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Program/Division: Colorado Universal Preschool Program (UPK)

CDEC Tracking No.: 2023-11-001

CCR Number(s): 8 CCR 1404-1

SOS Tracking No.:

RULEMAKING PACKET

Reason and Justification of the proposed rule or amendment(s):

Multiple/Other ▾

If there are "Multiple/Other" reasons, please explain:

These revisions propose to refine the Colorado Universal Preschool Program's Qualifying Factors to ensure that all children living in poverty have access to additional hours of Universal Preschool in the year before kindergarten. The additional revisions are to align the rules with recent federal updates (federal poverty guidelines), state statutes, and add clarity.

Provide a description of the proposed rule or amendment(s) that is clearly and simply stated, and what CDEC intends to accomplish:

The proposed revisions to the Colorado Universal Preschool Program (UPK) rule section 4.106 Eligibility (formerly 4.103) is to establish a new qualifying factor for "children in poverty" which is identified at 100% of the Federal Poverty Guidelines (FPG). Additional revisions to the rule are to update the FPG amounts in the table of rule section 4.106(B) (formerly 4.103(A)), consistent with the recent annual update, and all other edits are technical clean-up to ensure the rule language aligns with statute and is easy for stakeholders to follow.

Statutory Authority: (Include Federal Authority, if applicable)

Sections 26.5-1-105(1), 26.5-4-204(4), and 24-4-103, C.R.S.

Does the proposed rule or amendment(s) impact other State Agencies or Tribal Communities?

Yes

No

If Yes, identify the State Agency and/or Tribal Community and describe collaboration efforts:

Does the proposed rule or amendment(s) have impacts or create mandates on counties or other governmental entities? (e.g., budgetary requirements or administrative burdens)

Yes

No

If Yes, provide description:

<p>Effective Date(s) of proposed rule or amendment(s): (<u>E</u>mergency/<u>P</u>ermanent)</p>	<p><input type="checkbox"/> Mandatory <input checked="" type="checkbox"/> Discretionary</p> <p>(E) Effective Date: 1/22/24 (P) Effective Date: 4/14/24</p> <p>(E) Termination Date: 5/21/24</p>				
<p>Emergency Rule Justification:</p>	<p>Immediate adoption of these proposed rules to revise and expand eligibility requirements is imperatively necessary for the public health and welfare so that more families qualify for additional universal preschool program services before enrollment begins for the 2024-2025 school year.</p>				
<p>Is the proposed rule or amendment(s) included on the Regulatory Agenda?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, please explain:</p>				
<p>Does the proposed rule or amendment(s) conflict, or are there inconsistencies with other provisions of law?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please explain:</p>				
<p>Does the proposed rule or amendment(s) create duplication or overlapping of other rules or regulations?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, explain why:</p>				
<p>Does the proposed rule or amendment(s) include material that is incorporated by reference¹?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, provide source:</p> <p>“IDEA” means the federal “Individuals with Disabilities Education Act”, 20 U.S.C. sections 1400 through 1491, as amended, and its implementing regulations at 34 C.F.R. Parts 300 and 303 (2023), herein incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the United States Department of Education at www.ecfr.gov. These regulations are available for public inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash St., Denver, CO 80246, during normal business hours.</p>				
<p>Does the proposed rule or amendment(s) align with the department’s rulemaking objectives?</p> <p>Choose all that apply.</p>	<table border="1" style="width: 100%;"> <tr> <td style="width: 50px; text-align: center;"><input type="checkbox"/></td> <td>Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Decrease duplication and conflicts with implementing programs and providing services.</td> </tr> </table>	<input type="checkbox"/>	Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.	<input checked="" type="checkbox"/>	Decrease duplication and conflicts with implementing programs and providing services.
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¹ Incorporation by Reference is all or any part of a code, standard, guideline, or rule that has been adopted by an agency of the United States, this state, or another state, or adopted or published by a nationally recognized organization or association, pursuant to section 24-4-103(12.5), C.R.S.

	<input checked="" type="checkbox"/> Increase equity in access and outcomes to programs and services for children and families.
	<input checked="" type="checkbox"/> Increase administrative efficiencies among programs and services provided by the department.
	<input checked="" type="checkbox"/> Ensure that rules are coordinated across programs and services so that programs are implemented and services are provided with improved ease of access, quality of family/provider experience, and ease of implementation by state, local, and tribal agencies.

Rulemaking Proceedings

Type of Rulemaking: Emergency or Permanent ² [Permanent Tier I or Tier II]	Emergency and Permanent ▾ N/A (Emergency and Permanent) ▾
Stakeholder Engagement: Public Folder: Proposed rule, webinar recordings/transcripts, written stakeholder comments, material from small/large focus groups, written petitions/requests, surveys, data, research, reports, published papers, and documents used to develop the proposed rule or amendment(s).	List of activities and dates: Email and post draft rules on the CDEC Public Notices webpage , to solicit stakeholder feedback: 10/26/23 - 11/22/23 Public folder containing all rulemaking material: https://drive.google.com/drive/folders/15eeljO1sJKOhTTN2sRNwFcMeu_4VI66u
Assistant Attorney General Review:	11/29/23 - 12/29/23
RAC County Subcommittee Review Date (if required):	1/8/24 (emergency rule review) 2/1/24 (permanent rule review)
Rules Advisory Council (RAC) Review Date:	1/11/24 (emergency rule review) 2/8/24 (permanent rule review)

² Tier I is used for proposed rule or amendment(s) that have substantive changes, require substantial stakeholder engagement, and will be considered at two Public Rulemaking Hearings (PRH). The first PRH is held for discussion, and the second PRH is held to consider adoption. Tier II is used for proposed rule or amendment(s) that include technical changes, do not require substantial stakeholder engagement, and will be considered at only one Public Rulemaking Hearing (PRH) for adoption.

Public Rulemaking Hearing Date(s): [Discussion/Adoption]	1/22/24 (emergency adoption) 2/22/24 (permanent adoption)
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Regulatory and Cost Benefit Analysis

- 1. Community Impact:** Provide a description of the stakeholders that will be affected by the proposed rule or amendment(s), and identify which stakeholders will bear the costs, and those who will benefit. How will the proposed rule or amendment(s) impact particular populations, such as those experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities?

The proposed rule revisions largely affect families, participating Colorado Universal Preschool Program Providers (UPK providers), and Local Coordinating Organizations (LCO). The Department anticipates there will be no costs to families, UPK providers, or LCOs as a result of these changes; but rather families, UPK providers, and LCOs will benefit from the proposed changes to expand eligibility for additional UPK preschool services (hours). By establishing a new UPK qualifying factor, which is intended to expand eligibility for children experiencing poverty, the proposed changes seek to elevate the identified populations.

- 2. Quality and Quantity:** Provide a description of the probable quantitative and qualitative impact on persons affected by the proposed rule or amendment(s), and comparison of the probable costs and benefits of implementation versus inaction. What are the short- and long-term consequences of the proposed rule or amendment(s).

The short and long term impact of this proposed change is more families experiencing poverty will become eligible and have access to additional preschool services; UPK providers will receive increased funding for providing additional preschool services to the targeted populations; and UPK providers and LCOs will be provided rule language that adds clarity of the UPK program. The Department estimates the introduction of this qualifying factor will grant upwards of 3,000 children access to full-day preschool in the 2024-25 school year that do not currently qualify for this school year.

- 3. Potential Economic Benefits/Disadvantages:** What are the anticipated economic benefits of the proposed rule or amendment(s), such as: economic growth, creation of new jobs, and/or increased economic competitiveness? Are there any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness?

The potential economic benefits of this proposed rule change is economic growth and job creation within Early Childhood Education. As more students qualify for additional preschool services (hours), there will be a subsequent need for UPK providers in this mixed delivery system.

- 4. Fiscal Impacts:** What are the anticipated direct and indirect costs for the state/department to implement, administer, and enforce the proposed rule or amendment(s)? What are the direct and indirect costs to each of the following entities to comply with the proposed rule or amendment(s)? For each, describe the impact or indicate “not applicable.”

Department	The cost of the additional qualifying factor is estimated to be \$12.5M in FY 2024-25 and \$13M in FY 2025-26 through the Universal Preschool Program funding.
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Local Governments/ Counties	Not applicable.
Providers	Not applicable.
Community Partners (e.g., School Districts, Early Childhood Councils, Local Coordinating Organizations, etc.)	The biggest impact of community partners, including Local Coordinating Organizations (LCO) is that these entities will have clarity in rule on how the UPK program operates which will allow community partners to better support families and UPK providers. There are no associated fiscal costs.
Other State Agencies	Not applicable.
Tribal Communities	Not applicable.

5. **Evaluation:** How will implementation of the proposed rule or amendment(s) be monitored and evaluated? Please include information about measures and indicators that CDEC will utilize, including information on specific populations (identified above).

The Universal Preschool Program is required by statute to be evaluated through an independent evaluation (Section 26.5-4-207, C.R.S.). The Department is required to contract with an independent evaluator to measure immediate and long-term child outcomes and provide recommendations to improve teaching and learning, assess professional development, improve teacher-child interactions and inform a continuous improvement process. The Department is required to share this information through the annual SMART Act hearing, beginning in January 2025 (Section 26.5-4-210, C.R.S.). This evaluation will include an evaluation of the allocation of additional hours.

6. **Comparative Analysis:** Provide at least two alternatives to the proposed rule or amendment(s) that can be identified, including the costs and benefits of pursuing each of the alternatives.

This revision of the Universal Preschool Qualifying Factor rule is in response to concerns elevated from both providers and families after the first year of factors were operationalized for additional hours of preschool. As written, the factors did not ensure that the most vulnerable families were able to access additional hours. Revising the rule ensures that all children living in poverty have access to additional hours of Universal Preschool in the year before kindergarten. Alternatively, the qualifying factors may remain in place as initially established, however this would not address the concerns elevated across Colorado.

7. **Comparative Analysis:** Are there less costly or less intrusive methods for achieving the purpose of the proposed rule or amendment(s)? Explain why those options were rejected.

Statute directs that the Department allocate additional hours, subject to available appropriations, to children that are low-income and have one additional qualifying factor. There are no identified less costly or less intrusive alternatives to providing full-day preschool to children in poverty (100% FPG) than the addition of this as a qualifying factor.