.** Eliminating the waiting list for child care assistance does not mean that families won't need child care assistance or qualify for it. Instead it means that the public will lose the ability to access data that shows the interest in child care assistance. Waiting lists aren't perfect. They are a snapshot in time and some families may choose not to join the waiting list upon being informed of its length. Regardless, having a waiting list is better than not, so in the event that funding were to be made available, a go-to list would be readily available. In addition, having a waiting list is one type of indicator as to whether current funding is meeting the demand. Eliminating the waiting list is a policy promoting guess work, again, undermining the well-being of families with children.

#### **8.15.2.12 RECERTIFICATION**

*The regulation proposed that "clients who recertify will qualify at or below 200% of the federal poverty level."*

**Comment:** We are unclear what this means and how it would be implemented. Under the Child Care and Development Block Grant (CCDBG) Act of 2014,<sup>12</sup> states are required to have a graduated phase-out of assistance to ensure that families don't incur a cliff as income rises.

There's a unique problem related to income in New Mexico and the eligibility requirement under CCDBG set at 85% of state median income (SMI). Compared to the US median family income of \$73,891, New Mexico median family income is \$58,308, \$15,583 lower.<sup>13</sup> This is a challenge for the graduated phase-out tied to 85% of SMI, but nonetheless, important to understand in concept as state policy is set.

**The purpose of the graduated phase-out provision is to promote continuity of care and ensure that families are well-positioned to access child care for their children.** The CCDF regulations tell states to "show that their exit threshold takes into account typical family expenses such as housing, food, health

care, diapers, transportation, etc., and is set at an income level that promotes and supports family economic stability and reasonably allows a family to continue accessing child care services without unnecessary disruption.”<sup>14</sup> In addition, the final rule uses seven percent of family income as a benchmark for affordable child care.<sup>15</sup>

**Can a family at 200% of the federal poverty level access high-quality child care at a cost that doesn’t exceed 7 percent of income?** Data from the 2018 New Mexico market rate survey shows that the average monthly infant rate for center-based care is \$672 per month.<sup>16</sup> That’s \$8,064 per year. A family of 3 earning 200% of the federal poverty level would earn \$42,660,<sup>17</sup> which means the average cost of center-based infant care would be 18.9% of income – far exceeding the U.S. Department of Health and Human Services recommendation for child care costs at 7% or below of income.

We urge CYFD to rethink the graduated phase-out concept. How could the policy be crafted so that there is a gradual phase-out for New Mexico families so that the cliff effect is avoided, families can still access market-based child care, and costs to families do not exceed 7% of income? This is the concept behind the graduated phase-out provision under CCDBG reauthorization. It’s not meant as a check-box strategy, but instead, it’s meant to support the economic stability of families and access to high-quality child care for children. We can do this, but not under the current proposed policy.

#### **8.15.2.13 CLIENT RESPONSIBILITIES**

*A series of co-payments are established based on number of children, hours of care, and family income.*

**Comment:** The U.S. Department of Health and Human Services has established 7% of income or below for affordability for families who need child care.<sup>18</sup> The proposed co-payment schedule is complicated, and copayments exceed 7% of family income in many cases. Also, it appears to be tied to hours of care although HHS regulations clarify “that Lead Agencies are not required to limit authorized child care services strictly based on work, training, or educational schedule or the number of hours that a parent spends in work, training, or educational activities.” Furthermore, the preamble to the regulations state, “in some cases, such “matching” works against the interests of the parent or child. Lead agencies are encouraged to authorize adequate hours to allow children to participate in a high quality program, which may be more hours than the parent is working or in education or training.”<sup>19</sup>

The reality is that child care is a business. When state regulations set co-payments at a certain level, it is up to child care providers to collect it. At best, it is often what child care providers call “bad debt” – it is simply not collectible, not collectible on time, not collectible in full, or at it’s worst – it is a financial hardship on families. We urge you to review the copayment policy and limit it to at or below 7% of family income.

#### **8.15.2.15 PROVIDER REQUIREMENTS**

**(D)(1) Registration Fees.** *The proposed regulations prohibit child care providers from charging families a registration fee for any child receiving child care assistance, and propose that the department pay a \$5 monthly fee for registration not to exceed \$60 per year.*

**Comment:** The U.S. Department of Health and Human Services final CCDF regulations closely follow the reauthorization law related to generally-accepted payment policies mirroring the private market. “Consistent with section 658E(c)(2)(s) of the Act, § 98.45(l)(3) of the final rule requires CCDF payment

*practices to reflect generally-accepted payment practices of child care providers that serve children who do not receive CCDF funded assistance.”<sup>20</sup> This includes paying “for reasonable, mandatory registration fees that the provider charges to private-paying parents.”<sup>21</sup> The final rule is clear that such payment policies and practices should follow customary practices for private paying parents. With regard to annual registration fees, parents pay them upfront – registration fees are not paid \$5 per month over a period of time.*

It is understandable under concepts in place prior to CCDBG reauthorization that states may want to pay a smaller share of registration fees over time rather than pay registration fees for families receiving a subsidy upfront. The rationale would have been, at that time, that families churn on and off child care subsidy assistance, and therefore, registration fees that are paid upfront might represent an overpayment in cases where the family has “churned off of assistance.” However, under CCDBG reauthorization, states were required to implement 12 month eligibility for families. Congress enacted 12 month eligibility because in reviewing state practices, it appeared that many states with a shorter recertification period were churning families – meaning that families left assistance but their income wasn’t necessarily higher. They merely failed to comply with document requirements, in-person meetings to recertify or other administrative reasons unrelated to their actual income. Therefore, to make access to child care assistance easier and promote continuity of care for children (e.g., policies that promote healthy child development), Congress required a new minimum eligibility period of 12 months. New Mexico was among the states that had a far shorter eligibility period. It is anticipated that the longer eligibility period will reduce “the churn” which means that paying the annual registration fee upfront, as required for private paying families, is no longer risky since children are generally granted 12 months of assistance.

We urge CYFD to pay annual registration fees upfront for children whose care is paid for with a subsidy, the same policy that applies to private pay parents.

#### **8.15.2.17 PAYMENT FOR SERVICES**

***(C) \$5 Registration Fees Paid Monthly. (see above)***

***(D), (E), (F), (G) Payment Rates.*** *The regulations propose a rate schedule where 100% of the full time rate is paid for 30 or more hours per week of care, 75% of the rate is paid for 8-29 hours per week of care, 50% of the rate is paid for 8-19 hours of care and 25% of the rate is paid for 7 or fewer hours of care.*

**Comments:** The U.S. Department of Health and Human Services CCDF regulations are clear. The reauthorization law changed the framework for child care subsidy.

- 1) Payments are supposed to be based on the most recent market rate survey or an alternative based on the cost of high-quality care – and, at least at a level to cover health, safety, quality and staffing requirements in the CCDF rule. Lead agencies are also supposed to take into consideration the cost of providing higher-quality care.<sup>22</sup>*
- 2) Policies are supposed to delink provider payments from a child’s occasional absences and pay providers based on a child’s enrollment, providing full payment if a child attends at least 85% of the time or providing full payment if a child is absent for 5 or fewer days in a month,<sup>23</sup> and*
- 3) States are to adopt generally accepted payment practices of child care providers who do not receive CCDF subsidies, including paying on a part-time or full-time basis rather than paying for*

*hours of service or smaller increments of time) and paying for reasonable mandatory registration fees that the provider charges to private paying parents.<sup>24</sup>*

Under § 98.21(g) *“lead agencies are encouraged to authorize adequate hours to allow children to participate in a high-quality program, which may be more hours than the parent is working or in education or training. For example, if most local high-quality early learning programs offer only full-time slots, a child whose parent is working part-time may need authorization for full-time care.”<sup>25</sup> Under 658E(c)(2)(S)(ii) of the Act, “states are required to support the fixed costs of providing child care services and follow generally accepted payment practices that typically require parents who pay privately for child care to pay their provider a set fee based on their child’s enrollment.”<sup>26</sup>*

**What this means is that it is time in New Mexico to review the state’s payment policies in comparison to the typical practices of the child care community who serve private paying parents.** Do private paying parents pay 75% of the weekly rate if their children attend 28-29 hours per week? No. That would not be a sustainable business model. Staffing and space are based on full time slots. Providers may offer part-time care, but the hourly bands with proportionate payments that CYFD proposes are based on practices that states engaged in prior to CCDBG reauthorization. Under the new law, states are supposed to conform their policies to better support market-based practices. The law and the regulations are clear on this aspect.

Child care is a business. We want to provide high-quality care. Many of us do provide high-quality care. However, the reality for any child care program is that it costs more to offer high-quality care. And, the operating budget of a child care program is related to the fees that private parents pay and subsidies that the state pays. Therefore, the costs of operating a program such as hiring staff, paying staff competitive wages, rent, utilities, maintenance costs, supplies, and materials must all be covered by that operating budget.

For perspective, the 2018 child care market rate survey<sup>27</sup> shows that in metro 2+ programs, the percentage of children served through child care subsidies is 50%, for 3 star programs, the percentage of children served through child care subsidies is 57%, in 4 star programs, it’s about 45% and in 5 star programs, it’s about 41%. What this means is that state subsidy policies have an enormous impact on the operating budget of a child care program and in turn, the quality of that program – largely, the type of staff who can be hired and the wages that will support them.

High-quality programs depend on high-quality staff – classroom staff with the education and competencies to support and promote healthy child development, which is why wages are typically the highest cost of operating a child care program. With the minimum wage scheduled to increase to \$9 per hour in January 2020,<sup>28</sup> child care wages will increase, which also has an impact on child care program operating budgets. But, there is no recognition of the minimum wage increase in the proposed child care subsidy regulations with regard to payment rates.

An increase in the minimum wage is good news. It will help support economic stability for families. But, there are two collateral impacts of an increase in the minimum wage that the regulations do not address. First, families who are able to earn higher wages may no longer qualify for child care assistance, particularly if the proposed regulations are adopted which would cap initial eligibility at 160% of poverty. Second, child care programs will be required to pay higher wages, but subsidy rates are not increased to absorb the impact on program operating budgets. Both of these policy issues need to be reviewed and adjusted as part of the regulatory review process. Otherwise, the public policy good of increasing the minimum wage is undermined by collateral impact, which could wind up leaving families in a worse economic position rather than better as the law intended.

Another issue that is not addressed in the child care regulations, which should be because of the impact on child care operating budgets is some type of requirement at the local community level to coordinate with community-based child care programs in the provision of public pre-k, not merely plow forward with school-based pre-k expansion because the Department of Public Education (PED) has provided funding. The subsidy regulations are an opportunity to call for coordination and community planning since the economic model for child care programs simply doesn't work to support infant and toddler care when 4 year-old children (and 3 year-old children) are pulled away from the economic model. We all want to provide high-quality care, but that is simply not possible when the economic model for child care is undermined through implementation of a different agency's funding policy for preschool-age children.

We urge that CYFD use the opportunity to adjust child care regulations as an opportunity to rethink child care policy. We don't have to be ranked 50<sup>th</sup> year after year in child well-being. But, to rise above that ranking, we need policies that promote child well-being. Family economic stability, achieved when parents work, and healthy child development, achieved as young children – particularly infants and toddlers, have access to high-quality child care, can improve child well-being. Such policies will cost more than New Mexico has currently allocated, but research shows a return on investment of 13%.<sup>29</sup>

It's time to match our policy with the federal law and provide sufficient funding to support access for families who need child care assistance. The federal government recognizes child care as a two generation strategy – it helps parents work and it supports the healthy development of children. It's time that New Mexico shares this vision as well.

#### **8.16.2.22 ADMINISTRATIVE REQUIREMENTS FOR CENTERS:**

**(3) policies and procedures ensuring that a registered sex offender does not have access to the facility where children are present;** (c) a list of people authorized to pick up the child and an authorization form signed by parent or guardian; identification of person authorized by the parent or guardian to pick up the child shall be verified at pick up[;]. **The director must check the persons authorized to pick up the child(ren), to include parents and guardians, through the New Mexico Department of Public Safety Sex Offender Registry and the United States Department of Justice Sex Offender Registry and keep this documentation in the child's file;**

D. CHILDREN'S RECORDS. (c) a list of people authorized to pick up the child and an authorization form signed by parent or guardian; identification of person authorized by the parent or guardian to pick up the child shall be verified at pick up[;]. **The licensee must check the persons authorized to pick up the child(ren), to include parents and guardians, through the New Mexico Department of Public Safety Sex Offender Registry and the United States Department of Justice Sex Offender Registry and keep this documentation in the child's file;**

#### **(2) POLICIES AND PROCEDURES:**

Page 48

(m) policies and procedures ensuring that a registered sex offender does not have access to the facility where children are present;

#### D. CHILDREN'S RECORDS:

(c) a list of people authorized to pick up the child and an authorized form signed by parent or guardian; identification of person authorized by the parent or guardian to pick up the child shall be verified at pick up[;]. **The director must check the persons authorized to pick up the child(ren), to include parents and guardians, through the New Mexico Department of Public Safety Sex Offender Registry and the United States Department of Justice Sex Offender Registry and keep this documentation in the child's file.**

Your child deserves to be safe and well cared for at all times. One of your child care provider's most important responsibilities is keeping your child safe from harm. Not only should all adults employed with a licensed childcare provider have had a comprehensive background check, but all those entering and exiting the facility have been screened through both the state and national sex offenders database. We don't disagree. But, keeping a piece of paper in a child's file doesn't protect our children. Also, according to our research there is no other state with this requirement.

The proposed rule lacks clarity on how a licensed childcare provider should implement this new rule, how it will be enforced by CYFD Licensing Department and what the consequences will be if the proposed rule is not implemented properly. Additionally, there will be a cost to providers in the implementation of this new system.

What are public and private elementary schools required to do? Shouldn't the rule for CYFD licensed providers be consistent with that of the Public Education Department? And finally, the rule needs to be consistent throughout. Is it the "licensee" who must check or is it the "director"? The proposed rule is not consistent.

We don't disagree that children should be protected, but a piece of paper in a file isn't going to protect them. Instead of rushing this through, why don't we work together over the next six months and develop something in the best interest of our children.

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<sup>1</sup> 2019 KIDS COUNT Data Book, Annie E. Casey Foundation. (2019). <https://www.aecf.org/n/resourcedoc/aecf-2019kidscountdatabook-2019.pdf>

<sup>2</sup> Ibid.

<sup>3</sup> State Backs Off on Child Care Assistance, Albuquerque Journal, May 31, 2019. <https://www.abqjournal.com/1322148/state-backs-off-on-child-care-assistance.html>

<sup>4</sup> U.S. Census Bureau, Table B17024, 2017 American Community Survey, 1 year estimates.

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