

SAFEGUARDING TAXPAYER DOLLARS IN CHILD CARE ACT  
OF 2026

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APRIL 6, 2026.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. WALBERG, from the Committee on Education and Workforce,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 7723]

The Committee on Education and Workforce, to whom was referred the bill (H.R. 7723) to amend the Child Care and Development Block Grant Act of 1990 to debar child care providers that committed fraud from receiving financial assistance under the Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Safeguarding Taxpayer Dollars in Child Care Act of 2026”.

**SEC. 2. PREVENTING FRAUD IN THE CHILD CARE AND DEVELOPMENT BLOCK GRANT PROGRAM.**

Section 658I(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

“(3) DETERMINATION OF FRAUD.—

“(A) INVESTIGATION.—The Secretary shall investigate fraud with respect to financial assistance available under this subchapter.

“(B) DEBARMENT.—In the case that the Secretary makes, or finds that there has been, a final determination of fraud against a child care provider that received financial assistance available under this subchapter, the Secretary shall permanently debar such child care provider from receiving such financial assistance.

“(C) PROVIDERS DEBARRED FROM CHILD AND ADULT CARE FOOD PROGRAM.—In the case that a child care provider has been debarred from participating in the Child and Adult Care Food Program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) in accordance with subsection (d)(5)(E)(i) of such section, the Secretary shall permanently debar such child care provider from receiving financial assistance under this subchapter.

“(D) FINAL DETERMINATION OF FRAUD DEFINITION.—In this paragraph, the term ‘final determination of fraud’ means a determination reached in an administrative order or as part of a judicial decision, for which any rights to review or appeal have been exhausted or waived, that a child care provider—

“(i) knowingly submitted a false statement or documentation to obtain financial assistance available under this subchapter;

“(ii) misrepresented ownership of, enrollment at, attendance at, or services provided through a program of child care services, or the eligibility of the provider to provide such services, to obtain such financial assistance;

“(iii) to obtain such financial assistance, operated without the State licensing described in section 658E(c)(2)(F) and without receiving an exception to such licensing;

“(iv) made a knowing and improper expenditure of such financial assistance; or

“(v) engaged in any other conduct related to such financial assistance that constituted fraud under Federal or State law.”.

### SEC. 3. PREVENTING FRAUD IN THE CHILD AND ADULT CARE FOOD PROGRAM.

Section 17(d)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)(5)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by inserting after subparagraph (D) the following:

“(E) TERMINATION DUE TO FRAUD.—

“(i) DEBARMENT.—In the case that the participation of an institution or family or group day care home under the program is terminated due to a final determination of fraud, the Secretary shall permanently debar such institution or family or group day care home from participating in the program.

“(ii) PROVIDERS DEBARRED FROM CHILD CARE AND DEVELOPMENT BLOCK GRANT PROGRAM.—In the case that an institution or family or group day care home has been debarred from receiving financial assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.) in accordance with section 658I(b)(3)(B) of such Act, the Secretary shall permanently debar such institution or family or group day care home from participating in the program.

“(iii) FINAL DETERMINATION OF FRAUD DEFINITION.—In this subparagraph, the term ‘final determination of fraud’ means a determination reached in accordance with the procedures and requirements of this section, for which any rights to review or appeal have been exhausted or waived, that an institution or family or group day care home—

“(I) knowingly submitted a false statement or documentation to obtain funds disbursed under subsection (f)(1)(A);

“(II) misrepresented ownership, enrollment, attendance, or services in connection with the operation of the program by such institution or family or group day care home, or the eligibility of such institution or family or group day care home to operate the program, to obtain such funds;

“(III) made a knowing and improper expenditure of such funds;

or

“(IV) engaged in any other conduct related to such funds that constituted fraud under Federal or State law.”.

### PURPOSE

The purpose of H.R. 7723, the *Safeguarding Taxpayer Dollars in Child Care Act of 2026*, is to ensure that bad actors cannot defraud multiple federal assistance programs for children. The *Safeguarding Taxpayer Dollars in Child Care Act of 2026* defines fraud in the Child Care and Development Block Grant (CCDBG) and

Child and Adult Care Food Program (CACFP), directs the Secretary of Health and Human Services (HHS) to investigate and debar fraudulent providers from CCDBG and ensures that fraudulent providers in either program are not eligible to receive funds in the other program.

#### COMMITTEE ACTION

119TH CONGRESS

##### *First Session—Hearing*

On June 24, 2025, the Committee on Education and Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing titled “Child Care and the American Workforce: Removing Barriers to Economic Growth.” The purpose of the hearing was to examine the CCDBG program as a worker support program and consider reforms that will support existing child care providers, continue to provide high-quality care to children, uphold the value and dignity of work to parents, and make fiscally responsible choices, including public-private partnerships. Testifying before the Subcommittee were Mrs. Caitlin Codella Low, Managing Director of Human Capital, Bipartisan Policy Center, Washington, D.C.; The Honorable Todd D. Barton, Mayor, City of Crawfordsville, Crawfordsville, Indiana; Dr. Ruth Friedman, Senior Fellow, The Century Foundation, Washington, D.C.; and Ms. Celia Hartman Sims, President and Founder, The Abecedarian Group, Houston, Texas.

##### *Second Session—Hearing*

On January 13, 2026, the Committee on Education and Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing titled “Who’s Watching the Kids? How Employers, Innovators, and Parents Are Solving America’s Child Care Crunch.” The purpose of the hearing was to examine the national child care landscape, including those aspects governed by CCDBG, and consider fiscally responsible ways to meet the American workforce’s child care needs. At the hearing, Representative Kevin Kiley (R-CA) stated, “Protecting the integrity of child care funding is essential. When bad actors exploit the system, they divert resources from the families these programs are meant to serve. Recent events underscore the need for strong oversight and accountability at every level.” Testifying before the Subcommittee were Mr. Haden Polseno-Hensley, President and Co-Founder, Red Rooster Coffee Company, LLC, Floyd, Virginia; Ms. Alex Grover, Chief Executive Officer, i2M, Mountain Top, Pennsylvania; Ms. Amy K. Matsui, Vice President for Child Care and Income Security, National Women’s Law Center, Washington, D.C.; and Ms. Mary Lou Burke Afonso, Chief Operating Officer, Bright Horizons, Newton, Massachusetts.

##### *Legislative Action*

On February 26, 2026, Representative Virginia Foxx (R-NC) introduced H.R. 7723, the *Safeguarding Taxpayer Dollars in Child Care Act*. On March 5, 2026, the Committee on Education and Workforce considered H.R. 7723 in legislative session and reported it favorably, as amended, to the House of Representatives by a re-

corded vote of 20–15. The Committee considered the following amendments to H.R. 7723:

1. Representative Foxx offered an amendment in the nature of a substitute to make technical changes to the bill. The amendment passed by voice vote.
2. Ranking Member Robert C. “Bobby” Scott (D–VA) offered an amendment to require the HHS Secretary to restore the number of employees, structure, functions, and responsibilities of the Office of Child Care as of January 20, 2025. The amendment failed by a recorded vote of 15–20.

## COMMITTEE VIEWS

### INTRODUCTION

Child care is essential to helping working parents thrive and to supporting the growth of local economies. CCDBG exists to help working families access affordable child care, giving them the freedom to remain in the workforce, increase their economic opportunity, realize financial freedom, and move beyond the need for a federal safety net—thriving independent of government support. According to the National Center for Education Statistics, there are approximately 12.6 million children nationally who have non-parental care arrangements during the week.<sup>1</sup> Because CCDBG serves approximately 10 percent of children in that private-sector child care market, all of whom come from low-income families, any waste, fraud, and abuse in the program is intolerable. The Committee considered H.R. 7723 to deliver accountability and transparency in our federal child care assistance program.

#### *Waste, Fraud, and Abuse Unchecked at the State Level*

On December 26, 2025, an independent journalist reported a number of child care centers licensed by Minnesota were taking federal funds through CCDBG without serving any children or families. Certain administrative mismanagement of Minnesota’s child care program had been documented in an HHS Inspector General report months prior<sup>2</sup> and in an internal controls review made by the Minnesota Office of the Legislative Auditor in 2019.<sup>3</sup> Essentially admitting responsibility, on February 26, 2026, Minnesota Governor Tim Walz announced a “comprehensive anti-fraud package to fight fraud in state programs”<sup>4</sup> and the Minnesota Office of Program Integrity released a related “roadmap” days earlier.<sup>5</sup> In fact, testifying at a House Committee on Oversight hearing on March 4, 2026, Governor Walz admitted that Minnesota had been aware of fraud in its child care assistance program since 2012.

Since 2002, CCDBG has been identified as a program at risk of significant improper payments. The Office of Management and Budget first identified CCDBG as such following enactment of the *Improper Payment Act of 2002* (P.L. 107–300).<sup>6</sup> A series of subse-

<sup>1</sup> <https://nces.ed.gov/fastfacts/display.asp?id=4>.

<sup>2</sup> <https://oig.hhs.gov/reports/all/2025/minnesota-could-better-ensure-that-childcare-assistance-providers-comply-with-attendance-requirements/>.

<sup>3</sup> <https://www.auditor.leg.state.mn.us/sreview/ccapic.pdf>.

<sup>4</sup> [https://mn.gov/governor/newsroom/press-releases/?id=1055\\_727986](https://mn.gov/governor/newsroom/press-releases/?id=1055_727986).

<sup>5</sup> <https://kstp.com/wp-content/uploads/2026/02/Roadmap-to-Program-Integrity-and-Fraud-Prevention-2-23-2026.pdf>.

<sup>6</sup> <https://georgewbush-whitehouse.archives.gov/omb/circulars/a11/2002/part2.pdf>.

quent measures aimed at waste, fraud, and abuse prevention in programs across the federal government have failed to eliminate improper payments in CCDBG.<sup>7</sup> A 2020 report by the Government Accountability Office estimated that improper payments in CCDBG during the previous fiscal year (FY 2019) totaled approximately \$325 million.<sup>8</sup> Extrapolating that number out to include the current funding level and average improper payment rates, CCDBG could be losing nearly \$600 million each year to improper payments. Most recently, HHS continued to include CCDBG on its list of “risk susceptible” programs in the agency’s FY 2025 financial report.<sup>9</sup>

*The Need for Sensible Reforms to Protect Taxpayer Dollars*

The federal government is right to scrutinize state CCDBG funds because of the risk that those dollars are being fraudulently diverted from American families. States’ failures to ensure their programs are complying with statutory requirements are harming our nation’s families. We owe it to our working families to exercise sufficient oversight and hold fraudsters accountable.

The *Safeguarding Taxpayer Dollars in Child Care Act of 2026* addresses taxpayers’ just frustration when they see fraud perpetrated in multiple public assistance programs that are often linked together. Because federal programs that help care for children and feed them have overlapping licensing, eligibility, and reimbursement rules, it can become easy for fraudulent providers to bounce between the CCDBG and Child and Adult Care Food programs. Without substantial deterrence to hold fraudsters accountable, this elusive type of swindling could continue endlessly. H.R. 7723 closes that loophole by disbaring reciprocally fraudulent providers from these two programs when final determinations have been made. Fraud is serious; the consequences must be also.

CONCLUSION

No amount of fraud in public programs is acceptable. When states administer federal programs, we expect a diligent effort to execute what the law requires. Americans should have confidence that their taxpayer dollars are funding critical child care assistance for families in need, not enriching those seeking to loot public programs for private gain. H.R. 7723 accomplishes this by ensuring that fraudulent providers in CCDBG or CACFP are not eligible to receive funds in the other program.

Weeding out waste, fraud, and abuse in federal child care assistance will ensure public trust in CCDBG and allow for more dollars, economic opportunity, and workforce participation among America’s families.

<sup>7</sup> Those include the *Improper Payment Information Act of 2002* (P.L. 112–248), the *Improper Payments Elimination and Recovery Act of 2010* (P.L. 111–204), the *Improper Payments Elimination and Recovery Improvement Act of 2012* (112–248), and the *Payment Integrity Information Act of 2019* (P.L. 116–117).

<sup>8</sup> <https://www.gao.gov/assets/gao-20-227.pdf>.

<sup>9</sup> <https://www.hhs.gov/sites/default/files/fy-2025-hhs-agency-financial-report.pdf>.

## SUMMARY

## H.R. 7723 SECTION-BY-SECTION SUMMARY

*Section 1. Short title*

- States that this Act may be cited as the *Safeguarding Taxpayer Dollars in Child Care Act of 2026*.

*Section 2. Preventing fraud in the Child Care and Development Block Grant Program*

- Amends section 658I(b) of the *Child Care and Development Block Grant Act of 1990* to define fraud in the CCDBG program.
- Amends section 658I(b) of the *Child Care and Development Block Grant Act of 1990* to bar providers that have been barred from CACFP from receiving funds under CCDBG.

*Section 3. Preventing fraud in the Child and Adult Care Food Program*

- Amends section 17(d)(5) of the *Richard B. Russell National School Lunch Act* to define fraud in CACFP.
- Amends section 17(d)(5) of the *Richard B. Russell National School Lunch Act* to bar providers who have been barred from CCDBG from receiving funds under CACFP.

## EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 7723 defines fraud in the Child Care and Development Block Grant (CCDBG) and Child and Adult Care Food Program (CACFP), directs the Secretary of Health and Human Services (HHS) to investigate and debar fraudulent providers from the programs, and to ensure that fraudulent providers in either program are not eligible to receive funds in the other program. H.R. 7723 applies only to HHS and does not apply to the legislative branch.

## UNFUNDED MANDATE STATEMENT

Pursuant to section 423 of the *Congressional Budget and Impoundment Control Act of 1974*, Pub. L. No. 93–344 (as amended by section 101(a)(2) of the *Unfunded Mandates Reform Act of 1995*, Pub. L. No. 104–4), the Committee traditionally adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the *Congressional Budget and Impoundment Control Act of 1974*. The Committee reports that because this cost estimate was not timely submitted to the Committee before the filing of this report, the Committee is not in a position to make a cost estimate for H.R. 7723.

## EARMARK STATEMENT

H.R. 7723 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

## ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 3/5/2026

**COMMITTEE ON EDUCATION AND WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 7

Bill: H.R. 7723

Amendment Number: 1

Disposition: Failed by a Full Committee Roll Call Vote

Sponsor/Amendment: Rep. Scott (VA)

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Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. WALBERG (MI) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. COURTNEY (CT)	X		
Mrs. FOXX (NC)		X		Ms. WILSON (FL)	X		
Mr. THOMPSON (PA)		X		Ms. BONAMICI (OR)			X
Mr. GROTHMAN (WI)		X		Mr. TAKANO (CA)	X		
Ms. STEFANIK (NY)			X	Ms. ADAMS (NC)	X		
Mr. ALLEN (GA)		X		Mr. DESAULNIER (CA)	X		
Mr. COMER (KY)		X		Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)		X		Ms. MCBATH (GA)	X		
Ms. MCCLAIN (MI)		X		Ms. HAYES (CT)	X		
Mrs. MILLER (IL)		X		Ms. OMAR (MN)	X		
Ms. LETLOW (LA)		X		Ms. STEVENS (MI)	X		
Mr. KILEY (CA)		X		Mr. CASAR (TX)	X		
Mr. RULLI (OH)		X		Ms. LEE (PA)	X		
Mr. MOYLAN (GU)		X		Mr. MANNION (NY)	X		
Mr. ONDER (MO)		X		Ms. GRIJALVA (AZ)	X		
Mr. MACKENZIE (PA)		X					
Mr. BAUMGARTNER (WA)		X					
Mr. HARRIS (NC)		X					
Mr. MESSMER (IN)		X					
Mr. FINE (FL)		X					

TOTALS: Ayes: 15

Nos: 20

Not Voting: 2

Total: 37/ Quorum: 35 Report: Failed

(21 R - 16 D)



## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 7723 is to ensure that bad actors cannot defraud multiple federal assistance programs for children.

## DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 7723 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the body of this report.

## REQUIRED COMMITTEE HEARING

In compliance with clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearing held during the 119th Congress was used to develop or consider H.R. 7723: On June 24, 2025, the Committee on Education and Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing titled “Child Care and the American Workforce: Removing Barriers to Economic Growth.”

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, a cost estimate was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

## COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 7723. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the Committee has requested a cost estimate for the bill from the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT  
OF 1990**

\* \* \* \* \*

**TITLE VI—HUMAN SERVICES PROGRAMS**

**Subtitle A—Authorizations Savings for Fiscal Years 1982, 1983,  
and 1984**

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**CHAPTER 8—COMMUNITY SERVICES PROGRAMS**

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**Subchapter C—Child Care and Development Block Grant**

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**SEC. 658I. ADMINISTRATION AND ENFORCEMENT.**

- (a) ADMINISTRATION.—The Secretary shall—
  - (1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;
  - (2) collect, publish, and make available to the public a listing of State child care standards at least once every 3 years;
  - (3) provide technical assistance, such as business technical assistance, as described in section 658E(c)(2)(V), to States (which may include providing assistance on a reimbursable basis) which shall be provided by qualified experts on practices grounded in scientifically valid research, where appropriate, to carry out this subchapter;
  - (4) disseminate, for voluntary informational purposes, information on practices that scientifically valid research indicates are most successful in improving the quality of programs that receive assistance with this subchapter; and
  - (5) after consultation with the heads of any other Federal agencies involved, issue guidance and disseminate information on best practices regarding the use of funding combined by States as described in section 658E(c)(2)(O)(ii), consistent with laws other than this subchapter.
- (b) ENFORCEMENT.—
  - (1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State.
  - (2) NONCOMPLIANCE.—

(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.

(B) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

(3) DETERMINATION OF FRAUD.—

(A) INVESTIGATION.—*The Secretary shall investigate fraud with respect to financial assistance available under this subchapter.*

(B) DEBARMENT.—*In the case that the Secretary makes, or finds that there has been, a final determination of fraud against a child care provider that received financial assistance available under this subchapter, the Secretary shall permanently debar such child care provider from receiving such financial assistance.*

(C) PROVIDERS DEBARRED FROM CHILD AND ADULT CARE FOOD PROGRAM.—*In the case that a child care provider has been debarred from participating in the Child and Adult Care Food Program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) in accordance with subsection (d)(5)(E)(i) of such section, the Secretary shall permanently debar such child care provider from receiving financial assistance under this subchapter.*

(D) FINAL DETERMINATION OF FRAUD DEFINITION.—*In this paragraph, the term “final determination of fraud” means a determination reached in an administrative order or as part of a judicial decision, for which any rights to review or appeal have been exhausted or waived, that a child care provider—*

(i) knowingly submitted a false statement or documentation to obtain financial assistance available under this subchapter;

(ii) misrepresented ownership of, enrollment at, attendance at, or services provided through a program of child care services, or the eligibility of the provider to provide such services, to obtain such financial assistance;

(iii) to obtain such financial assistance, operated without the State licensing described in section 658E(c)(2)(F) and without receiving an exception to such licensing;

(iv) made a knowing and improper expenditure of such financial assistance; or

(v) engaged in any other conduct related to such financial assistance that constituted fraud under Federal or State law.

**[(3)] (4) ISSUANCE OF RULES.**—The Secretary shall establish by rule procedures for—

(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

(B) imposing sanctions under this section.

(c) **REQUEST FOR RELIEF.**—

(1) **IN GENERAL.**—The Secretary may waive for a period of not more than three years any provision under this subchapter or sanctions imposed upon a State in accordance with subsection (b)(2) upon the State's request for such a waiver if the Secretary finds that—

(A) the request describes one or more conflicting or duplicative requirements preventing the effective delivery of child care services to justify a waiver, extraordinary circumstances, such as natural disaster or financial crisis, or an extended period of time for a State legislature to enact legislation to implement the provisions of this subchapter;

(B) such circumstances included in the request prevent the State from complying with any statutory or regulatory requirements of this subchapter;

(C) the waiver will, by itself, contribute to or enhance the State's ability to carry out the purposes of this subchapter; and,

(D) the waiver will not contribute to inconsistency with the objectives of this law.

(2) **CONTENTS.**—Such request shall be provided to the Secretary in writing and will—

(A) detail each sanction or provision within this subchapter that the State seeks relief from;

(B) describe how a waiver from that sanction or provision of this subchapter will, by itself, improve delivery of child care services for children in the State; and

(C) certify that the health, safety, and well-being of children served through assistance received under this subchapter will not be compromised as a result of the waiver.

(3) APPROVAL.—Within 90 days after the receipt of a State’s request under this subsection, the Secretary shall inform the State of approval or disapproval of the request. If the plan is disapproved, the Secretary shall, at this time, inform the State, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate of the reasons for the disapproval and give the State the opportunity to amend the request. In the case of approval, the Secretary shall, within 30 days of granting such waiver, notify and submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the circumstances of the waiver including each specific sanction or provision waived, the reason as given by the State of the need for a waiver, and the expected impact of the waiver on children served under this program.

(4) EXTERNAL CONDITIONS.—The Secretary shall not require or impose any new or additional requirements in exchange for receipt of a waiver if such requirements are not specified in this subchapter.

(5) DURATION.—The Secretary may approve a request under this subsection for a period not to exceed three years, unless a renewal is granted under paragraph (7).

(6) TERMINATION.—The Secretary shall terminate approval of a request for a waiver authorized under this subsection if the Secretary determines, after notice and opportunity for a hearing, that the performance of a State granted relief under this subsection has been inadequate, or if such relief is no longer necessary to achieve its original purposes.

(7) RENEWAL.—The Secretary may approve or disapprove a request from a State for renewal of an existing waiver under this subchapter for a period no longer than one year. A State seeking to renew their waiver approval must inform the Secretary of this intent no later than 30 days prior to the expiration date of the waiver. The State shall re-certify in its extension request the provisions in paragraph (2) of this subchapter, and shall also explain the need for additional time of relief from such sanction(s) or provisions approved under this law as provided in this subchapter.

(8) RESTRICTIONS.—Nothing in this subchapter shall be construed as providing the Secretary the authority to permit States to alter the eligibility requirements for eligible children, including work requirements, job training, or educational program participation, that apply to the parents of eligible children under this subchapter. Nothing in this subsection shall be construed to allow the Secretary to waive anything related to his or her authority under this subchapter.

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**RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT**

\* \* \* \* \*

**SEC. 17. CHILD AND ADULT CARE FOOD PROGRAM.**

(a) PROGRAM PURPOSE, GRANT AUTHORITY AND INSTITUTION ELIGIBILITY.—

(1) IN GENERAL.—

(A) PROGRAM PURPOSE.—

(i) FINDINGS.—Congress finds that—

(I) eating habits and other wellness-related behavior habits are established early in life; and

(II) good nutrition and wellness are important contributors to the overall health of young children and essential to cognitive development.

(ii) PURPOSE.—The purpose of the program authorized by this section is to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children, and the health and wellness of older adults and chronically impaired disabled persons.

(B) GRANT AUTHORITY.—The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care.

(2) DEFINITION OF INSTITUTION.—In this section, the term “institution” means—

(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

(B) any other private organization providing nonresidential child care or day care outside school hours for school children, if—

(i) at least 25 percent of the children served by the organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; or

(ii) the organization receives compensation from amounts granted to the States under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) (but only if the organization receives compensation under that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);

(C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));

(D) any other private organization acting as a sponsoring organization for, and that is part of the same legal entity as, one or more organizations that are—

(i) described in subparagraph (B); or

(ii) proprietary title XIX or title XX centers (as defined in subsection (o)(2));

- (E) any public or private nonprofit organization acting as a sponsoring organization for one or more family or group day care homes; and
- (F) any emergency shelter (as defined in subsection (t)).
- (3) AGE LIMIT.—Except as provided in subsection (r), reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with disabilities).
- (4) ADDITIONAL GUIDELINES.—The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.
- (5) LICENSING.—In order to be eligible, an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—
- (A)(i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or
- (ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;
- (B) if Federal, State, or local licensing or approval is not available—
- (i) meet any alternate approval standards established by the appropriate State or local governmental agency; or
- (ii) meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or
- (C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for the institution, meet State or local health and safety standards.
- (6) ELIGIBILITY CRITERIA.—No institution shall be eligible to participate in the program unless it satisfies the following criteria:
- (A) accepts final administrative and financial responsibility for management of an effective food service;
- (B) has not been seriously deficient in its operation of the child and adult care food program, or any other program under this Act or the Child Nutrition Act of 1966, or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program, for a period of time specified by the Secretary;
- (C)(i) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and
- (ii) in the case of a sponsoring organization, the organization shall employ an appropriate number of monitoring personnel based on the number and characteristics of child care centers and family or group day care homes sponsored by the organization, as approved by the State (in accord-

ance with regulations promulgated by the Secretary), to ensure effective oversight of the operations of the child care centers and family or group day care homes;

(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited;

(E) in the case of a sponsoring organization, the organization has in effect a policy that restricts other employment by employees that interferes with the responsibilities and duties of the employees of the organization with respect to the program; and

(F) in the case of a sponsoring organization that applies for initial participation in the program on or after the date of the enactment of this subparagraph and that operates in a State that requires such institutions to be bonded under State law, regulation, or policy, the institution is bonded in accordance with such law, regulation, or policy.

(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

(c)(1) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

(2) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11(a) of this Act).

(3) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 9 of this Act.

(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B)).

(6) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

(d) INSTITUTION APPROVAL AND APPLICATIONS.—

(1) INSTITUTION APPROVAL.—

(A) ADMINISTRATIVE CAPABILITY.—Subject to subparagraph (B) and except as provided in subparagraph (C), the State agency shall approve an institution that meets the requirements of this section for participation in the child and adult care food program if the State agency determines that the institution—

- (i) is financially viable;
- (ii) is administratively capable of operating the program (including whether the sponsoring organization has business experience and management plans appropriate to operate the program) described in the application of the institution; and
- (iii) has internal controls in effect to ensure program accountability.

(B) APPROVAL OF PRIVATE INSTITUTIONS.—

(i) IN GENERAL.—In addition to the requirements established by subparagraph (A) and subject to clause (ii), the State agency shall approve a private institution that meets the requirements of this section for participation in the child and adult care food program only if—

(I) the State agency conducts a satisfactory visit to the institution before approving the participation of the institution in the program; and

(II) the institution—

- (aa) has tax exempt status under the Internal Revenue Code of 1986;
- (bb) is operating a Federal program requiring nonprofit status to participate in the program; or
- (cc) is described in subsection (a)(2)(B).

(ii) EXCEPTION FOR FAMILY OR GROUP DAY CARE HOMES.—Clause (i) shall not apply to a family or group day care home.

(C) EXCEPTION FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—The State agency may approve an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not partici-

pating in the child and adult care food program only if the State agency determines that—

(I) the institution meets the requirements established by subparagraphs (A) and (B); and

(II) the participation of the institution will help to ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(ii) CRITERIA FOR SELECTION.—The State agency shall establish criteria for approving an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program for the purpose of determining if the participation of the institution will help ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(D) NOTIFICATION TO APPLICANTS.—Not later than 30 days after the date on which an applicant institution files a completed application with the State agency, the State agency shall notify the applicant institution whether the institution has been approved or disapproved to participate in the child and adult care food program.

(E) PERMANENT OPERATING AGREEMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the child and adult care food program, an institution that meets the conditions of eligibility described in this subsection shall be required to enter into a permanent agreement with the applicable State agency.

(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to ensure that the institution is in compliance with all requirements established in this section or by the Secretary.

(iii) TERMINATION.—A permanent agreement described in clause (i)—

(I) may be terminated for convenience by the institution or State agency that is a party to the permanent agreement; and

(II) shall be terminated—

(aa) for cause by the applicable State agency in accordance with paragraph (5); or

(bb) on termination of participation of the institution in the child and adult care food program.

(2) PROGRAM APPLICATIONS.—

(A) IN GENERAL.—The Secretary shall develop a policy under which each institution providing child care that participates in the program under this section shall—

(i) submit to the State agency an initial application to participate in the program that meets all requirements established by the Secretary by regulation;

(ii) annually confirm to the State agency that the institution, and any facilities of the institution in which the program is operated by a sponsoring organization, is in compliance with subsection (a)(5); and

(iii) annually submit to the State agency any additional information necessary to confirm that the institution is in compliance with all other requirements to participate in the program, as established in this Act and by the Secretary by regulation.

(B) REQUIRED REVIEWS OF SPONSORED FACILITIES.—

(i) IN GENERAL.—The Secretary shall develop a policy under which each sponsoring organization participating in the program under this section shall conduct—

(I) periodic unannounced site visits at not less than 3-year intervals to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) at least 1 scheduled site visit each year to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations.

(ii) VARIED TIMING.—Sponsoring organizations shall vary the timing of unannounced reviews under clause (i)(I) in a manner that makes the reviews unpredictable to sponsored facilities.

(C) REQUIRED REVIEWS OF INSTITUTIONS.—The Secretary shall develop a policy under which each State agency shall conduct—

(i) at least 1 scheduled site visit at not less than 3-year intervals to each institution under the State agency participating in the program under this section—

(I) to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) to improve program operations; and

(ii) more frequent reviews of any institution that—

(I) sponsors a significant share of the facilities participating in the program;

(II) conducts activities other than the program authorized under this section;

(III) has serious management problems, as identified in a prior review, or is at risk of having serious management problems; or

(IV) meets such other criteria as are defined by the Secretary.

(D) DETECTION AND DETERRENCE OF ERRONEOUS PAYMENTS AND FALSE CLAIMS.—

(i) IN GENERAL.—The Secretary may develop a policy to detect and deter, and recover erroneous payments to, and false claims submitted by, institutions, spon-

sored child and adult care centers, and family or group day care homes participating in the program under this section.

(ii) BLOCK CLAIMS.—

(I) DEFINITION OF BLOCK CLAIM.—In this clause, the term “block claim” has the meaning given the term in section 226.2 of title 7, Code of Federal Regulations (or successor regulations).

(II) PROGRAM EDIT CHECKS.—The Secretary may not require any State agency, sponsoring organization, or other institution to perform edit checks or on-site reviews relating to the detection of block claims by any child care facility.

(III) ALLOWANCE.—Notwithstanding subclause (II), the Secretary may require any State agency, sponsoring organization, or other institution to collect, store, and transmit to the appropriate entity information necessary to develop any other policy developed under clause (i).

(3) PROGRAM INFORMATION.—

(A) IN GENERAL.—On enrollment of a child in a sponsored child care center or family or group day care home participating in the program, the center or home (or its sponsoring organization) shall provide to the child’s parents or guardians—

(i) information that describes the program and its benefits; and

(ii) the name and telephone number of the sponsoring organization of the center or home and the State agency involved in the operation of the program.

(B) FORM.—The information described in subparagraph (A) shall be in a form and, to the maximum extent practicable, language easily understandable by the child’s parents or guardians.

(4) ALLOWABLE ADMINISTRATIVE EXPENSES FOR SPONSORING ORGANIZATIONS.—In consultation with State agencies and sponsoring organizations, the Secretary shall develop, and provide for the dissemination to State agencies and sponsoring organizations of, a list of allowable reimbursable administrative expenses for sponsoring organizations under the program.

(5) TERMINATION OR SUSPENSION OF PARTICIPATING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall establish procedures for the termination of participation by institutions and family or group day care homes under the program.

(B) STANDARDS.—Procedures established pursuant to subparagraph (A) shall include standards for terminating the participation of an institution or family or group day care home that—

(i) engages in unlawful practices, falsifies information provided to the State agency, or conceals a criminal background; or

(ii) substantially fails to fulfill the terms of its agreement with the State agency.

(C) CORRECTIVE ACTION.—Procedures established pursuant to subparagraph (A)—

(i) shall require an entity described in subparagraph (B) to undertake corrective action; and

(ii) may require the immediate suspension of operation of the program by an entity described in subparagraph (B), without the opportunity for corrective action, if the State agency determines that there is imminent threat to the health or safety of a participant at the entity or the entity engages in any activity that poses a threat to public health or safety.

(D) HEARING.—

(i) IN GENERAL.—Except as provided in clause (ii), an institution or family or group day care home shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to terminate participation by the institution or family or group day care home under the program.

(ii) EXCEPTION FOR FALSE OR FRAUDULENT CLAIMS.—

(I) IN GENERAL.—If a State agency determines that an institution has knowingly submitted a false or fraudulent claim for reimbursement, the State agency may suspend the participation of the institution in the program in accordance with this clause.

(II) REQUIREMENT FOR REVIEW.—Prior to any determination to suspend participation of an institution under subclause (I), the State agency shall provide for an independent review of the proposed suspension in accordance with subclause (III).

(III) REVIEW PROCEDURE.—The review shall—

(aa) be conducted by an independent and impartial official other than, and not accountable to, any person involved in the determination to suspend the institution;

(bb) provide the State agency and the institution the right to submit written documentation relating to the suspension, including State agency documentation of the alleged false or fraudulent claim for reimbursement and the response of the institution to the documentation;

(cc) require the reviewing official to determine, based on the review, whether the State agency has established, based on a preponderance of the evidence, that the institution has knowingly submitted a false or fraudulent claim for reimbursement;

(dd) require the suspension to be in effect for not more than 120 calendar days after the institution has received notification of a determination of suspension in accordance with this clause; and

(ee) require the State agency during the suspension to ensure that payments continue

to be made to sponsored centers and family and group day care homes meeting the requirements of the program.

(IV) HEARING.—A State agency shall provide an institution that has been suspended from participation in the program under this clause an opportunity for a fair hearing on the suspension conducted in accordance with subsection (e)(1).

(E) TERMINATION DUE TO FRAUD.—

(i) DEBARMENT.—*In the case that the participation of an institution or family or group day care home under the program is terminated due to a final determination of fraud, the Secretary shall permanently debar such institution or family or group day care home from participating in the program.*

(ii) PROVIDERS DEBARRED FROM CHILD CARE AND DEVELOPMENT BLOCK GRANT PROGRAM.—*In the case that an institution or family or group day care home has been debarred from receiving financial assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9857 et seq.) in accordance with section 658I(b)(3)(B) of such Act, the Secretary shall permanently debar such institution or family or group day care home from participating in the program.*

(iii) FINAL DETERMINATION OF FRAUD DEFINITION.—*In this subparagraph, the term “final determination of fraud” means a determination reached in accordance with the procedures and requirements of this section, for which any rights to review or appeal have been exhausted or waived, that an institution or family or group day care home—*

*(I) knowingly submitted a false statement or documentation to obtain funds disbursed under subsection (f)(1)(A);*

*(II) misrepresented ownership, enrollment, attendance, or services in connection with the operation of the program by such institution or family or group day care home, or the eligibility of such institution or family or group day care home to operate the program, to obtain such funds;*

*(III) made a knowing and improper expenditure of such funds; or*

*(IV) engaged in any other conduct related to such funds that constituted fraud under Federal or State law.*

**[(E)] (F) LIST OF DISQUALIFIED INSTITUTIONS AND INDIVIDUALS.—**

(i) IN GENERAL.—The Secretary shall maintain a list of institutions, sponsored family or group day care homes, and individuals that have been terminated or otherwise disqualified from participation in the program.

(ii) AVAILABILITY.—The Secretary shall make the list available to State agencies for use in approving or renewing applications by institutions, sponsored family

or group day care homes, and individuals for participation in the program.

(e) HEARINGS.—

(1) IN GENERAL.—Except as provided in paragraph (4), each State agency shall provide, in accordance with regulations promulgated by the Secretary, an opportunity for a fair hearing and a prompt determination to any institution aggrieved by any action of the State agency that affects—

(A) the participation of the institution in the program authorized by this section; or

(B) the claim of the institution for reimbursement under this section.

(2) REIMBURSEMENT.—In accordance with paragraph (3), a State agency that fails to meet timeframes for providing an opportunity for a fair hearing and a prompt determination to any institution under paragraph (1) in accordance with regulations promulgated by the Secretary, shall pay, from non-Federal sources, all valid claims for reimbursement to the institution and the facilities of the institution during the period beginning on the day after the end of any regulatory deadline for providing the opportunity and making the determination and ending on the date on which a hearing determination is made.

(3) NOTICE TO STATE AGENCY.—The Secretary shall provide written notice to a State agency at least 30 days prior to imposing any liability for reimbursement under paragraph (2).

(4) FEDERAL AUDIT DETERMINATION.—A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

(5) SECRETARIAL HEARING.—If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

(f) STATE DISBURSEMENTS TO INSTITUTIONS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(B) FRAUD OR ABUSE.—

(i) IN GENERAL.—The State may recover funds disbursed under subparagraph (A) to an institution if the State determines that the institution has engaged in fraud or abuse with respect to the program or has submitted an invalid claim for reimbursement.

(ii) PAYMENT.—Amounts recovered under clause (i)—

(I) may be paid by the institution to the State over a period of one or more years; and

(II) shall not be paid from funds used to provide meals and supplements.

(iii) HEARING.—An institution shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to recover funds under this subparagraph.

(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch, or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), 2 meals and 1 supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.

(C) LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), a sponsoring organization of a day care center may reserve not more than 15 percent of the funds provided under paragraph (1) for the administrative expenses of the organization.

(ii) WAIVER.—A State may waive the requirement in clause (i) with respect to a sponsoring organization if the organization provides justification to the State that the organization requires funds in excess of 15 percent of the funds provided under paragraph (1) to pay the administrative expenses of the organization.

(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) REIMBURSEMENT FACTOR.—

(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term “tier I family or group day care home” means—

(aa) a family or group day care home that is located in a geographic area, as defined by

the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

(bb) a family or group day care home that is located in an area served by a school enrolling students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(III) INFORMATION AND DETERMINATIONS.—

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

(dd) TRANSMISSION OF INCOME INFORMATION BY SPONSORED FAMILY OR GROUP DAY CARE HOMES.—If a family or group day care home elects to be provided reimbursement factors described in subclause (II), the family or group day care home may assist in the transmission of necessary household income information to the family or group day care home sponsoring organization in accordance with the policy described in item (ee).

(ee) POLICY.—The Secretary shall develop a policy under which a sponsored family or group day care home described in item (dd) may, under terms and conditions specified by the Secretary and with the written consent of the parents or guardians of a child in a family or group day care home participating in the program, assist in the transmission of the income information of the family to the family or group day care home sponsoring organization.

(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause

(ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

(cc) Such other simplified procedures as the Secretary may prescribe.

(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.

(B) ADMINISTRATIVE FUNDS.—

(i) IN GENERAL.—In addition to reimbursement factors described in subparagraph (A), a family or group day care home sponsoring organization shall receive reimbursement for the administrative expenses of the sponsoring organization in an amount that is not less than the product obtained each month by multiplying—

(I) the number of family and group day care homes of the sponsoring organization submitting a claim for reimbursement during the month; by

(II) the appropriate administrative rate determined by the Secretary.

(ii) ANNUAL ADJUSTMENT.—The administrative reimbursement levels specified in clause (i) shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available.

(iii) CARRYOVER FUNDS.—The Secretary shall develop procedures under which not more than 10 percent of the amount made available to sponsoring organizations under this section for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year.

(C)(i) Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later

date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations assist unlicensed family or group day care homes in becoming licensed.

(D) LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Subject to clause (ii), a State agency shall limit the ability of a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year.

(ii) GOOD CAUSE.—The State agency may permit or require a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year for good cause (as determined by the State agency), including circumstances in which the sponsoring organization of the family or group day care home ceases to participate in the child and adult care food program.

(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

(ii) SCHOOL DATA.—

(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than  $\frac{1}{2}$  of the children enrolled are certified to receive free or reduced price meals. The

State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 5 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

(4) By the first day of each month of operation, the State may provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g) NUTRITIONAL REQUIREMENTS FOR MEALS AND SNACKS SERVED IN INSTITUTIONS AND FAMILY OR GROUP DAY CARE HOMES.—

(1) DEFINITION OF DIETARY GUIDELINES.—In this subsection, the term "Dietary Guidelines" means the Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

(2) NUTRITIONAL REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (C), reimbursable meals and snacks served by institutions, family or group day care homes, and sponsored centers participating in the program under this section shall consist of a combination of foods that meet minimum nutri-

tional requirements prescribed by the Secretary on the basis of tested nutritional research.

(B) CONFORMITY WITH THE DIETARY GUIDELINES AND AUTHORITATIVE SCIENCE.—

(i) IN GENERAL.—Not less frequently than once every 10 years, the Secretary shall review and, as appropriate, update requirements for meals served under the program under this section to ensure that the meals—

(I) are consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program authorized under this section, as indicated by the most recent relevant nutrition science and appropriate authoritative scientific agency and organization recommendations.

(ii) COST REVIEW.—The review required under clause (i) shall include a review of the cost to child care centers and group or family day care homes resulting from updated requirements for meals and snacks served under the program under this section.

(iii) REGULATIONS.—Not later than 18 months after the completion of the review of the meal pattern under clause (i), the Secretary shall promulgate proposed regulations to update the meal patterns for meals and snacks served under the program under this section.

(C) EXCEPTIONS.—

(i) SPECIAL DIETARY NEEDS.—The minimum nutritional requirements prescribed under subparagraph (A) shall not prohibit institutions, family or group day care homes, and sponsored centers from substituting foods to accommodate the medical or other special dietary needs of individual participants.

(ii) EXEMPT INSTITUTIONS.—The Secretary may elect to waive all or part of the requirements of this subsection for emergency shelters participating in the program under this section.

(3) MEAL SERVICE.—Institutions, family or group day care homes, and sponsored centers shall ensure that reimbursable meal service contributes to the development and socialization of enrolled children by providing that food is not used as a punishment or reward.

(4) FLUID MILK.—

(A) IN GENERAL.—If an institution, family or group day care home, or sponsored center provides fluid milk as part of a reimbursable meal or supplement, the institution, family or group day care home, or sponsored center shall provide the milk in accordance with the most recent version of the Dietary Guidelines.

(B) MILK SUBSTITUTES.—In the case of children who cannot consume fluid milk due to medical or other special dietary needs other than a disability, an institution, family or group day care home, or sponsored center may substitute for the fluid milk required in meals served, a nondairy beverage that—

(i) is nutritionally equivalent to fluid milk; and  
(ii) meets nutritional standards established by the Secretary, including, among other requirements established by the Secretary, fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk.

(C) APPROVAL.—

(i) IN GENERAL.—A substitution authorized under subparagraph (B) may be made—

(I) at the discretion of and on approval by the participating day care institution; and

(II) if the substitution is requested by written statement of a medical authority, or by the parent or legal guardian of the child, that identifies the medical or other special dietary need that restricts the diet of the child.

(ii) EXCEPTION.—An institution, family or group day care home, or sponsored center that elects to make a substitution authorized under this paragraph shall not be required to provide beverages other than beverages the State has identified as acceptable substitutes.

(D) EXCESS EXPENSES BORNE BY INSTITUTION.—A participating institution, family or group day care home, or sponsored center shall be responsible for any expenses that—

(i) are incurred by the institution, family or group day care home, or sponsored center to provide substitutions under this paragraph; and

(ii) are in excess of expenses covered under reimbursements under this Act.

(5) NONDISCRIMINATION POLICY.—No physical segregation or other discrimination against any person shall be made because of the inability of the person to pay, nor shall there be any overt identification of any such person by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(6) USE OF ABUNDANT AND DONATED FOODS.—To the maximum extent practicable, each institution shall use in its food service foods that are—

(A) designated from time to time by the Secretary as being in abundance, either nationally or in the food service area; or

(B) donated by the Secretary.

(h)(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 6(c) for the school year concerned.

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year

with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

(i) AUDITS.—

(1) DISREGARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), in conducting management evaluations, reviews, or audits under this section, the Secretary or a State agency may disregard any overpayment to an institution for a fiscal year if the total overpayment to the institution for the fiscal year does not exceed an amount that is consistent with the disregards allowed in other programs under this Act and recognizes the cost of collecting small claims, as determined by the Secretary.

(B) CRIMINAL OR FRAUD VIOLATIONS.—In carrying out this paragraph, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.

(2) FUNDING.—

(A) IN GENERAL.—The Secretary shall make available for each fiscal year to each State agency administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount of up to 1.5 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

(B) ADDITIONAL FUNDING.—

(i) IN GENERAL.—Subject to clause (ii), for fiscal year 2016 and each fiscal year thereafter, the Secretary may increase the amount of funds made available to

any State agency under subparagraph (A), if the State agency demonstrates that the State agency can effectively use the funds to improve program management under criteria established by the Secretary.

(ii) LIMITATION.—The total amount of funds made available to any State agency under this paragraph shall not exceed 2 percent of the funds used by each State agency in the program under this section, during the second preceding fiscal year.

(j) AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall issue regulations directing States to develop and provide for the use of a standard form of agreement between each sponsoring organization and the family or group day care homes or sponsored day care centers participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

(2) DURATION.—An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.

(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

(l) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(m) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

(o)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately  $\frac{1}{3}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of

participants, including efforts to serve foods in forms palatable to participants.

(2) For purposes of this subsection—

(A) the term “adult day care center” means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term “proprietary title XIX or title XX center” means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consultation with the Assistant Secretary for Aging, shall establish, within 6 months of enactment, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.

(4) For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).

(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

(q) MANAGEMENT SUPPORT.—

(1) TECHNICAL AND TRAINING ASSISTANCE.—In addition to the training and technical assistance that is provided to State agencies under other provisions of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall

provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

(2) TECHNICAL AND TRAINING ASSISTANCE FOR IDENTIFICATION AND PREVENTION OF FRAUD AND ABUSE.—As part of training and technical assistance provided under paragraph (1), the Secretary shall provide training on a continuous basis to State agencies, and shall ensure that such training is provided to sponsoring organizations, for the identification and prevention of fraud and abuse under the program and to improve management of the program.

(r) PROGRAM FOR AT-RISK SCHOOL CHILDREN.—

(1) DEFINITION OF AT-RISK SCHOOL CHILD.—In this subsection, the term “at-risk school child” means a school child who—

(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 12(d)(1)(A); and

(B) participates in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—An institution may participate in the program authorized under this section only if the institution provides meals or supplements under a program—

(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

(B) with an educational or enrichment purpose.

(3) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

(4) MEAL AND SUPPLEMENT REIMBURSEMENT.—

(A) LIMITATIONS.—An institution may claim reimbursement under this subsection only for one meal per child per day and one supplement per child per day served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year.

(B) RATES.—

(i) MEALS.—A meal shall be reimbursed under this subsection at the rate established for free meals under subsection (c).

(ii) SUPPLEMENTS.—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

(C) NO CHARGE.—A meal or supplement claimed for reimbursement under this subsection shall be served without charge.

(5) LIMITATION.—An institution participating in the program under this subsection may not claim reimbursement for meals

and snacks that are served under section 18(h) on the same day.

(6) HANDBOOK.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary shall—

(i) issue guidelines for afterschool meals for at-risk school children; and

(ii) publish a handbook reflecting those guidelines.

(B) REVIEW.—Each year after the issuance of guidelines under subparagraph (A), the Secretary shall—

(i) review the guidelines; and

(ii) issue a revised handbook reflecting changes made to the guidelines.

(s) INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—

(1) IN GENERAL.—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) REQUIREMENTS FOR STATE AGENCIES.—Each State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

(A) receives materials that include—

(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

(ii) the maximum State income eligibility standards, according to family size, for the program; and

(iii) information concerning how benefits under the program may be obtained;

(B) receives periodic updates of the information described in subparagraph (A); and

(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.

(t) PARTICIPATION BY EMERGENCY SHELTERS.—

(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term “emergency shelter” means—

(A) an emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)); or

(B) a site operated by the shelter.

(2) ADMINISTRATION.—Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

(3) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(5) shall not apply to an emergency shelter.

(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emer-

gency shelter shall comply with applicable State or local health and safety standards.

(5) MEAL OR SUPPLEMENT REIMBURSEMENT.—

(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection—

(i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—

(I) not more than 18 years of age; or

(II) children with disabilities; and

(ii) for not more than 3 meals, or 2 meals and a supplement, per child per day.

(B) RATE.—A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

(C) NO CHARGE.—A meal or supplement claimed for reimbursement shall be served without charge.

(u) PROMOTING HEALTH AND WELLNESS IN CHILD CARE.—

(1) PHYSICAL ACTIVITY AND ELECTRONIC MEDIA USE.—The Secretary shall encourage participating child care centers and family or group day care homes—

(A) to provide to all children under the supervision of the participating child care centers and family or group day care homes daily opportunities for structured and unstructured age-appropriate physical activity; and

(B) to limit among children under the supervision of the participating child care centers and family or group day care homes the use of electronic media to an appropriate level.

(2) WATER CONSUMPTION.—Participating child care centers and family or group day care homes shall make available to children, as nutritionally appropriate, potable water as an acceptable fluid for consumption throughout the day, including at meal times.

(3) TECHNICAL ASSISTANCE AND GUIDANCE.—

(A) IN GENERAL.—The Secretary shall provide technical assistance to institutions participating in the program under this section to assist participating child care centers and family or group day care homes in complying with the nutritional requirements and wellness recommendations prescribed by the Secretary in accordance with this subsection and subsection (g).

(B) GUIDANCE.—Not later than January 1, 2012, the Secretary shall issue guidance to States and institutions to encourage participating child care centers and family or group day care homes serving meals and snacks under this section to—

(i) include foods that are recommended for increased serving consumption in amounts recommended by the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), including fresh, canned, dried, or frozen fruits and vegetables, whole grain products, lean meat products, and low-fat and non-fat dairy products; and

(ii) reduce sedentary activities and provide opportunities for regular physical activity in quantities recommended by the most recent Dietary Guidelines for Americans described in clause (i).

(C) NUTRITION.—Technical assistance relating to the nutritional requirements of this subsection and subsection (g) shall include—

(i) nutrition education, including education that emphasizes the relationship between nutrition, physical activity, and health;

(ii) menu planning;

(iii) interpretation of nutrition labels; and

(iv) food preparation and purchasing guidance to produce meals and snacks that are—

(I) consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program under this section, as recommended by authoritative scientific organizations.

(D) PHYSICAL ACTIVITY.—Technical assistance relating to the physical activity requirements of this subsection shall include—

(i) education on the importance of regular physical activity to overall health and well being; and

(ii) sharing of best practices for physical activity plans in child care centers and homes as recommended by authoritative scientific organizations.

(E) ELECTRONIC MEDIA USE.—Technical assistance relating to the electronic media use requirements of this subsection shall include—

(i) education on the benefits of limiting exposure to electronic media by children; and

(ii) sharing of best practices for the development of daily activity plans that limit use of electronic media.

(F) MINIMUM ASSISTANCE.—At a minimum, the technical assistance required under this paragraph shall include a handbook, developed by the Secretary in coordination with the Secretary for Health and Human Services, that includes recommendations, guidelines, and best practices for participating institutions and family or group day care homes that are consistent with the nutrition, physical activity, and wellness requirements and recommendations of this subsection.

(G) ADDITIONAL ASSISTANCE.—In addition to the requirements of this paragraph, the Secretary shall develop and provide such appropriate training and education materials, guidance, and technical assistance as the Secretary considers to be necessary to comply with the nutritional and wellness requirements of this subsection and subsection (g).

(H) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Sec-

retary to provide technical assistance under this subsection \$10,000,000, to remain available until expended.

(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under clause (i), without further appropriation.

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## MINORITY VIEWS

### INTRODUCTION

H.R. 7723, the *Safeguarding Taxpayer Dollars in Child Care Act* introduced by Rep. Virginia Foxx (R–NC), would give the Secretary of Health and Human Services and the Secretary of Agriculture the ability to permanently debar child care providers from receiving funding through the Child Care and Development Block Grant or the Child and Adult Care Food Program if the respective Secretary deems them guilty of fraud. While on its face, this may seem like a straightforward approach to deal with fraud, it raises significant implementation questions and could, despite no instances of fraud, have the effect of reducing the supply of child care providers. Safeguarding the integrity of federal child care and food programs is critical. But, Committee Democrats caution against making changes to the current program requirements without proof of alleged widespread fraud. Such acts have the effect of exacerbating the current child care and hunger crisis in this nation—and that should be unacceptable.

### REPUBLICANS REFUSE TO FOCUS ON THE CHILD CARE CRISIS ACTUALLY AFFECTING AMERICAN FAMILIES

Child care is a necessity for millions of American families.<sup>1</sup> In many parts of the country, the cost of child care, when families can find it, can be as much as, or more than their rent or mortgage payments.<sup>2</sup> In many communities, child care simply does not exist in sufficient supply to meet demand.<sup>3</sup> As a direct result, our economy loses an estimated \$122 billion in earnings, productivity, and revenue every year.<sup>4</sup> This is not a personal failure on the part of parents or providers—it is a market failure that demands a policy response. The Child Care and Development Block Grant (CCDBG) is a federal program designed to provide child care assistance to low-income families and is administered through block grants to states.<sup>5</sup> CCDBG funds, along with other federal funds not under the jurisdiction of this Committee, make up the Child Care Development Fund (CCDF), the largest federal source of child care fund-

<sup>1</sup>*Fact Sheet: Child Care and the Economy, First Five Years Fund* (Mar. 6, 2026), <https://www.ffyf.org/2024/03/06/fact-sheet-child-care-and-the-economy/>.

<sup>2</sup>Child Care Aware of America, “Annual Child Care Landscape Analysis”, <https://www.childcareaware.org/price-landscape24/> (last visited Jan. 28, 2026).

<sup>3</sup>*See U.S. Child Care Deserts*, Ctr. for Am. Prog., <https://childcaredeserts.org/> (last visited Mar. 13, 2026).

<sup>4</sup>*How a Lack of Affordable Child Care Impacts the Economy, First Five Years Fund* (Mar. 13, 2025), <https://www.ffyf.org/resources/2025/03/how-a-lack-of-affordable-child-care-impacts-the-economy/>.

<sup>5</sup>Nina Chien, *Estimates of Child Care Subsidy Eligibility & Receipt for Fiscal Year 2021*, Off. of Hum. Svcs. Poly (Sep. 11, 2024), <https://aspe.hhs.gov/sites/default/files/documents/a91fd97aa80b53fa52a52d38cd323509/cy2021-child-care-subsidy-eligibility.pdf>.

ing.<sup>6</sup> Yet, according to the most recent publicly available information, federal child care funds cover only about 15 percent of federally eligible children.<sup>7</sup> Assuming that Congress provided sufficient resources cover the remaining 85% of eligible children, that would still leave many families—who are not eligible for the program—with the burden of unaffordable or unavailable child care.

In response to this reality, Committee Democrats have championed legislation focused on increasing the federal investment in child care. Specifically, this Congress, Ranking Member Robert C. “Bobby” Scott (D–VA) re-introduced H.R. 4418, the *Child Care for Working Families Act*.<sup>8</sup> The *Child Care for Working Families Act* would tackle the child care crisis head-on: ensuring families can afford the child care they need, expanding access to more high-quality options, stabilizing the child care sector, and helping ensure child care workers taking care of our nation’s kids are paid livable wages. The bill provides grants to states to help expand the supply and capacity of eligible child care providers and aims to provide working families a range of high-quality, affordable child care options, in a variety of settings, that meet their unique needs, with no family paying more than seven percent of their income for child care costs.

H.R. 4418 would promote the stability of the child care sector by providing a source of stable funding to eligible child care providers to help offset their operating expenses. It would support sustained and increased wages for early childhood educators or other staff eligible providers, in order to stabilize and grow the child care workforce. It would support access to child care services for communities facing a particular shortage of child care options, including child care services for infants and toddlers, child care services during nontraditional or extended hours, and inclusive child care services for children with disabilities. Language similar to H.R. 4418 was included in the *Build Back Better Act*, which passed the House in November 2021.<sup>9</sup>

Instead of working to fix the child care supply and demand issue, the Trump Administration’s actions have only created additional uncertainty for the child care sector, parents, and children.<sup>10</sup> Almost immediately after President Trump took office in January 2025, the Office of Management and Budget announced that it was directing federal agencies to “temporarily pause all activities related to obligation or disbursement of all Federal financial assistance. . . .”<sup>11</sup> This funding pause was later rescinded,<sup>12</sup> but it initially caused significant confusion and consternation among federal

<sup>6</sup> Rebecca Daugherty, *Child Care and Development Fund: CCDBG and CCES, Explained*, Bipartisan Pol’y Ctr. (Feb. 24, 2025) <https://bipartisanpolicy.org/explainer/child-care-and-development-fund-ccdbg-cces/>.

<sup>7</sup> Chien, *supra* note 5, at 1.

<sup>8</sup> H.R. 4418, 119th Cong. (2025).

<sup>9</sup> H.R. 5376 § 23001, 117th Cong. (as passed by House, Nov. 19, 2021).

<sup>10</sup> Hailey Gibbs & Casey Peeks, *Trump’s Attack on Child Care Funding Undermines Early Educators, Shortchanges Children, and Increases Costs for Families*, Ctr. for Am. Prog. (Jan. 12, 2026), <https://www.americanprogress.org/article/trumps-attack-on-child-care-funding-undermines-early-educators-shortchanges-children-and-increases-costs-for-families/>.

<sup>11</sup> *Read the Memo Pausing Federal Grants and Loans*, N.Y. Times (Jan. 27, 2026), <https://www.nytimes.com/interactive/2025/01/27/us/omb-memo.html>.

<sup>12</sup> *New Administration Highlights: Freeze on Federal Funds Rescinded, and Trump Signs Law to Ease Path to Deportations*, N.Y. Times, <https://www.nytimes.com/live/2025/01/29/us/trump-federal-freeze-funding-news?smid=url-share#federal-freeze-grants> (last updated Nov. 18, 2025).

fund recipients in the child care community. These recipients are overwhelmingly non-profit organizations which generally operate with no more than a few days of reserve funds.<sup>13</sup>

Further, the Trump Administration has undermined Department of Health and Human Services staff, specifically those responsible for administering CCDF and providing support to states administering CCDBG and related programs. As the Center for Law and Social Policy summarized the issue,

[p]robatory staff at the Office of Head Start (OHS) and the Office of Child Care (OCC) were laid off in February, resulting in a reduction of approximately 20 percent of staff. This was followed by the mass layoffs announced on April 1, resulting in an overall reduction of 40–50 percent of staff in OHS and OCC and the closure of five regional offices, which provided training and technical assistance, administrative support in ensuring grants reached facilities, and served as a liaison between program administrators and the federal government. These offices in Boston, Chicago, New York, San Francisco, and Seattle oversaw grantees in 23 states and five territories, and comprised half of the total regional offices across the country.<sup>14</sup>

Regrettably, the Majority has followed this Administration’s lead. Instead of considering bills to help address the crisis by increasing the supply of child care, making child care more affordable, or increasing the wages of child care workers, the Committee considered H.R. 7723 and seven other bills to address alleged and unproven widespread fraud in the child care sector.<sup>15</sup> None of these bills will create one more additional child care slot. Instead, these bills complement each other by throwing sand into the gears of CCDF, increasing the chances that states will be capriciously disqualified from federal child care assistance not due to widespread fraud, but non-compliance with red tape.

THE MAJORITY SEEKS TO UPEND THE EXISTING CHILD CARE SYSTEM  
OVER UNPROVEN ALLEGATIONS OF WIDESPREAD FRAUD

*National Attention on Alleged Widespread Fraud in Child Care*

In late December 2025, a publicly posted video surfaced that purported to show “proof” that several day care centers in Minnesota were committing fraud. The video alleged these centers were taking federal child care funds, administered through the state, without

<sup>13</sup> Press Release, Child Care Aware of America, Child Care Aware of America Reacts to Federal Funding Pause (Jan. 28, 2026), <https://info.childcareaware.org/media/child-care-aware-of-america-reacts-to-federal-funding-freeze>.

<sup>14</sup> Shira Small, *Federal Cuts to Child Care and Head Start are an Attack on Families with Low Incomes*, Ctr. on L. & Soc. Pol’y (Apr. 23, 2025), <https://www.clasp.org/blog/federal-cuts-child-care-head-start/>.

<sup>15</sup> H.R. 7720, *the Child Care Payment Integrity and Fraud Accountability Act*, H.R. 7721, *Combating Regulatory Abuse, Closing Known Deficiencies, and Overseeing Waste Nationwide (CRACKDOWN) Act*, H.R. 7722, *Child Care Integrity Monitoring Act*, H.R. 7723, *Safeguarding Taxpayer Dollars in Child Care Act*, H.R. 7724, *No Waivers for Fraud Act*, H.R. 7725, *Stop Child Care Fraud Act*, H.R. 7677, *Closing the Provider Fraud Gap Act*, and H.R. 7726, *No Funds for Repeat Child Care Violation Act* Before the H. Comm. on Educ. & Workforce, 119th Cong. (Mar. 5, 2026).

actually caring for children.<sup>16</sup> Despite the fact that the Minnesota agency administering CCDF found that the child care centers were operating as expected at the time of the video,<sup>17</sup> some media outlets and Republican officials brought national attention to the story.<sup>18</sup> The Trump Administration then announced an immediate freeze on all child care funds to Minnesota<sup>19</sup> and engaged its “Defend the Spend” system nationwide—requiring grantees to provide detailed documentation and proof of payment before receiving reimbursement for all funds distributed through the Administration for Children and Families at the Department of Health and Human Services (HHS).<sup>20</sup> Soon thereafter, HHS announced suspension of five states’ access to nearly \$10 million through CCDF, the Temporary Assistance for Needy Families, and the Social Services Block Grant.<sup>21</sup> HHS provided no evidence of fraud in these five states—California, Colorado, Illinois, Minnesota, and New York—beyond the fact they are led by Democratic Governors. HHS claims this action was taken due to “concerns about widespread fraud and misuse of taxpayer dollars in state-administered programs” and concerns that these funds may have gone to those not eligible due to their immigration status.<sup>22</sup> Thankfully, courts have blocked this funding freeze<sup>23</sup> but it is extremely concerning that the Administration sought to punish states without proof of such allegations.

Unfortunately, it is under the same unproven allegations and general theories of “widespread fraud” that the Majority chose to consider eight bills purporting to address fraud in CCDBG.<sup>24</sup> Like the Administration, the Majority did not produce any evidence of widespread fraud in the program, presenting only vague and unfounded allegations. Similarly, the Majority has chosen not to engage with (or even meaningfully acknowledge) the processes HHS already has in place, as required by law, charging states to prevent and catch fraud.

#### *Existing Program Integrity Requirements*

Generally, federal agencies must protect against improper payments in grant programs. The *Payment Integrity Information Act of 2019* (PIIA) requires Executive Branch agencies to determine if improper payment rates for programs have exceeded significant

<sup>16</sup> Ken Bensinger & Ernesto Londoño, *An Intense White House Response From a Single Viral Video*, N.Y. Times (Dec. 31, 2025), <https://www.nytimes.com/2025/12/31/business/media/trump-conservatives-videos-viral-loop.html>.

<sup>17</sup> Phil Helsel & Julia Ainsley, *Minnesota department finds child care centers targeted in viral video operating normally*, NBC News (Jan. 2, 2026), <https://www.nbcnews.com/news/us-news/minnesota-department-finds-child-care-centers-targeted-viral-video-ope-rcna252013>.

<sup>18</sup> Bensinger & Londoño, *supra* note 16.

<sup>19</sup> *Id.*

<sup>20</sup> Sakshi Venkatraman & Max Matza, *Trump administration says it’s withholding childcare funds from Minnesota amid fraud allegations*, BBC (Dec. 30, 2025), <https://www.bbc.com/news/articles/c75xndvlyko>.

<sup>21</sup> Press Release, U.S. Dep’t of Health & Hum. Svcs., *HHS Freezes Child Care and Family Assistance Grants in Five States for Fraud Concerns* (Jan 6, 2026), <https://www.hhs.gov/press-room/hhs-freezes-child-care-family-assistance-grants-five-states-fraud-concerns.html>.

<sup>22</sup> *Id.* (emphasis added).

<sup>23</sup> Minho Kim & Zach Montague, *Judge Extends Block on Trump Officials Slashing Funds to Democratic States*, N.Y. Times (Feb. 6, 2026), <https://www.nytimes.com/2026/02/06/us/politics/blue-states-trump-funding-lawsuit.html>.

<sup>24</sup> Press Release, Committee on Education & Workforce Republicans, *Chairman Walberg Delivers Opening Statement at Markup to Crackdown on Child Care Fraud* (Mar 5, 2026), <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=413157>.

thresholds.<sup>25</sup> Agencies are considered noncompliant if any relevant program has an “improper payment rate” of more than 10 percent.<sup>26</sup> Improper payments include any payment made for an incorrect amount, to an ineligible recipient, or for an ineligible service. In the context of federal child care funds, an example of an improper payment would be a payment to a provider that was made in an incorrect amount (overpayment or underpayment) or that should not have been made at all.<sup>27</sup> However, the term “improper payments” does not automatically denote “fraud”. As stated in a Government Accountability Office Q&A report to the House Appropriations Committee, “[w]hile all fraudulent payments are considered improper, not all improper payments are due to fraud.”<sup>28</sup> PIIA directs federal agencies to, at least every three years, assess their programs to consider factors that may increase the risk of improper payments, including their susceptibility to fraud.<sup>29</sup>

HHS generally assesses states’ compliance with law and regulations through its review and approval of a state’s CCDF plan, which “serves as the Lead Agency’s [the agency in a state or territory that administers the CCDF program] application for a three-year cycle of CCDF funds and is the primary mechanism OCC uses to determine Lead Agency compliance with the requirements of CCDBG and its regulations”.<sup>30</sup> In its review of the plan, HHS can identify places where a state is out of compliance and provides a state with the opportunity to address the particular issue or face penalties.<sup>31</sup>

More specifically, the CCDBG Act and its regulations already provide HHS with enforcement authority to ensure that states are complying with the program’s requirements. For example, the law gives HHS the authority to ensure states “comply substantially” with the law.<sup>32</sup> Further, “after reasonable notice to a State and opportunity for a hearing”, HHS may disallow improperly spent funds, deduct improperly spent funds from subsequent allotments, take some combination of the those actions, or impose other sanctions.<sup>33</sup> Regulations make clear HHS ability to monitor these programs for compliance with law and addresses the process HHS and states may take when a “review or investigation reveals evidence” that a state’s child care agency or “an entity providing services under contract or agreement with” a lead agency has “failed to substantially comply” with the law, regulations, or provisions and requirements set out in the state’s plan.<sup>34</sup> It is also worth noting that law and regulation require states to arrange independent audits of their programs and require states to repay the federal government

<sup>25</sup> 31 U.S.C. § 3352. The statute defines significant as either \$10 million and 1.5 percent of total program outlays or \$100 million overall. *Id.*

<sup>26</sup> 31 U.S.C. § 3351.

<sup>27</sup> *See, e.g.*, 45 C.F.R. § 98.100(d).

<sup>28</sup> U.S. Gov’t Accountability Off., GAO–24–107482, Improper Payments: Key Concepts and Information on Programs with High Rates or Lacking Estimates 5 (2024), <https://www.gao.gov/assets/gao-24-107482.pdf>.

<sup>29</sup> 31 U.S.C. § 3352.

<sup>30</sup> *FY 2025–2027 Child Care and Development Fund (CCDF) Plan for States and Territories*, Off. of Child Care, <https://acf.gov/occ/policy-guidance/fy-2025-2027-ccdf-plan-states-and-territories-ccdf-acf-pi-2024-01> (last updated July 15, 2024).

<sup>31</sup> *Id.*

<sup>32</sup> *E.g.*, 42 U.S.C. § 9858g(b)(2).

<sup>33</sup> *Id.*

<sup>34</sup> 45 C.F.R. § 98.90.

for funds that are found to be misspent or HHS can deduct these amounts from future payments to the state.<sup>35</sup> These are examples of ways the law and regulation aim to provide for program integrity.

Additionally, as the Government Accountability Office (GAO) noted in 2020, “[the Office of Child Care (OCC) at HHS] oversees states” improper payment risks through a process that includes a requirement for states to submit corrective action plans (CAP) when they estimate their annual payment error [or improper] rates are at or above 10 percent.”<sup>36</sup> Additionally, OCC conducts on-site monitoring reviews of each state for each three-year period.<sup>37</sup> HHS recently began the practice of posting oversight reports resulting from these visits.<sup>38</sup>

Changes have been made over the years to improve program integrity. For example, in 2020, GAO published a report entitled “Child Care and Development Fund: Office of Child Care Should Strengthen Its Oversight and Monitoring of Program-Integrity Risks” that explained the need for HHS to assess fraud risks to the fund and highlighted nine recommendations to better protect the integrity of the fund.<sup>39</sup> GAO later indicated that HHS had addressed all nine of these recommendations.<sup>40</sup> However, regardless of any recent improvements that have been made, the Trump Administration’s reductions-in-force in 2025 did nothing to improve program integrity as fewer staff were now available to help monitor the program.

#### *Misuse of Federal Child Nutrition Funds*

The Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP) were instrumental in feeding children across the country during the COVID-19 public health emergency. Pursuant to bipartisan legislation signed into law by President Trump in his first term, the U.S. Department of Agriculture (USDA) waived various program requirements during this time, allowing school districts and nonprofits to operate SFSP and CACFP under pandemic-related flexibilities.<sup>41</sup> These bipartisan backed flexibilities allowed for off-site food distribution and waived on-site monitoring requirements.<sup>42</sup> During that time, off-site feeding programs supported youths’ access to food in complementary ways when U.S. schools were closed during the COVID-19 pan-

<sup>35</sup> CCDBG Act § 658K(b), 42 U.S.C. § 9858i; 45 C.F.R. § 98.65.

<sup>36</sup> U.S. Gov’t Accountability Off., GAO-20-227, Office of Child Care Should Strengthen Its Oversight and Monitoring of Program-Integrity Risks, (2020), <https://www.gao.gov/assets/gao-20-227-highlights.pdf>.

<sup>37</sup> *FFY 2025-2027 CCDF Federal Onsite Monitoring & Oversight Visits*, Off. of Child Care, <https://acf.gov/occ/report/ffy-2025-2027-monitoring-reports-oversight-visits> (last updated Mar. 2, 2026).

<sup>38</sup> *Id.*

<sup>39</sup> U.S. Gov’t Accountability Off., *supra* note 36.

<sup>40</sup> *Id.*

<sup>41</sup> Randy Alison Aussenberg et al., Cong. Rsrch. Serv., R46681, USDA Nutrition Assistance Programs: Response To The Covid-19 Pandemic (2023), <https://crsreports.congress.gov/product/pdf/R/R46681>.

<sup>42</sup> U.S. Dep’t of Ag., Food & Nutrition Serv., Child Nutrition Program Operations During the COVID-19 Pandemic—July 2021 through September 2022, (Mar. 19, 2026), <https://www.fns.usda.gov/research/school-meals/program-operations/sy2021-22>.

demic from March to June 2020.<sup>43</sup> In a series of virtual interviews with program directors from 21 states, state directors reported that the waivers allowed child care providers to feed children despite closures or limited enrollment.<sup>44</sup>

Nutrition programs were not uniquely susceptible to fraud; like many other pandemic relief programs, bad actors took advantage of oversight flexibility to attempt to defraud federal programs.<sup>45</sup> Under the Biden Administration, the Department of Justice announced federal criminal charges against individuals associated with Feeding Our Future<sup>46</sup>—a Minnesota-based nonprofit organization that misused federal child nutrition funds during the COVID-19 pandemic. Over 78 people have been charged so far with crimes in the scheme, with many already receiving convictions.<sup>47</sup> Throughout the federal investigation, the Minnesota Department of Education and the State Attorney General’s office worked closely together and cooperated with federal investigators.<sup>48</sup>

While there was genuine and egregious fraud committed by Feeding our Future, a federal investigation was conducted under the Biden Administration and the state of Minnesota cooperated with the investigation. Despite this fact and the clear record of prosecutions, Republicans have consistently asserted the Feeding Our Future scheme was left unchecked and Governor Tim Walz, Attorney General Keith Ellison, and Minnesota Democrats. Contrary to facts, House Republicans claimed Minnesota officials failed to act despite repeated warnings<sup>49</sup> and allegedly retaliated against whistleblowers who raised concerns.<sup>50</sup> In a January Committee on Oversight and Government Reform hearing on the fraud allegations involving Feeding Our Future, several Republican Members and witnesses suggested that Governor Tim Walz’s administration had “political incentive” to prolong the fraud and that the Biden

<sup>43</sup>Erica Kenney et al., *Costs, Reach, and Benefits of COVID-19 Pandemic Electronic Benefit Transfer and Grab-and-Go School Meals for Ensuring Youths’ Access to Food During School Closures*, JAMA Network Open (Aug., 2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2795795>.

<sup>44</sup>Dipti A. Dev, et al. *Implementation of Federal Waivers for Feeding Children in Early Care and Education During the COVID-19 Pandemic*, NIH National Libr. of Medicine: National Ctr. for Biotechnology Info., (2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9537749/>.

<sup>45</sup>*E.g.*, *Where did all the covid aid money go?*, Wash. Post (Sept. 8, 2022), <https://www.washingtonpost.com/business/interactive/2022/covid-money-trail-investigation-explained/>.

<sup>46</sup>Press Release, U.S. Dep’t of Justice, U.S. Attorney Announces Federal Charges Against 47 Defendants in \$250 Million Feeding Our Future Fraud Scheme (Sept. 20, 2022), <https://www.justice.gov/archives/opa/pr/us-attorney-announces-federal-charges-against-47-defendants-250-million-feeding-our-future>.

<sup>47</sup>Press Release, U.S. Attorney’s Office for the District of Minnesota, *78th Defendant Charged in Feeding Our Future Fraud Scheme*, U.S. Dep’t of Justice (Nov. 24, 2025), <https://www.justice.gov/usao-mn/pr/78th-defendant-charged-feeding-our-future-fraud-scheme>.

<sup>48</sup>Off. of the Legislator Auditor, Minnesota Department of Education: Oversight of Feeding Our Future, 105–109 (June 2024), <https://www.auditor.leg.state.mn.us/sreview/pdf/2024-mdefof.pdf>; Oversight of Fraud and Misuse of Federal Funds in Minnesota: Part II: Hearing Before the Comm. on Oversight and Gov’t Ref., 119th Cong. 5–6 (Mar. 4, 2026) (Statement of Tim Walz, Governor), <https://oversight.house.gov/wp-content/uploads/2026/03/Walz-Written-Testimony.pdf>; Press Release, The Off. of Minnesota Att’y Gen. Keith Ellison, *For Two Years Attorney General Ellison’s Office Has Held Feeding Our Future Accountable* (Sept. 26, 2022), [https://www.ag.state.mn.us/Office/Communications/2022/09/26\\_FeedingOurFuture.asp](https://www.ag.state.mn.us/Office/Communications/2022/09/26_FeedingOurFuture.asp).

<sup>49</sup>H. Comm. on Oversight & Accountability, *Chairman Comer Opens Hearing on Massive Fraud in Minnesota’s Social Programs* (Jan. 7, 2026), <https://oversight.house.gov/release/chairman-comer-opens-hearing-on-massive-fraud-in-minnesotas-social-programs/>.

<sup>50</sup>H. Comm. on Oversight & Accountability, *Chairman Comer Widens Investigation into Fraud in Minnesota’s Social Services Programs* (Jan. 23, 2026), <https://oversight.house.gov/release/chairman-comer-widens-investigation-into-fraud-in-minnesotas-social-services-programs/>.

administration covered up the fraud for “political reasons” related to the 2024 election.<sup>51</sup>

*Cases of Actual Fraud Should Be Addressed, Not Politicized*

Fraud in child care should be taken seriously, not politicized. The Majority have proposed bills—including H.R. 7723, the *Safeguarding Taxpayer Dollars in Child Care Act*— that could have the overall effect of upending the child care system to address a problem that has not been proven to exist. These changes could cause states to spend more of their child care funds on administrative and oversight costs, reducing the supply of child care available to families, and punishing states and child care providers for unintentional administrative and human errors.

H.R. 7723 WILL REDUCE FAMILIES’ ACCESS TO CHILD CARE AND HEALTHY FOOD

H.R. 7723, the *Safeguarding Taxpayer Dollars in Child Care Act*, would give the Secretary of HHS and the Secretary of Agriculture the ability to permanently debar child care providers from receiving funding through the Child Care and Development Block Grant or the Child and Adult Care Food Program if the Secretary deems them guilty of fraud. While the Secretary of HHS is already required to “review and monitor State compliance”,<sup>52</sup> this bill would require the Secretary to “investigate fraud”—a crime whose investigation is usually reserved to law enforcement, including inspectors general. The legislative text is unclear about how this new authority for the Secretary of HHS could impact law enforcement’s ability to conduct fraud investigations and whether this language would impede a state’s due process. The Child Care for Every Family Network describes the issue succinctly by saying the bill would “make it easier for HHS to permanently bar child care providers from receiving federal funds for non-fraudulent actions like missing signatures or paperwork.”<sup>53</sup> As previously detailed, processes already exist within the CCDBG program to report fraud, collaborate with law enforcement, and incentivize states to lower improper payment rates.

While H.R. 7723 would permanently debar an institution or family or group day care home from participating in CACFP if their participation is terminated due to a final determination of fraud, current federal statute and regulations already include processes in place to identify fraud and remove institutions or family or group day care homes that are non-compliant with federal regulations from CACFP.<sup>54</sup> Under the current serious deficiency (SD) process, institutions or family or group day care homes that are disqualified for non-compliance with federal regulations are placed on the Na-

<sup>51</sup> Danya Gainor, *House Oversight Hearing over Fraud Allegations in Minnesota Drew Shouting and Partisan Fury. Here Are the Takeaways*, CNN (Jan. 7, 2026), <https://www.cnn.com/2026/01/07/us/takeaways-minnesota-fraud-hearing>.

<sup>52</sup> 42 U.S.C. § 9858g(b)(1).

<sup>53</sup> Letter from the Child Care for Every Family Network to Interested Parties (Mar. 4, 2026), [https://democrats-edworkforce.house.gov/imo/media/doc/child\\_care\\_for\\_every\\_family\\_network\\_opposes\\_hr7726.pdf](https://democrats-edworkforce.house.gov/imo/media/doc/child_care_for_every_family_network_opposes_hr7726.pdf).

<sup>54</sup> U.S. Dep’t of Agric., Food & Nutrition Serv., *Serious Deficiency, Suspension, & Appeals for State Agencies & Sponsoring Organizations A Child and Adult Care Food Program Handbook* (2015), <https://www.fns.usda.gov/cacfp/serious-deficiency-suspension-appeals-state-agencies-and-sponsoring-organizations>.

tional Disqualified List (NDL), a “USDA-maintained list of institutions, responsible principles, and individuals disqualified from participation in federal nutrition programs.”<sup>55</sup> Institutions or family or group day care homes placed on the list are required to remain on the NDL, for seven years or until outstanding debt is repaid, unless it is determined that the serious deficiencies have been corrected.<sup>56</sup> Institutions or family or group day care homes can be removed from the list early if outstanding debt is repaid and a request is submitted to the state agency with documentation of corrective action taken.<sup>57</sup>

USDA is currently undergoing rulemaking in this area, and in 2024, the Department released a proposed rule on the serious deficiency process in CACFP and SFSP.<sup>58</sup> While the serious deficiency process is intended for systemic or serious mismanagement, abuse, and fraud by organizations or operators, advocates have raised concerns that the SD process has been initiated over inadvertent or unintentional administrative errors.<sup>59</sup> Additionally, there is no clear criteria for what qualifies as findings of serious mismanagement as well as a lack of clarity for what qualifies as a false or fraudulent claim, which has led to inconsistency among states. In response to the 2024 proposed rule on serious deficiency, advocates provided recommendations to the Department that would guarantee due process, clearly define fraud, and ensure that operators are not penalized for unintentional or inadvertent errors, considering that small providers that participate in the program often have limited administrative capacity.<sup>60</sup> As findings of fraud often rely on the serious deficiency process, it is crucial that the it be updated and modernized in order to ensure due process. However, H.R. 7723 does not take these challenges into account. In a March 3, 2026, letter to Ranking Member Bobby Scott and Chairman Tim Walberg, the National CACFP Association makes clear that “amending the [serious deficiency] process without such review risks the wrongful debarment of institutions and facilities, ultimately threatening the continuity of meal services for millions of children.”<sup>61</sup>

Lastly, the bill creates reciprocal debarment between CCDBG and CACFP—automatically debarring providers from both programs if debarred from one under the legislation. This provision compounds the negative impacts of the bill on the child care sector. For example, advocates have expressed concern that this could result in some providers withdrawing from CACFP to not risk losing

<sup>55</sup> Ohio Dep’t of Educ., *CACFP Contractors on the National Disqualified List Policy (2026)*, <https://education.ohio.gov/getattachment/Topics/Student-Supports/Food-and-Nutrition/Child-and-Adult-Care-Food-Program-CACFP/CACFP-Center-Based-Component/CACFP-Contractors-on-NDL-Policy.pdf.aspx?lang=en-US>.

<sup>56</sup> U.S. Dep’t of Agric., *supra* note 54, at 31.

<sup>57</sup> *Id.* at 41.

<sup>58</sup> *Serious Deficiency Process in the Child and Adult Care Food Program and Summer Food Service Program*, 89 Fed. Reg. 13,150 (Feb. 21, 2024) (to be codified at 7 C.F.R. pts. 210, 215, 220, 225 & 226), <https://www.federalregister.gov/documents/2024/02/21/2024-02108/serious-deficiency-process-in-the-child-and-adult-care-food-program-and-summer-food-service-program>.

<sup>59</sup> Letter from Food Research & Action Center to Rep. Tim Walberg, Chair., & Rep. Bobby Scott, Ranking Member, H. Comm. on Educ. and Workforce (Mar. 4, 2026), <https://house.app.box.com/s/gltk9ehepnv0gob7ft4a6aldszejori/file/2154210105420>.

<sup>60</sup> Letter from National CACFP Association National CACFP Association to Rep. Tim Walberg, Chair. & Rep. Bobby Scott, Ranking Member, H. Comm. on Educ. & Workforce (Mar. 3, 2026), <https://house.app.box.com/s/gltk9ehepnv0gob7ft4a6aldszejori/file/2154236438191>.

<sup>61</sup> *Id.*

CCDBG funding.<sup>62</sup> In a March 4, 2026 letter to Ranking Member Bobby Scott and Chairman Tim Walberg, the Food Research & Action Center (FRAC), emphasized that “the chance that an unintentional CACFP error could jeopardize [providers’] CCDBG eligibility may lead some providers to withdraw from CACFP entirely, limiting children’s access to nutritious meals and snacks at a time when hunger remains high.”<sup>63</sup>

DEMOCRATIC AMENDMENTS OFFERED DURING MARKUP OF H.R. 7723

Ranking Member Scott offered an amendment to restore staff at the Office of Child Care at the HHS to the levels existing in January 2025. Fighting fraud in federal spending programs is important, and it is important to therefore ensure that there are staff at HHS to help support states when they have questions about such programs. This helps us to ensure, as American families are counting us to do, that the program will continue to be a success. Committee Republicans rejected the amendment on a party line vote.

CONCLUSION

While it is important to address any instance of fraud with federal funds designed to support child care and nutrition programs, this bill would hurt these programs more than it would help. For the reasons stated above, Committee Democrats unanimously opposed H.R. 7723 when the Committee on Education and Workforce considered it on March 5, 2026. We urge the House of Representatives to do the same.

ROBERT C. “BOBBY” SCOTT,  
*Ranking Member.*  
 JOE COURTNEY,  
 FREDERICA WILSON,  
 SUZANNE BONAMICI,  
 MARK DESAULNIER,  
 JAHANA HAYES,  
 ILHAN OMAR,  
 SUMMER LEE,  
 ADELITA GRIJALVA,  
*Members of Congress.*

○

<sup>62</sup> Letter from Food Research & Action Center, *supra* note 59.

<sup>63</sup> *Id.*