

**ASSEMBLY BILL**

**No. 1361**

**Introduced by Assembly Members Blanca Rubio, McCarty, and Quirk-Silva**

(Principal coauthor: Senator Rubio)

**(Coauthors: Assembly Members Robert Rivas and Villapudua)**

(Coauthors: Senators Pan and Wiener)

February 19, 2021

An act to amend Sections 8265.2 and 8265.5 of, to add Article 8.6 (commencing with Section 8248) to Chapter 2 of Part 6 of Division 1 of Title 1 of, and to repeal Section 8239.1 of, the Education Code, and to amend Section 1596.893c of the Health and Safety Code, relating to childcare.

LEGISLATIVE COUNSEL'S DIGEST

AB 1361, as introduced, Blanca Rubio. Childcare and developmental services: preschool: expulsion and suspension: mental health services: reimbursement rates.

(1) The Child Care and Developmental Services Act, administered by the State Department of Education, provides for a comprehensive, coordinated, and cost-effective system of childcare and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs, which includes general childcare programs, family childcare home education network programs, and the California state preschool program. Existing law, commencing July 1, 2021, transfers responsibility for the administration of specified childcare and development services programs from the State Department of Education to the State Department of Social Services. Existing law

requires statutory references to the Superintendent of Public Instruction, for purposes of the programs transferred to the State Department of Social Services on July 1, 2021, to instead be construed to mean the State Department of Social Services. The act prohibits a contracting agency, as part of the state preschool program, from expelling or unenrolling a child because of a child's behavior, except as provided. Existing law requires the State Department of Social Services to consider, in determining whether to issue a citation or impose a civil penalty to a state preschool program, whether the program is in the process of complying with the above law relating to expulsion or unenrollment.

This bill would revise and recast the above provisions relating to the expulsion or unenrollment of a child from the state preschool program and would include a general childcare and development program and family childcare home education network program as part of those provisions, as provided. The bill would also establish requirements for the use of suspensions in the programs described above. The bill would require these programs to maintain records on expulsion and suspension, as provided. The bill would require the State Department of Education to collect and annually publish a report with this information, as provided.

(2) Existing law requires the cost to a childcare provider agency of providing an early childhood mental health consultation service, as defined, to be reimbursable if certain requirements are met, including that the consultation service is provided on a schedule of sufficient and consistent frequency and that is supervised and provided by specified mental health professionals.

This bill would update the definition of mental health consultation service, revise the requirements relating to the nature and frequency of the consultation service provided, and expand the types of mental health care professionals who can provide the consultation service. The bill would require, among other things relating to the consultants, the contracting agency to ensure, within the first 30 days upon hire or start of consultation service, that a consultant have specified training.

Existing law requires, in order to reflect the additional expense of serving children who meet specified criteria, the provider agency's reported child days of enrollment for these children be multiplied by specified adjustment factors. Existing law requires the adjustment factor for specified children who are served in the state preschool program, in general childcare and development programs, or in a family childcare

home education network setting funded by a general childcare and development program, where early childhood mental health consultation services are provided, to be 1.05.

This bill would increase that adjustment factor to 1.07.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) National data indicates that children are expelled, suspended,  
4 and counseled out of early learning and care programs at much  
5 higher rates than in K-12 education and that African American  
6 and Latinx children, especially boys, are disproportionately  
7 impacted by this practice. California does not currently prohibit  
8 expulsion or suspension in early learning and childcare programs.

9 (2) Inequitable access to, and exclusion from, high-quality early  
10 learning and care programs significantly contributes to the school  
11 readiness gap, the academic achievement gap, and the graduation  
12 gap.

13 (3) California currently does not collect suspension and  
14 expulsion information from early learning and care providers,  
15 unless the child attends a local educational agency and has an  
16 individualized education program or individualized family service  
17 plan pursuant to Part B of the federal Individuals with Disabilities  
18 Education Act (20 U.S.C. Sec. 1400 et seq.).

19 (4) Better access to data around suspension and expulsion in  
20 early learning and care programs would allow policy makers and  
21 providers to make informed decisions about where to invest  
22 additional resources and would help identify gaps and inequities  
23 in the availability of, and access to, early learning and care.

24 (5) The mental health of young children is intimately linked to  
25 the well-being of their caregivers, including early learning and  
26 care educators. The prevalence of trauma, toxic stress, and  
27 adversity experienced by staff, families, and children in early  
28 learning and care settings impacts the quality of the relationships,  
29 the quality of care, and the well-being of adults and children.

30 (6) Early childhood mental health consultation empowers and  
31 equips the adults, including staff and families, within the early

1 learning and care setting with critical mental health knowledge  
2 and skills to transform their practices, attitudes, behaviors, and  
3 interactions. This transformation builds their capacity and ability  
4 to promote the healthy development, deeper learning, and stronger  
5 social-emotional well-being of all young learners in the setting,  
6 especially those exhibiting challenging behaviors, children of color,  
7 children affected by trauma and adverse childhood experiences,  
8 and children with various individual differences and special needs.  
9 The capacity of the adults to understand and respond to the  
10 developmental, mental health, and behavioral needs of children is  
11 cultivated through ongoing collaborative and strength-based  
12 consultative conversations and dialogues.

13 (7) Research shows that early childhood mental health  
14 consultation can play an important role in reducing the rate of  
15 expulsion and suspension of children from early learning and care  
16 programs and improve the classroom climate resulting in more  
17 positive interactions between teachers, children, and families.

18 (b) Therefore, it is the intent of the Legislature to enact  
19 legislation that addresses suspension and expulsion of African  
20 American and Latinx children in early learning and care settings  
21 at disproportionate rates and encourages early mental health  
22 consultation services as a means of providing adequate supports  
23 to teachers, children, and caregivers to promote positive mental  
24 health, buffer the effects of toxic stress and trauma, and bring out  
25 the most optimal development and learning of each child.

26 SEC. 2. Section 8239.1 of the Education Code is repealed.

27 ~~8239.1. (a) A contracting agency shall not expel or unenroll~~  
28 ~~a child because of a child's behavior except as authorized by~~  
29 ~~subdivision (c).~~

30 ~~(b) (1) If a child exhibits persistent and serious challenging~~  
31 ~~behaviors, the contracting agency shall expeditiously pursue and~~  
32 ~~document reasonable steps, including, but not limited to, consulting~~  
33 ~~with the child's parents or legal guardians and teacher, to maintain~~  
34 ~~the child's safe participation in the program. The contracting~~  
35 ~~agency shall inform the parents or legal guardians of a child~~  
36 ~~exhibiting persistent and serious challenging behaviors of the~~  
37 ~~process described in this section.~~

38 ~~(2) (A) If the child has an individualized family service plan~~  
39 ~~or individualized education program, the contracting agency, with~~  
40 ~~written parental consent, shall contact the agency responsible for~~

1 the individualized family service plan or individualized education  
2 program to seek consultation on serving the child.

3 (B) If the child does not have an individualized family service  
4 plan or individualized education program, the contracting agency  
5 shall consider, if appropriate, completing a universal screening of  
6 the child, including, but not limited to, screening the child's social  
7 and emotional development, referring the child's parents or legal  
8 guardians to community resources, and implementing behavior  
9 supports within the program before referring the child's parents  
10 or legal guardians to the local agency responsible for implementing  
11 the federal Individuals with Disabilities Education Act (20 U.S.C.  
12 Sec. 1400 et seq.).

13 (c) If a contracting agency has expeditiously pursued and  
14 documented reasonable steps to maintain the child's safe  
15 participation in the program and determines, in consultation with  
16 the parents or legal guardians of the child, the child's teacher, and,  
17 if applicable, the local agency responsible for implementing the  
18 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.  
19 1400 et seq.), that the child's continued enrollment would present  
20 a continued serious safety threat to the child or other enrolled  
21 children, it shall refer the parents or legal guardians to other  
22 potentially appropriate placements, the local child care resource  
23 and referral agency, or any other referral service available in the  
24 local community. The contracting agency may then unenroll the  
25 child.

26 (d) A contracting agency shall have up to 180 days to complete  
27 the process described in this section.

28 (e) This section shall apply only to California state preschool  
29 programs described in this article.

30 SEC. 3. Article 8.6 (commencing with Section 8248) is added  
31 to Chapter 2 of Part 6 of Division 1 of Title 1 of the Education  
32 Code, to read:

33  
34 Article 8.6. Expulsion and Suspension Procedures in Childcare  
35 and Development Services Programs  
36

37 8248. For purposes of this article, the following terms shall  
38 apply:

39 (a) "Expulsion" means the permanent dismissal of a child from  
40 a program in response to a child's behavior.

(b) “Program” means a California State Preschool program described in Article 7 (commencing with Section 8235), general childcare and development programs described in Article 8 (commencing with Section 8240) that serve children from 0 to 5 years of age, and family childcare home education network programs described in Article 8.5 (commencing with Section 8245) that serve children from 0 to 5 years of age.

(c) “Suspension” means a child being sent home for a part of the day, or prevented from attending the program for one or more days, in response to the child’s behavior.

8248.1. (a) (1) Except as authorized by paragraph (3), a program shall not do either of the following:

(A) Expel or unenroll a child because of a child’s behavior.

(B) Persuade or encourage a child’s parents or legal guardians to voluntarily unenroll from the program due to a child’s behavior.

(2) (A) If a child exhibits persistent and serious challenging behaviors, the program shall expeditiously pursue and document reasonable steps, including, but not limited to, consulting with the child’s parents or legal guardians and teacher, and, if available, engaging an early childhood mental health consultant, to maintain the child’s safe participation in the program. The program shall inform the parents or legal guardians of a child exhibiting persistent and serious challenging behaviors of the process described in this section.

(B) (i) If the child has an individualized family service plan or individualized education program, the program, with written parental consent, shall contact the agency responsible for the individualized family service plan or individualized education program to seek consultation on serving the child.

(ii) If the child does not have an individualized family service plan or individualized education program, the program shall consider, if appropriate, completing a universal screening of the child, including, but not limited to, screening the child’s social and emotional development, referring the child’s parents or legal guardians to community resources, and implementing behavior supports within the program before referring the child’s parents or legal guardians to the local agency responsible for implementing the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

1 (3) If a program has expeditiously pursued and documented  
2 reasonable steps to maintain the child's safe participation in the  
3 program and determines, in consultation with the parents or legal  
4 guardians of the child, the child's teacher, and, if applicable, the  
5 local agency responsible for implementing the federal Individuals  
6 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), that  
7 the child's continued enrollment would present a continued serious  
8 safety threat to the child or other enrolled children, it shall refer  
9 the parents or legal guardians to other potentially appropriate  
10 placements, the local child care resource and referral agency, or  
11 any other referral service available in the local community. The  
12 program may then unenroll the child.

13 (4) A program shall have up to 180 days to complete the process  
14 described in paragraphs (2) and (3).

15 (b) (1) Except as provided in paragraphs (2), (3), and (4), a  
16 program shall not do either of the following:

17 (A) Suspend a child due to a child's behavior.

18 (B) Encourage or persuade a child's parents or legal guardians  
19 to prematurely pick up a child due to a child's behavior.

20 (2) Suspension shall only be used as a last resort in extraordinary  
21 circumstances where there is a serious safety threat that cannot be  
22 reduced or eliminated by providing reasonable modifications.

23 (3) Before a program determines whether suspension is  
24 necessary, the program shall collaborate with the child's parents  
25 or legal guardians, engage with a mental health consultant, if  
26 available, and use appropriate community resources, such as  
27 behavior coaches, psychologists, other appropriate specialists, or  
28 other resources, as needed, to determine no other reasonable option  
29 is appropriate.

30 (4) If suspension is deemed necessary, a program shall help the  
31 child return to full participation in all program activities as quickly  
32 as possible while ensuring child safety by doing all of the  
33 following:

34 (A) Continuing to engage with the parents and, if available, a  
35 mental health consultant, and continuing to use appropriate  
36 community resources.

37 (B) Developing a written plan to document the action and  
38 supports needed.

39 (C) Providing referrals to appropriate community services.

(D) Determining whether a referral to a local agency responsible for implementing the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) is appropriate.

(c) (1) The department shall include in each contract for service with a program references to the limitations on expulsion and suspension provided in this section.

(2) Upon enrollment of a child, a program shall notify the child's parents or legal guardians of the limitations on expulsion and suspension provided in this section. This notification shall include resources to submit a complaint or appeal a decision made by a program regarding the expulsion or suspension of a child.

(3) A written "Notice of Action, Recipient of Services" described in Section 18095 of Title 5 of the California Code of Regulations shall include information on expulsions and suspensions provided in this section and resources to submit a complaint or appeal a decision made by a program regarding the expulsion or suspension of a child.

(d) A program shall maintain records on, and the department shall annually collect from contracting agencies, all of the following information:

(1) The number of times the process described in paragraph (2) of subdivision (a) was initiated during a program year, and what the outcome of the process was.

(2) The number of times the process described in paragraphs (3) and (4) of subdivision (b) was initiated during a program year, and what the outcome of the process was, including, if applicable, how long a child was excluded from the program.

(3) The data collected pursuant to paragraphs (1) and (2) shall include for each child, at a minimum, age, sex, race and ethnicity, foster status, home language, disability, and whether the child has an individualized family service plan or an individualized education program.

(e) The department shall annually publish a report with aggregate data on how many times during the most recent program year the processes described in paragraph (2) of subdivision (a) and paragraphs (3) and (4) of subdivision (b) were initiated and what the outcomes were, and how many appeals or complaints the department received from parents or legal guardians regarding expulsion and suspension. The report shall be disaggregated by age, sex, race and ethnicity, foster status, home language, disability,



1 and assignment of an individualized family service plan or  
2 individualized education program, as applicable.

3 SEC. 4. Section 8265.2 of the Education Code is amended to  
4 read:

5 8265.2. (a) (1) For purposes of this section, “early childhood  
6 mental health consultation service” means a *mental health* service  
7 ~~benefiting a child who is served that develops the capacity of~~  
8 ~~programs to serve and benefit a child who is enrolled in a~~  
9 California state preschool program, an infant or toddler who is 0  
10 to 36 months of age and is ~~served~~ *enrolled* in a general child care  
11 and development program pursuant to this chapter, or a child who  
12 is 0 to 5 years of age and is ~~served~~ *enrolled* in a family child care  
13 home education network setting funded by a general child care  
14 and development program pursuant to this chapter.

15 (2) For purposes of this section, “early childhood mental health  
16 consultation service” includes, but is not limited to, all of the  
17 ~~following:~~ *following actions:*

18 (A) *Support providers, parents, and caregivers to create mental*  
19 *health promoting environments and to respond effectively to all*  
20 ~~children, with a focus on children at both the program and~~  
21 *classroom levels, including* young children with disabilities,  
22 challenging behaviors, and other special needs.

23 (B) Assistance through individual site consultations, provision  
24 of resources, formulation of training plans, referrals, and other  
25 methods that address the unique needs of programs and providers.

26 (C) ~~Aid to providers~~ *providers, parents, and caregivers, and*  
27 *encouraging and facilitating collaboration and communication in*  
28 developing the skills and tools needed to be successful as they  
29 support the *mental and emotional well-being*, development and  
30 early learning of all children, including observing environments,  
31 facilitating the development of action plans, and supporting site  
32 implementation of those plans.

33 (D) The development of strategies for addressing prevalent child  
34 mental health concerns, including internalizing problems, such as  
35 appearing withdrawn, and externalizing problems, such as  
36 exhibiting ~~challenging behaviors.~~ *behaviors, including the*  
37 *development of an individualized success plan with the parents*  
38 *and teachers to implement in classroom and home settings.*

39 (E) If a child exhibits persistent and serious challenging  
40 behaviors, support with the pursuit and documentation of

1 reasonable steps to maintain the child's safe participation in the  
2 program, as described in Section ~~8239.1~~ 8248.1.

3 (F) *Face-to-face interactions or video-based platforms and*  
4 *other modes of communication that are compliant with the federal*  
5 *Health Insurance Portability and Accountability Act (Public Law*  
6 *104-191), such as the telephone.*

7 (G) *Group or individual consultations of any of the actions*  
8 *described in this paragraph.*

9 (b) The cost to a provider agency of providing an early  
10 childhood mental health consultation service shall be reimbursable  
11 pursuant to Section 8265.5 if all of the following apply:

12 (1) The early childhood mental health consultation service is  
13 provided on a schedule of sufficient and consistent frequency ~~to~~  
14 ~~ensure that a mental health consultant is available to partner with~~  
15 ~~staff and families in a timely and effective manner, as determined~~  
16 ~~by the department.~~ *to significantly contribute to strengthening the*  
17 *mental health climate in the classroom, improving interpersonal*  
18 *relationships and child outcomes, increasing the confidence,*  
19 *competence and well-being of consultees, and eliminating*  
20 *suspensions and expulsions. At a minimum, each classroom shall*  
21 *receive, on average, at least one hour of consultation service*  
22 *during each week of program operation, not including other*  
23 *consultation activities including, but not limited to, working with*  
24 *one or more individual children or families.*

25 (2) The early childhood mental health consultation service is  
26 supervised and provided by ~~a one of the following persons:~~

27 (A) *A licensed mental health professional, including a marriage*  
28 *and family therapist, a licensed clinical social worker, a licensed*  
29 *professional clinical counselor, a licensed psychologist, or a*  
30 ~~licensed child and adolescent psychiatrist, or others as determined~~  
31 ~~by the department.~~ *psychiatrist. The supervisor person described*  
32 *in this subparagraph shall have at least three years of experience*  
33 ~~working with providing mental health services to children 0 to 5~~  
34 *years of age, shall have training in infant, family, and early*  
35 *childhood mental health, shall be adequately insured, shall have*  
36 ~~held his or her~~ *their* ~~respective license for a minimum of two years,~~  
37 ~~and shall be in full compliance with all continuing education~~  
38 ~~requirements applicable to his or her~~ *their* ~~profession.~~

39 (B) *A license-eligible marriage and family therapist, a*  
40 *license-eligible clinical social worker, a license-eligible*

1 *professional clinical counselor, a license-eligible psychologist, or*  
2 *a license-eligible child and adolescent psychiatrist, who is*  
3 *supervised by a person meeting all of the requirements described*  
4 *in subparagraph (A).*

5 *(C) A person holding, at a minimum, a master's degree in a*  
6 *field related to mental health or human services, including, but*  
7 *not limited to, marriage and family therapy, clinical social work,*  
8 *professional clinical counseling, infant mental health, human*  
9 *development, human services, psychology, child and adolescent*  
10 *psychiatry or occupational therapy, speech and language*  
11 *pathology, and education, and who has at least two years of*  
12 *experience working with children 0 to 5 years of age, who is*  
13 *supervised by a person meeting all of the requirements described*  
14 *in subparagraph (A).*

15 *(3) Within the first 30 days upon hire or start of consultation*  
16 *service, a provider agency ensures that a consultant is trained in*  
17 *all of the following:*

18 *(A) California law and professional ethics for early childhood*  
19 *mental health consultation, including all of the following:*

20 *(i) Contemporary professional ethics and statutory, regulatory,*  
21 *and decisional laws that delineate the scope of practice of early*  
22 *childhood mental health consultation.*

23 *(ii) The therapeutic, clinical, and practical considerations*  
24 *involved in the legal and ethical practice of early childhood mental*  
25 *health consultation.*

26 *(iii) The current legal patterns and trends in the mental health*  
27 *profession.*

28 *(iv) Confidentiality and the treatment of minors with and without*  
29 *parental consent.*

30 *(v) A recognition and exploration of the relationship between*  
31 *a practitioner's sense of self and human values and the*  
32 *practitioner's professional behavior and ethics.*

33 *(vi) The application of legal and ethical standards in different*  
34 *types of work settings.*

35 *(B) Child abuse and neglect mandated reporting laws.*

36 *(C) Best practices and foundations of early childhood mental*  
37 *health consultation.*

38 *(D) All relevant laws and regulations regarding state and*  
39 *federal childcare programs.*

(4) Consultants and supervisors shall participate in continuing professional development and education for at least 18 hours per program year. Topics may include, but are not limited to, at least three of the following:

- (A) Early childhood mental health consultation.
- (B) Infant mental health.
- (C) Early childhood development.
- (D) Professional consulting skills.
- (E) Implicit bias.
- (F) Equity and racial justice.
- (G) Clinical supervision.
- (H) Adult mental health.
- (I) Adult development.
- (J) Group facilitation.
- (K) Group therapy.
- (L) Diversity and culture.
- (M) Reflective supervision.
- (N) Reflective practice.
- (O) Attachment.
- (P) Regulation.
- (Q) Neuroscience.
- (R) Mental health assessment.
- (S) Mental health case conceptualization.
- (T) Professional counseling.
- (U) Trauma.
- (V) Toxic stress.
- (W) Adverse childhood experiences.
- (X) Child therapy.
- (Y) Adult therapy.
- ~~(Z)~~

(5) The early childhood mental health consultation service uses a relationship-based model emphasizing strengthening relationships among early childhood education providers, parents, children, and representatives of community systems and resources, and integrates reflective practice into the onsite consultation model. *This model shall include, but not be limited to, both of the following:*

- (A) At least twice per program year, conducting classroom-based mental health assessments, such as the “Climate of Healthy Interactions for Learning & Development (CHILD)” or other appropriate instrument.

1     (B) *Recordkeeping that adequately documents all consultation*  
2     *activities.*

3     SEC. 5. Section 8265.5 of the Education Code is amended to  
4     read:

5         8265.5. (a) In order to reflect the additional expense of serving  
6     children who meet any of the criteria outlined in subdivision (c),  
7     the provider agency's reported child days of enrollment for these  
8     children shall be multiplied by the adjustment factors listed below.

9     (b) (1) Except as provided in paragraph (2), the adjustment  
10    factors described in subdivision (c) shall apply to a state preschool  
11    program and those programs for which assigned reimbursement  
12    rates are at or below the standard reimbursement rate. In addition,  
13    the adjustment factors shall apply to those programs for which  
14    assigned reimbursement rates are above the standard reimbursement  
15    rate, but the reimbursement rate, as adjusted, shall not exceed the  
16    adjusted standard reimbursement rate. The adjustment factors shall  
17    apply to those state preschool programs for which assigned  
18    reimbursement rates are above the state preschool reimbursement  
19    rate, but the reimbursement rate, as adjusted, shall not exceed the  
20    adjusted state preschool reimbursement rate.

21    (2) The adjustment factors described in paragraphs (5) and (6)  
22    of subdivision (c) shall apply only for full-day preschool programs  
23    and those part-day preschool programs for which assigned  
24    reimbursement rates are at or below the standard reimbursement  
25    rate.

26    (c) Notwithstanding any other law, ~~commencing January 1,~~  
27    ~~2019,~~ the adjustment factors shall be as follows:

28         (1) For infants who are 0 to 18 months of age and are served in  
29     a child daycare center or a family childcare home, the adjustment  
30     factor shall be 2.44.

31         (2) For toddlers who are 18 to 36 months of age and are served  
32     in a child daycare center or a family childcare home, the adjustment  
33     factor shall be 1.8.

34         (3) For children with exceptional needs who are 0 to 21 years  
35     of age, the adjustment factor shall be 1.54.

36         (4) For severely disabled children who are 0 to 21 years of age,  
37     the adjustment factor shall be 1.93.

38         (5) For children at risk of neglect, abuse, or exploitation who  
39     are 0 to 14 years of age, the adjustment factor shall be 1.1.

(6) For limited-English-speaking and non-English-speaking children who are two years of age through kindergarten age, the adjustment factor shall be 1.1.

(7) For children who are served in a California state preschool program, infants and toddlers who are 0 to 36 months of age and are served in general childcare and development programs, or children who are 0 to 5 years of age and are served in a family childcare home education network setting funded by a general childcare and development program, where early childhood mental health consultation services are provided, pursuant to Section 8265.2, the adjustment factor shall be ~~1.05~~ 1.07.

(d) Use of the adjustment factors shall not increase the provider agency's total annual allocation.

(e) (1) Days of enrollment for children who meet more than one of the criteria outlined in paragraphs (1) to (6), inclusive, of subdivision (c) shall not be reported under more than one of the categories specified in those paragraphs.

(2) Notwithstanding paragraph (1), for children for whom an adjustment factor is applied pursuant to any of paragraphs (1) to (6), inclusive, of subdivision (c), and who are additionally eligible for the adjustment factor established in paragraph (7) of subdivision (c), reported child days of enrollment shall be multiplied by the sum of the applicable adjustment factor under paragraphs (1) to (6), inclusive, of subdivision (c) and 0.05.

(f) The difference between the reimbursement resulting from the use of the adjustment factors outlined in subdivision (c) and the reimbursement that would otherwise be received by a provider in the absence of the adjustment factors shall be used for special and appropriate services for each child for whom an adjustment factor is claimed.

SEC. 6. Section 1596.893c of the Health and Safety Code is amended to read:

1596.893c. (a) The department shall consider, in determining whether to issue a citation or impose a civil penalty under ~~any provision of this chapter~~ to a child-day-care *daycare* facility that contracts with the State Department of Education, whether the child-day-care *daycare* facility is in the process of complying with Section ~~8239.1~~ 8248.1 of the Education Code.

(b) This section shall apply ~~only~~ to a California state preschool program described in Article 7 (commencing with Section ~~8235~~)

1 8235), a general childcare and development program described  
2 in Article 8 (commencing with Section 8240) that serves children  
3 from ages 0 to 5 years of age, and a family childcare home  
4 education network program described in Article 8.5 (commencing  
5 with Section 8245) that serves children from ages 0 to 5 years of  
6 age, of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education  
7 Code.

O