COLORADO
Department of Early Childhood

Rule Author/Division Director: Dawn Odean	Email(s): Dawn.odean@state.co.us
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:

Effective Date(s) of proposed rule or amendment(s): (**E**mergency/**P**ermanent)	☐ Mandatory ☑ Discretionary (E) Effective Date: 1/22/24 (P) Effective Date: 4/14/24 (E) Termination Date: 5/21/24
Emergency Rule Justification:	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.
Is the proposed rule or amendment(s) included on the Regulatory Agenda?	☑ Yes ☐ No If no, please explain:
Does the proposed rule or amendment(s) conflict, or are there inconsistencies with other provisions of law?	☐ Yes ☑ No If Yes, please explain:
Does the proposed rule or amendment(s) create duplication or overlapping of other rules or regulations?	☐ Yes ☑ No If Yes, explain why:
Does the proposed rule or amendment(s) include material that is incorporated by reference[1]?	☑ Yes ☐ No If Yes, provide source: "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.
Does the proposed rule or amendment(s) align with the department's rulemaking objectives? Choose all that apply.	☐ Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services. ☑ Decrease duplication and conflicts with implementing programs and providing services.

[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.

☑	Increase equity in access and outcomes to programs and services for children and families.
☑	Increase administrative efficiencies among programs and services provided by the department.
☑	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/15eeIjO1sJKOhTTN2sRNwFcMeu_4VIC6u
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)

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.

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.

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Rule Author/Division Director: Dawn Odean	Email(s): Dawn.odean@state.co.us
Program/Division: Colorado Universal Preschool Program (UPK)	CDEC Tracking No.: 2023-06-013
CCR Number(s): 8 CCR 1404-1	SOS Tracking No.: TBD

RULEMAKING PACKET

Reason and Justification of the proposed rule or amendment(s):	Compliance with Federal and/or State laws, mandates, or guidelines If there are "Multiple/Other" reasons, please explain:
Provide a description of the proposed rule or amendment(s) that is clearly and simply stated, and what CDEC intends to accomplish:	Establish Quality Standards for participating providers in the Colorado Universal Preschool Program (UPK) to implement Colorado House Bill 22-1295, and add "Early Numeracy" to the Quality Standards, to implement Colorado House Bill 23-1231.
Statutory Authority: (Include Federal Authority, if applicable)	Sections 26.5-1-105(1), 26.5-4-204(4)(a), 26.5-4-205(1), 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: Colorado Department of Education (CDE)
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:

Effective Date(s) of proposed rule or amendment(s): (**E**mergency/**P**ermanent)	☐ Mandatory ☑ Discretionary (E) Effective Date: N/A (P) Effective Date: 4/14/24 (E) Termination Date: N/A
Is the proposed rule or amendment(s) included on the Regulatory Agenda?	☑ Yes ☐ No If no, please explain:
Does the proposed rule or amendment(s) conflict, or are there inconsistencies with other provisions of law?	☐ Yes ☑ No If Yes, please explain:
Does the proposed rule or amendment(s) create duplication or overlapping of other rules or regulations?	☐ Yes ☑ No If Yes, explain why:
Does the proposed rule or amendment(s) include material that is incorporated by reference[1]?	☑ Yes ☐ No If Yes, provide source: 1. "IDEA" means the federal "Individuals with Disabilities Education Act", 20 U.S.C. SEC.sections 1400 through 1491 ET SEQ., 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. 2. "Standards for Placement of Preschoolers with IEPs in Educational Programs (October 2023)", herein incorporated by reference. No later editions or amendments are incorporated. These standards are available at no cost from the Colorado Department of Education, 201 East Colfax Avenue, Denver, CO 80203; or at https://www.cde.state.co.us/cdesped/appropriateedenvironments. These standards are also available for inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash Street, Bldg. C, Denver, Colorado 80246, during regular business hours.; "Rules for

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	the Administration of the Exceptional Children's Educational Act" located in 1 CCR 301-8.
Does the proposed rule or amendment(s) align with the department's rulemaking objectives? Choose all that apply.	☐ Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services. ☐ Decrease duplication and conflicts with implementing programs and providing services. ☑ Increase equity in access and outcomes to programs and services for children and families. ☐ Increase administrative efficiencies among programs and services provided by the department. ☑ 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]	Permanent Tier I
Stakeholder Engagement and Data/Research: Examples: 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: 10/30/23 - 11/22/23 **Stakeholder Meeting (Proposed Rules):** November 13, 2023, at 3:00 - 4:00 pm. Please register to attend the UPK Quality Standards webinar here: https://zoom.us/webinar/register/WN_UWE5_v4TRSC5CGTVHZnzAA#/registration Public folder containing all rulemaking material: https://drive.google.com/drive/folders/1xaXQJLUALAFt_4_PBDGr2ZfCeYymHE0U
Assistant Attorney General Review:	11/29/23 - 12/29/23

[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.

RAC County Subcommittee Review Date (if required):	1/8/24
Rules Advisory Council (RAC) Review Date:	1/11/24
Public Rulemaking Hearing Date(s): [Discussion/Adoption]	1/22/24 (Discussion) 2/22/24 (Adoption)

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 will significantly benefit children and families participating in the Colorado Universal Preschool Program (UPK) by increasing access to high-quality preschool in a variety of settings (school-based, community-based, and home-based). Research shows that children who attend high-quality preschool have higher levels of educational attainment and are less likely to experience poverty or enter the criminal justice system. Furthermore, research suggests that children from low-income families experience the greatest gains from high-quality preschool.

   Universal Preschool Program providers who do not fully meet the UPK quality standards would be required to increase their program quality to meet the quality standards in order to continue participating in UPK. The proposed quality standards were designed to be accessible to the diverse range of providers participating in the Colorado Universal Preschool Program, including school district sites, community based providers, and family child care homes. All providers will receive support through a statutorily required UPK Resource Bank with inclusive early learning approaches and resources to support providers in meeting quality standards. In addition, the UPK rate that providers receive for serving children in the program was calculated to reflect the cost of providing quality care.

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).**

   Research shows that children who attend high-quality preschool have higher levels of educational attainment and are less likely to experience poverty or enter the criminal justice system. Furthermore, research suggests that children from low-income families experience the greatest gains from high-quality preschool. All participating Universal Preschool Providers would be required to follow the Quality Standards rules, which would impact more than 39,000 four year olds.

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?**

Research has shown that every $1.00 spent on high-quality early childhood education contributes $2.25 to Colorado' economy.[3] Randomized control trials have demonstrated that a high-quality preschool program returns to society between about $7 and $12 for each $1 invested.[4]

4. <u>Fiscal Impacts</u>: 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 Department is investing $2.6M in one-time stimulus funds to build the capacity for the Universal Preschool Program Quality Standards rules in the current fiscal year. The Department has requested to the Legislature as part of the annual Budget request $1M in ongoing funding for FY 2024-25 and out years. Additionally, the Department has awarded $18M in Capacity Building Grants to universal preschool program providers to meet the proposed Quality Standards.
Local Governments/ Counties	Not applicable.
Providers	Providers will be required to meet the Universal Preschool Quality Standards, which may be associated with increased direct and indirect cost. However, the Department's investments will be used to support universal preschool providers with one-time costs to achieve the Quality Standards and for the Department to enforce the rules. Additionally, the Universal Preschool rate considered the cost of quality and should support providers ongoing costs.
Community Partners (e.g., School Districts, Early Childhood Councils, etc.)	The biggest impact of community partners, including Local Coordinating Organizations (LCO) is that these entities will support UPK providers to implement the Quality Standards; this is within the scope of work for LCOs that is funded by the Department.
Other State Agencies	Not applicable.
Tribal Communities	Not applicable.

[3] Butler Institute for Families Graduate School of Social Work University of Denver and Brodsky Research and Consulting, "Bearing the Cost of Early Care and Education in Colorado: An Economic Analysis," (September 2017),
[4] Heckman, J. J., Moon, S. H., Pinto, R., Savelyev, P. A., & Yavitz, A. (2010). The Rate of Return to the High/Scope Perry Preschool Program. Journal of Public Economics, 94(1-2), 114–128.

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 Quality Standards.

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.

Establishing the Universal Preschool Quality Standards in rule is required by statute (Section 26.5-4-205, C.R.S.) and key components of the rules are directed by statute. There are no considered alternatives to the proposed rule.

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.

Establishing the Universal Preschool Quality Standards in rule is required by statute (Section 26.5-4-205, C.R.S.) and key components of the rules are directed by statute. There are no considered alternatives to the proposed rule.