# A FLAWED AGENDA FOR AMERICA'S YOUNG CHILDREN

## Build Back Better's Blueprint for Early Care and Education

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# Contents




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## Executive Summary

Federal policymakers on both sides of the aisle are considering a greater federal role in early childhood policy as an expanding body of brain science underscores the importance of children's earliest years. Prompted by this growing interest, the Build Back Better Act of 2021 (BBB) included two large early care and education programs, together described by the Biden administration as "the most transformative investment in children and caregiving in generations."

Build Back Better was passed by the House in November 2021, but later blocked in the Senate. While much of Build Back Better was included in the revised legislation that was renamed the Inflation Reduction Act and passed into law in August 2022, BBB's early care and education provisions did not make the cut. Yet those provisions remain relevant, providing a detailed legislative blueprint of a growing vision for America's young children still vigorously promoted by many as the best approach to federal early childhood policy. The original BBB legislation clearly lays out this increasingly influential vision, often summarized by its supporters as "education starting at birth": a centrally controlled "early learning system" comprised of federally-funded preschool programs for all children from birth onwards, closely regulated — and often operated — by federal and state government, and more closely aligned with K–12 schooling.

Advocates have widely characterized BBB's early care and education legislation as building on the core strengths of the existing federal childcare program, the Child Care and Development Block Grant (CCDBG), established in 1990. The legislation continued CCDBG's commitment to state flexibility, they maintained, while further bolstering its support for parental choice. Yet far from expanding and improving on CCDBG, BBB actually mapped out a striking departure from it.

BBB would have greatly increased government regulation of early care and education, amplifying the federal role while substantially reducing state flexibility and parental choice. The legislation would ultimately have reduced provider quality, transferred wealth from lower- to higher-income populations, and institutionalized a strong, new incentive for putting young children in childcare, as follows:

**Amplified federal role.** BBB aimed to centralize control over much of the nation's early care and education in a single federal agency, diminishing state and local leadership and flexibility. BBB's multiple provisions for an amplified federal role would have empowered the U.S. Department of Health and Human Services (HHS) to define, monitor, and enforce key aspects of early care and education in BBB-funded states, including minimum staff qualifications and pay, local provider prices, a range of "quality" standards, and compliance with a slew of complex HHS regulations.

**Substantial expansion of state government infrastructure.** BBB would have mandated and funded a large scale-up of state regulatory and administrative activity for early childhood programs. States would have had to monitor providers' compliance with a range of state and federal mandates; carry out ongoing "quality" ratings of every provider; conduct ongoing "continuous quality improvement" activities; help childcare and pre-K staff obtain additional credentials and degrees; license providers that were previously exempt from licensing requirements; develop new licensing standards; relicense previously-licensed providers under these new standards; and administer pre-K across the state, all overseen by HHS.

**Counterproductive quality-improvement mandates.** The legislation would have institutionalized a federally-defined concept of "quality" that has no demonstrated relationship to child development outcomes and is inconsistent with how parents — much less children — define it. Under BBB a provider would have been defined as "high quality" based on three criteria: 1) Rating highly on the state quality rating system, designed according to federal requirements; 2) Employing staff with federally mandated degrees and credentials; and 3) Paying those staff at a rate equivalent to the state's public elementary school teachers.

Indeed, BBB's definition of "quality" largely excluded what families care about: their children's day-to-day experiences and developmental outcomes. At the same time, the unintended consequences of BBB's mandated quality improvement and control activities would likely have negatively affected provider quality overall: causing the net quality of the early care and education workforce to decline and increasing the number of children cared for by each staff member.

**Diminished parental choice.** Overall, BBB aimed to shift the federal role from funding parents to funding highly regulated government programs instead, while simultaneously moving early care and education closer to integration with K–12 public schooling. The bill prescribed a substantial transfer of power from families to federal and state government agencies, promoting providers' compliance with a range of federal and state laws and regulations over parental choice.

**Wealth transfer from lower- to higher-income populations.** BBB would have redistributed resources from nonparticipating to participating states, giving large new benefits to relatively high-income families, and providing larger benefits to families in wealthier states. While BBB was widely characterized as providing help for all struggling families and their young children, it disproportionately benefitted more affluent families. At the same time, the White House expected that multiple states would decline to participate in the program, officially projecting that BBB would do nothing for more than two out of five potentially eligible children across the country.

**Financial incentive for placing children in childcare beginning in infancy**. Under BBB, the families who would gain the most financially were those who put the most children in childcare, for the greatest number of hours per day, starting when their children were the youngest. The legislation thus established a strong, new incentive for putting children in nonparental care — reinforcing a growing cultural bias toward group, institutional care now increasingly promoted as the best means to advance the healthy development of young children.

## A Better Path Forward

Improving the environments where children spend their earliest years and helping parents balance work with raising children are crucial policy goals. Many continue to promote Build Back Better's early care and education legislation as the best way to achieve those goals. But close analysis shows that BBB prescribes the wrong approach to this important issue.

What lower-income families need are adequate funds to access good care and education, not a huge, new, federally controlled program providing nonparental group care and education for all children under age five. And federal policy must bolster, not diminish, parents' crucial role in their children's well-being and development. Policy should therefore aim to improve early care and education environments for lower-income children by maximizing parents' agency in determining where and by whom their young children are cared for.

Three principles should guide federal policymaking toward this end:

- **Direct resources to the children and families for whom most is at stake.** Federal funds should be targeted to parents who *must* work, yet do not have access to high-quality providers for their young children — helping families who cannot pay, rather than those who would prefer not to.
- **Expand and strengthen informed family choice.** The solution is not to replace the early care and education market with a huge federal program, but rather to make it work for the lower-income families who need high-quality early care and education the most.
- **Design programs that all states are willing to participate in.** Federal programs to improve child well-being must reach children in all 50 states. When the design of a federal early childhood program neglects to address a state's needs and concerns, the program simply fails children in that state. Indeed, programs that are not intentionally designed for maximum state participation essentially prioritize the well-being of young children in some states over others.

The Child Care and Development Block Grant (CCDBG) — the existing federal childcare program — is a strong vehicle for accomplishing these aims. The program's 2014 reauthorization included particular emphasis on supporting healthy child development. Core to CCDBG is the importance of respecting and supporting parents' decisions regarding the care and education of their children. And the program is explicitly designed to maximize state engagement. Federal early care and education policy should therefore build on CCDBG's strengths by making the program work better for the families it aims to serve. Through CCDBG, the federal government can help empower and support the lower-income working parents who truly need assistance, giving their young children a better chance to flourish.

## Introduction

Federal policymakers on both sides of the aisle are considering a greater federal role in early childhood policy as an expanding body of brain science underscores the importance of children's earliest years. Following this growing interest, the Build Back Better Act of 2021 (BBB) included two large early care and education programs, together described by the Biden administration as "the most transformative investment in children and caregiving in generations."[1]

Build Back Better was passed by the House in November 2021, but later blocked in the Senate. While much of Build Back Better (BBB) was included in the revised legislation that was renamed the Inflation Reduction Act and passed into law in August 2022, BBB's early care and education provisions did not make the cut.[2] Yet those provisions remain relevant as a detailed legislative blueprint of a distinct vision for America's young children still vigorously promoted by the Democratic Party and a growing coalition of advocates as the best approach to federal early childhood policy.[3] The original BBB legislation clearly lays out this increasingly influential vision, often summarized by its supporters as "public education starting at birth": a centrally controlled "early learning system" comprised of federally-funded preschool programs for all children from birth onwards, closely regulated — and often operated — by federal and state government, and more closely aligned with K–12 schooling.[4]

While BBB lays out this early care and education vision in especially specific detail, critical components of that vision have been emerging for years. BBB builds directly on the Obama administration's signature early childhood programs: Race to the Top–Early Learning Challenge, Early Head Start-Child Care Partnerships, and the Preschool Development Grants, launched from 2011 to 2014.[5] While tiny compared to BBB, the Obama administration initiatives were largely driven by the same vision underpinning the 2021 BBB legislation.

1. White House, "The Build Back Better Framework: President Biden's Plan to Rebuild the Middle Class."

2. The Build Back Better Act (H.R.5376) was introduced in the House of Representatives on September 27, 2021 and passed 220–213 on November 19, 2021. It included two early care and education programs presented in 103 pages of the 2,035-page bill, appearing in Subtitle D of Title II, entitled "Child Care and Universal Preschool." The Senate never voted on the legislation. It was eventually revised, renamed the "Inflation Reduction Act," and signed into law on August 16, 2022 as Public Law No: 117-169, including none of the original bill's early childhood provisions.

3. See, for example: Democratic National Committee, "Providing A World-Class Education in Every Zip Code"; Alliance for Early Success, "National Allies"; American Federation of Teachers, "Reopening High-Quality Child Care and Early Childhood Education for All Post-Pandemic," AFT Resolution, 2020; Early Childhood Funders Collaborative, "Our Members"; Jane Fillion, "Joint Statement: Senate Must Make Good on Promise to Solve Child Care Crisis," First Five Years Fund, July 18, 2022; First Five Years Fund, "About Us"; First Five Years Fund, "Letter: Early Learning and Care Are Foundational to Families and the Economy," July 11, 2022; Learning Policy Institute, "Building A National Early Childhood Education System That Works," March 2021; National Education Association, "Early Childhood Education," December 2, 2021; Power to the Profession, "About: Power to the Profession National Task Force"; Katherine Gallagher Robbins and Stephanie Schmit, "Child Care and Early Learning: Addressing the Urgent Crisis and Investing in the Future," National Women's Law Center, November 20, 2020; U.S. Department of Health & Human Services, Administration for Children & Families, Office of Child Care, "Early Childhood Systems Building Resource Guide."

4. See, for example, Jane Fillion, "FFYF Statement on Child Care, Early Learning in the President's Budget," First Five Years Fund, March 9, 2023; Elliot Haspel, "Hey Democrats! Early Childhood Education and Care Should Be Free for All," *USA Today*, December 12, 2019; Elliot Haspel, "How the Child Care Crisis Affects Us All," *TFA One Day*, February 13, 2020; Charles Joughin, "U.S. House Passes Build Back Better Act with Transformative Investments in America's Early Learning System," First Five Years Fund, November 19, 2021; Julie Kashen, "It's Time to Build a Comprehensive Child Care and Early Learning System," The Century Foundation, April 22, 2021; Claire Cain Miller, "Public School Is a Child's Right. Should Preschool Be Also?", *The New York Times*, March 15, 2020; Elle Moxley, "Kansas City Kids Don't Just Need Pre-K, Experts Say — They Need Education Starting At Birth," *NPR in Kansas City*, July 25, 2019; Portland Public Schools' Parent University, "Starting at Zero: Thinking About Education Starting at Birth," May 11, 2021.

5. See U.S. Department of Health & Human Services, Administration for Children & Families, "Race to the Top–Early Learning Challenge" and "Early Head Start Expansion and Child Care Partnerships Will Increase Early Learning Opportunities," June 6, 2014; Federal Register, "Preschool Development Grants," August 18, 2014.

Essential parts of BBB have also appeared in other major legislative proposals over the past several years. The most significant of these are the Child Care for Working Families Act — first introduced in 2017, re-introduced in 2019 and 2021, "embedded" in Build Back Better, and, finally, just re-introduced by Senator Patty Murray and Congressman Bobby Scott in April 2023 — along with the Child Care for Every Community Act, the Universal Child Care and Early Learning Act, the Child Care is Essential Act, the Child Care for Economic Recovery Act, the Rebuilding a Better Child Care Infrastructure Act, the Child Care is Infrastructure Act, and the Building Child Care for a Better Future Act, all introduced by Democrats between 2017 and 2023.[6]

Beyond its significance as specific legislation, BBB is therefore important to understand as a manifesto of the vision and priorities that underlie it. This report provides a close examination of the BBB childcare and pre-K provisions toward that end. It explains the legislation's central elements and analyzes the implications were this kind of legislation passed into federal law.

**Overview of Build Back Better's early care and education provisions**. Build Back Better's two early care and education programs appeared in Subtitle D of Title II, "Child Care and Universal Preschool." The first program — "Establishment of Birth Through Five Child Care and Early Learning Entitlement Program" — focused on childcare, stating its aims as:

- Improving access to high-quality childcare for children from birth through age five;
- Increasing the supply of high-quality childcare; and
- Strengthening the childcare workforce by raising staff wages and qualifications.

The childcare program was to provide states with an estimated $237 billion in federal funds over six years, described by the White House as "the largest investment in child care in the nation's history."[7] Under the legislation, families earning under 75 percent of state median income would pay nothing for childcare, while families earning up to 250 percent of state median income would pay no more than 7 percent of their annual household income.[8] The White House described the program as covering almost all U.S. families earning up to $300,000 for a family of four.[9]

For the first three years, from 2022 through 2024, the program was to cost nothing for states, funded

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6. See Child Care for Working Families Act, S. 1354, 118th Cong., 1st Sess., 2023; Patty Murray, "We Can Rebuild Child Care in America," *The Seattle Times*, November 3, 2021; U.S. Senate Health, Education, Labor, and Pensions (HELP) Committee, "Murray, Former Preschool Teacher and Long-Time Senate Leader on Child Care, On Historic Proposals to Make Child Care Affordable to Working Families & Establish Universal Pre-K in Build Back Better Framework," April 28, 2021; Julie Kashen, "Child Care for Working Families Act Reintroduced as Need for Care Options Soars," The Century Foundation, April 27, 2023. Also see: Child Care for Every Community Act, S. 388, 118th Cong., 1st Sess., 2023 (also introduced in the House in 2023); Universal Child Care and Early Learning Act, S. 1398, 117th Cong., 1st Sess., 2021 (also introduced in the House in 2019 and re-introduced in the House in 2021); Building Child Care for a Better Future Act, S. 1842, 117th Cong., 1st Sess., 2021; Child Care is Infrastructure Act, H.R. 1911, 117th Cong., 1st Sess., 2021; Child Care for Economic Recovery Act, H.R. 7327, 116th Cong., 2nd Sess., 2020; Child Care is Essential Act, H.R. 7027, 116th Cong., 2nd Sess., 2020; and Rebuilding a Better Child Care Infrastructure Act, S. 4668, 116th Cong., 2nd Sess., 2020.

7. White House, "President Biden Announces the Build Back Better Framework," October 28, 2021.

8. In addition to income, family eligibility is determined by at least one parent participating in an "eligible activity." Eligible activities include working full- or part-time, searching for a job, attending job training, attending school, undergoing health treatment (including mental health and substance abuse), and engaging in activities to prevent family violence and child abuse or neglect.

9. White House, "The Build Back Better Framework." For 2022 state median income across states, see U.S. Department of Health & Human Services, U.S. Administration for Children & Families, "State Median Income: 2022."

entirely by the federal government.[10] From 2025 through 2027, federal dollars would continue to fund most of the program, as follows:

- 90 percent of a state's direct childcare costs based on the number of eligible children in the state;
- 50 percent of the state's ongoing costs for administering the program; and
- A substantial proportion of state expenditures on federally mandated "quality and supply activities."[11]

The legislation's second program, "Universal Preschool," aimed to establish free, universal pre-kindergarten (pre-K) for three- and four-year-olds, to be run by the state, specifically, and aligned more closely with the state's K–12 system. In the words of the White House, it would be "the largest expansion of universal and free education since… the country established public high school 100 years ago."[12] Grants to states for the pre-K program were to be considerably smaller than those for the childcare program, totaling roughly $52.4 billion over six years.

All three- and four-year-old children, regardless of family income, would be eligible to attend pre-K under the program. But while the childcare program targeted all families earning up to 250 percent of state median income, the pre-K program was focused on serving much lower-income children. It required states to prioritize establishing and expanding pre-K for high-need populations and communities, and the U.S. Department of Health and Human Services (HHS) was to allocate program funds to states based on the proportion of young children whose families earn at or below two times the federal poverty line.[13]

**Table 1. BBB's proposed state payments for direct childcare and pre-K services: 2022-27**

| | CHILDCARE | | PRE-K | |
|---|---|---|---|---|
| | State | Federal | State | Federal |
| 2022 | 0% | 100% | 0% | 100% |
| 2023 | 0% | 100% | 0% | 100% |
| 2024 | 0% | 100% | 0% | 100% |
| 2025 | 10% | 90% | 5% | 95% |
| 2026 | 10% | 90% | 20% | 80% |
| 2027 | 10% | 90% | 36% | 64% |

As with the childcare program, the federal government was to fund 100 percent of a state's costs for direct provision of pre-K services for the first three years. But over the subsequent three years, states would have had to pay for an increasingly substantial proportion of those costs: 5 percent in year four, 20 percent in year five, and 36 percent in year six. For all six years, federal dollars would pay for 53 percent of the costs of required

10. As a point of comparison, the federal government funds just under 10 percent of total spending on K-12 schools.

11. From 2025 through 2027, states would be required to spend between 5 and 10 percent of total program funds on "quality and supply activities." These would be covered by the federal government using the federal medical assistance percentage (FMAP) rate, which ranges from 50 percent to 83 percent depending on the state.

12. White House, "The Build Back Better Framework." The state was required to ensure that preschool programs operate for a minimum of 1,020 hours per year: an average of 5 hours and 40 minutes per day for 180 days a year, consistent with typical public-school schedules.

13. For a comparison of the income levels targeted by BBB's childcare vs. pre-K programs, see Appendix 1, which shows income levels across states for 200 percent of the federal poverty line (the cutoff targeted by the pre-K program), 75 percent of state median income (the childcare program's cutoff for free services), and 250 percent of state median income (the top income level eligible for childcare subsidies).

state administrative activities, permitting administrative spending of up to 10 percent of a state's total program expenditures. (See Table 1.)

For both the childcare and preschool programs, funding would be granted to a state based on a detailed plan submitted to HHS, describing how that state would implement the program according to federal specifications. HHS was charged with defining details of plan requirements, approving state plans, granting funds, monitoring programs in states that received funding, and enforcing compliance with program requirements. Program funding that remained unused by states choosing not to participate was to be re-allotted to states that submitted approved plans to HHS. In nonparticipating states, localities and Head Start agencies could also receive separate, much smaller grants by submitting the required plans.

Federal spending on BBB's early care and education provisions was estimated at roughly $380 billion over six years.[14] The legislation's wide-ranging mandates would have been enormously expensive to implement in practice, however, and the projected federal spending would have fallen far short of covering the programs' total cost over time. Back-of-the-envelope estimates using per-child expenditures provide a rough picture of the overall increased spending it could well have required:

- Current annual expenditures on childcare total roughly $77 billion, most paid with private dollars.[15] Under BBB, total annual expenditures for the children currently in care would have risen by 145 percent to $188.6 billion, largely paid by taxpayer — rather than private — dollars.[16]
- Annual expenditures would have more than tripled to $251.5 billion if the 48 percent of all young children who are currently in childcare all shifted to full-time care with providers rated as "high quality" under BBB.[17]
- Annual expenditures would have more than quintupled to $395.5 billion if the proportion of young children in childcare rose from 48 percent to 75 percent, all attending full-time, "high quality" care. If public funding were to cover $350 billion of that annual total, for instance, this would amount to an almost 11-fold increase over combined 2019 federal and state early care and education spending of roughly $34 billion.

Much critique of the proposed programs has thus understandably emphasized their large expense. But a close analysis of the legislation reveals important drawbacks beyond its cost.

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14. Laura Meckler, "How the House Spending Bill Expands Early Childhood Education," The Washington Post, November 19, 2021.

15. In 2019, roughly 10.25 million young children — around 48 percent of all children from birth through age five — were in nonparental, non-relative care at least once per week at an average full-time expenditure estimated at around $10,000 per year. Estimate of current expenditures assumes that one half are in full-time care and one half in part-time care. See Institute of Education Sciences, *Early Childhood Program Participation: 2019*, National Center for Education Statistics, U.S. Department of Education; Child Care Aware of America, "Demanding Change: Repairing Our Child Care System," 2022; Elise Gould and Hunter Blair, "Who's Paying Now?: The Explicit and Implicit Costs of the Current Early Care and Education System," Economic Policy Institute, 2020.

16. This calculation is based on an average per-child cost of $24,528 — the cost of "high quality" care as defined by the Center for American Progress, which is closely aligned with BBB's definition. See Simon Workman, "The True Cost of High-Quality Child Care Across the United States," Center for American Progress, June 28, 2021.

17. Gould and Blair, "Who's Paying Now?"

## Critical Implications and Effects

Advocates widely characterized BBB's early care and education legislation as building on the core strengths of the existing federal childcare program, the Child Care and Development Block Grant (CCDBG) established in 1990.[18] BBB continued CCDBG's commitment to state flexibility, they maintained, while further bolstering its support for parental choice.[19] Yet far from expanding and improving on CCDBG, BBB in fact called for a striking departure from it.

BBB's early care and education legislation would have given the federal government unprecedented control over state and local early care and education: greatly reducing state flexibility, requiring a substantial expansion of state-level bureaucracy, and mandating a costly, counterproductive approach to improving quality. Rather than expanding parental choice, the legislation would have shifted power from parents to federal and state governments, while simultaneously moving early care and education closer to integration with K–12 public schooling. It would have transferred wealth from lower- to higher-income populations: redistributing resources from nonparticipating to participating states, giving large new benefits to relatively high-income families, and providing bigger benefits to families in wealthier states. Finally, it would have established a strong financial incentive for placing children in childcare beginning in infancy, reinforcing a growing cultural bias toward group, institutional care for young children.

**Major expansion of regulatory state.** Build Back Better aimed to both greatly expand government regulation of early care and education and to shift much state and local control to the federal government. The bill required state and local childcare and pre-K providers to comply with a range of complex federal regulations. It also required that states develop, implement, and enforce new childcare and pre-K regulations, providing substantial funding for unprecedented state-level administrative infrastructure to carry them out.

*Extraordinary new federal control.* Above all, BBB called for unprecedented federal control over early care and education across states. A hallmark of CCDBG, the existing federal childcare program, is its explicit prohibition of any federal role in setting standards for or regulating state programs. Under CCDBG, the federal government may not "mandate, direct, control, or… establish any criterion that specifies, defines, prescribes, or places conditions" on a state's standards, measures, or accountability systems. Nor may the federal government require states to submit guidelines for federal review.[20] In direct contrast to this emphasis on state-level flexibility and control, however, BBB shifted jurisdiction over much of early care and education to HHS at the federal level.

For both the childcare and pre-K programs, the legislation explicitly mandated much-increased federal control together with significant constraints on state and local roles. It called for the federal

18. The Child Care and Development Block Grant (CCDBG) Act — passed in 1990 as a part of comprehensive welfare reform and last reauthorized as the Child Care and Development Block Grant Act of 2014 (S. 1086, 113th Cong., 2014) — authorizes the federal childcare subsidy program known as Child Care and Development Fund (CCDF). For more information, see U.S. Department of Health & Human Services, Administration for Children & Families, Office of Child Care, "History and Purposes of CCDBG and CCDF" and "Program Regulations," 2016.

19. See, for example, Julie Kashen, "The Top Six Reasons We Need Comprehensive Child Care and Universal Pre-K," Century Foundation, February 24, 2022.

20. Child Care and Development Block Grant, "42 U.S. Code § 9858c - Application and Plan."

government to determine a range of key program characteristics, including minimum staff pay, staff credentials, and local provider prices. The legislation also required that participating states implement a statewide system for rating provider quality that used federal Head Start Program Performance Standards to define its highest quality level.[21] While states were permitted to define lower-level ratings as they wished, BBB further mandated that *all* providers soon reach the federally-defined highest level — within one year for pre-K and six years for childcare providers — thus ultimately substituting federally-set standards for state and local ones.

The reach of this federal control would have been especially extensive because the federal government was to cover such a large proportion of program costs. As noted, both programs would have been free for states for the first three years: 100 percent of both childcare and pre-K costs would have been federally funded from 2022 through 2024, and the federal government would have continued to cover much of the cost for the childcare program from 2025 through 2027. While for the pre-K program BBB required states to pay a gradually larger proportion of costs over the second three-year period, the federal government's smaller financial role in pre-K would not have reduced its control because BBB stipulated that all state pre-K — whether supported with BBB funds or not — would have to meet federal standards within one year of a state receiving program funds.[22]

Finally, BBB aimed to further reinforce and extend federal control by how it defined the funding mechanism for the childcare program. While the existing federal childcare program, CCDBG, is set up as a voucher system that largely provides funds directly to parents, childcare funding under BBB was defined as "federal financial assistance" to entities. This opaque distinction was critical because it meant funding would go to *providers* rather than to parents and, further, that any provider paid with program funds would be required to demonstrate ongoing compliance with multiple, additional federal laws and a complex range of associated HHS regulations, all monitored and enforced by HHS.[23]

Taken together, BBB's multiple provisions for amplified federal control would have empowered the U.S. Department of Health and Human Services to define, monitor, and enforce key aspects of early care and education in BBB-funded states, including minimum staff qualifications and pay, local provider

21. BBB stipulated that states must "[use] standards for a highest tier that at a minimum are equivalent to Head Start program performance standards described in section 641A(a)(1)(B) of the Head Start Act (42 U.S.C. 9836a(a)(1)(B)) or other equivalent evidence-based standards approved by the Secretary." For more information, see U.S. Department of Health & Human Services, Administration for Children & Families, "Head Start Program Performance Standards," September, 2016.

22. The legislation required states to carry out ongoing, "continuous quality improvement" to ensure that all state-funded preschools met the same standards as those receiving federal funds.

23. The laws and regulations most obviously difficult for some providers to meet would be those associated with the Americans with Disabilities Act of 1990 (ADA). But defining federal funding as "federal financial assistance" would put local providers under HHS's jurisdiction more generally, bringing unpredictable and potentially onerous federal oversight and enforcement activity. As HHS' website explains, HHS' Office of Civil Rights "enforces nondiscrimination regulations that apply to programs, services, and activities receiving HHS Federal financial assistance"; those receiving funds "may... want to review OCR's Compliance and Enforcement page and the Regulations and Nondiscrimination Laws enforced by OCR." Recipients of federal financial assistance must sign an "assurance of compliance," including the agreement that the federal government "shall have the right to seek judicial enforcement" of their compliance with multiple laws and regulations, including the Americans with Disabilities Act of 1990 (ADA); Civil Rights Division, ADA Standards for Accessible Design, US Department of Justice, September 15, 2010; Section 504 of the Rehabilitation Act of 1973, 20 U.S.C. 1405, 29 U.S.C. 794, 42 U.S.C. 290dd-2, 21 U.S.C. 1174; Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services, 29 U.S.C. 794; Nondiscrimination on the Basis of Disability in State and Local Government Services, 5 U.S.C. 301, 28 U.S.C. 509 and 510, 42 U.S.C. 12134, 12131, and 12205a; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 through 1688, Pub. L. 100-259, 102 Stat. 28, Mar. 22, 1988; Title VI of the Civil Rights Act of 1964, Sec. 602, 78 Stat. 252, 42 U.S.C. 2000d-1; and Section 654 of the Head Start Act, Sec. 654., 42 U.S.C. 9849. See U.S. Department of Health & Human Services, "Assurance of Compliance," "Laws and Regulations Enforced by OCR," and "For Providers of Health Care and Social Services."

prices, a range of "quality" standards, and compliance with a slew of federal laws and regulations. At the same time, the legislation aimed to sharply restrict states' use of CCDBG's more flexible funds for young children, requiring that any state receiving BBB's childcare funding use no more than 10 percent of CCDBG funds for children under age six, beginning in 2025.[24] This new restriction would have specifically served to greatly reinforce federal control over the care and education of children from birth through age five.

*Substantial expansion of state government infrastructure*. The BBB legislation further required and funded a large scale-up of state regulatory and administrative activity for early childhood programs. The mandated state "quality rating and improvement system" (QRIS) was especially central to how BBB's programs were to be carried out. How much the required systems would have improved quality from the point of view of parents and children is not evident.[25] But they would certainly have necessitated a large build-up of the state's regulatory apparatus, focused on defining, improving, measuring, and monitoring federally defined "quality."

BBB also greatly ramped up requirements for state licensing of providers, which was essential to how the legislation would have played out in practice. The legislation would have both increased the number of providers subject to state licensing and potentially added new requirements. The eventual consequence of this would likely have been to eliminate a significant number of providers from the market, as follows.

First, the legislation required that *all* providers receiving BBB funding be licensed by the state, including the substantial proportion of providers — often family- and faith-based — that are currently exempt from licensing in many states.[26] Second, the legislation further required that states develop new licens- ing standards in consultation with multiple parties, including state labor unions. All already-licensed providers would therefore have had to be *re*licensed under the new standards, which could well have included additional new state regulations difficult for smaller and noninstitutional providers to meet.

For the pre-K program, BBB required that the state actually administer — not just oversee — all pre-K across the state, thus shifting significant control from parents, individual providers, and local communities to the state. The state would decide which providers received funding, how much funding they received, and what those funds were spent on.[27] One key outcome of this centralization would be

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24. Under CCDBG, children from birth through age 12 are eligible for federal childcare assistance for full-time, part-time, or after-school care; how funds are distributed among age groups is currently determined by states. The BBB legislation would have required that states spend 90 percent of their CCDBG funding on after-school care for children from ages 6 through 12.

25. Anna J. Markowitz, Daphna Bassok, and Daniel Player, "Simplifying Quality Rating Systems in Early Childhood Education," Children and Youth Services Review, 112, 2020; Jill S. Cannon et al., "Quality Rating and Improvement Systems for Early Care and Education Programs: Making the Second Generation Better," Santa Monica, CA: RAND Corporation, 2017; Lynn A. Karoly, *Validation Studies for Early Learning and Care Quality Rating and Improvement Systems: A Review of the Literature*, Santa Monica, CA: RAND Corporation, 2014; Holly M. King, "Redefining the Measurement of Early Childhood Program Quality and Child Outcomes," Cognia, Inc, 2021.

26. See U.S. Department of Health & Human Services, Administration for Children & Families, Office of Child Care, Child Care Technical Assistance Network and Childcare.gov, "Licensing and Exemptions" and "Child Care Licensing & Regulations."

27. This is consistent with the definition used by the leading national state preschool advocacy organization, the National Institute for Early Education Research (NIEER), which defines a state preschool program as one that is "funded, controlled, and directed by the state." See Friedman-Krauss et al., *The State of Preschool 2021: State Preschool Yearbook,* National Institute for Early Education Research, 2022.

enabling labor unions to negotiate directly with the state — rather than with hundreds of individual programs operating independently — which, too, could lead to new state regulations potentially difficult for some providers to meet.

Overall, BBB's mandates for the administration of the childcare and pre-K programs would have generated the need for substantial, new state bureaucracy. States would have had to monitor providers' compliance with a range of state and federal mandates; carry out ongoing "quality" ratings of every provider; conduct ongoing "continuous quality improvement" activities; help childcare and pre-K staff in obtaining additional credentials and degrees; license providers that were previously exempt from licensing requirements; develop new licensing standards; relicense previously-licensed providers under these new standards; and administer pre-K across the state. As BBB stipulated, this broad new range of federally required state-level activity would have been closely monitored and enforced by HHS.

**Counterproductive approach to improving quality.** Much of the increased state regulation driven by BBB would have occurred via the legislation's three "quality improvement" mandates: strengthening the state quality rating and improvement system (QRIS); raising staff pay; and increasing the levels of degrees and credentials held by teachers and caregivers.[28] While improving the quality of early care and education programs is a crucially important goal, implementation of BBB's federally-mandated approach to "quality improvement" would have been enormously expensive and largely infeasible in practice.[29] Most importantly, it would not have improved the quality that matters to children and parents: children's experiences and the impact of those experiences on their development.

**While improving the quality of early care and education programs is a crucially important goal, implementation of BBB's federally-mandated approach to "quality improvement" would have been enormously expensive and largely infeasible in practice.**

*The Quality Rating and Improvement System (QRIS).* State "quality rating and improvement systems" — a "tiered system for measuring the quality of eligible childcare providers" — were central to BBB's strategy for quality improvement. Currently operating in 44 states, these state-run accountability systems define, measure, and publicly rate provider

28. Early care and education quality is typically assessed on both "structural" and "process" features. Structural quality describes provider characteristics that are measurable and can be regulated, such as staff pay, staff degrees and credentials, curriculum, staff-child ratios, group size, and a facility's square footage. Process quality features describe teachers' and caregivers' interactions with children, which are the proximal drivers of children's physical, linguistic, intellectual, emotional, and social development. See Martha Zaslow, et al., *Measuring the Quality of Early Care and Education Programs at the Intersection of Research, Policy, and Practice*, OPRE 2011-10a, Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2010.

This is comparable to how quality is assessed in K-12: "structural measures" would include teacher degrees, curriculum, and class size, while "process measures" would describe how teachers actually work with children. That is, process quality refers to the quality of teaching, which, while difficult to measure and essentially impossible to regulate, is what matters for child outcomes.

29. Just meeting BBB's requirements for pre-K alone would be impossible: As Steve Barnett from the National Institute for Early Education Research (NIEER) explains: "Quality programs cannot be created overnight… [it will take] 10 to 20 years to fully provide high quality UPK across the entire nation."

quality, and, in some cases, aim to help providers increase their rating.[30] BBB required that states establish or strengthen their state QRIS according to federally defined standards, rate all providers operating in the state, and link provider payments to the rating system by paying higher fees to providers with higher ratings.

The gap between BBB's legislative mandates and on-the-ground reality was so large, however, that achieving them would have been essentially impossible. For instance, the legislation required that states put "policies and financing practices" into place to ensure that all eligible children "have access to" top-rated providers within six years — in practice, meaning that all childcare providers would have to reach the top level of quality by 2028. Yet across the 43 states that reported QRIS participation data in 2019, barely over half of licensed and no unlicensed providers had even been rated.[31] Furthermore, of those providers that *were* rated, most scored at the lowest levels of quality.[32]

Beyond such practical problems, BBB's approach to raising provider quality was misguided in the first place. Research has repeatedly shown that QRIS ratings fail to correlate closely with independently observed program quality. As one major research synthesis concluded, differences in QRIS scores between various rating levels are small and do not "support the conclusion that each level of a QRIS reflects a meaningful difference in quality from other levels." Nor have researchers found reliable associations between QRIS ratings and child outcomes.[33]

**As one major research synthesis concluded, differences in QRIS scores between various rating levels are small and do not "support the conclusion that each level of a QRIS reflects a meaningful difference in quality from other levels."**

*Degrees and credentials*. BBB's second key strategy for improving provider quality was to "ensure a highly qualified early childhood workforce" by increasing the degrees and credentials held by early care and education staff. To be rated at the highest level of quality under BBB, a provider would have to meet Head Start standards, which require a minimum of a "Child Development Associate" (CDA)

30. In 1997, New Mexico launched the first QRIS as a pilot program, and in 1998, Oklahoma implemented the first statewide QRIS. Over the next couple of decades, the number of QRISs grew rapidly: increasing from 4 in 2000 to 29 in 2016. This increase was driven in particular by an Obama administration early childhood grants program, Race to the Top–Early Learning Challenge (RTT-ELC), which was awarded to 20 states and required development of a state QRIS. See National Center on Early Childhood Quality Assurance, "History of QRIS Growth Over Time," December 2017.

By 2019, 44 states had statewide QRIS's in place. Current state QRISs vary in specifics, using scales ranging from three to six levels of quality and differing measures (mostly structural) to rate programs. By the end of 2019, all 44 state QRISs were using indicators for staff degrees and credentials. Other commonly measured characteristics include group size, staff-child ratios, program administration, facility size and condition, health and safety procedures, program curriculum, teacher-child interactions, and teachers' responsiveness to children's needs.

31. Across the 42 QRISs that reported participation data in 2019, just 63 percent of licensed centers and 51 percent of licensed home-based providers — a total of a total 92,441 programs — had been rated. National Center on Early Childhood Quality Assurance, "QRIS Program Participation Fact Sheet," August 2020.

32. In 2019, of the 24 states that reported using 5 or 6 levels of quality, only 21 percent of childcare centers received a top rating, while almost one third (30 percent) were rated at the bottom two levels. Of the 11 states that reported using 4 levels of quality, just 18 percent of childcare centers were rated at the top level, while 64 percent were rated at the bottom two levels. Among home-based providers, just 5 percent received a top-level rating in states using 5 or 6 levels of quality; 61 percent were rated at the bottom two levels. In states using 4 levels of quality, only 3 percent of home-based providers received a top-level rating, while 86 percent were rated at the bottom two levels. National Center on Early Childhood Quality Assurance, "QRIS Program Participation Fact Sheet."

33. Kathryn Tout et al., *Validation of the Quality Ratings Used in Quality Rating and Improvement Systems (QRIS): A Synthesis of State Studies*, OPRE Report #2017-92, Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation, December 2017.

credential for home-based staff and center-based staff working with infants and toddlers, and at least an associate's degree in child development or early childhood education for center-based staff working with three- to five-year-olds.[34] For school-based pre-K, at least one teacher in every classroom must have a bachelor's degree and the second classroom teacher at least an associate's degree.[35]

Staff quality is of paramount importance to the nature and impact of children's experiences in early care and education. Yet, while degrees and credentials are often seen as a proxy for teacher and caregiver quality, research has shown that they neither reliably indicate nor ensure what matters: i.e., staff capacity for effective, daily work with young children.[36] In addition, because the degrees and credentials BBB required so greatly exceed those held by the current workforce, hundreds of thousands of currently-working teachers and caregivers would have had to acquire additional degrees and credentials just to keep their jobs.[37]

For many currently-working staff, scheduling and financial constraints would have made BBB's requirement to obtain additional degrees and credentials difficult or even impossible to meet.[38] Moreover, carrying out BBB's mandates for required degrees and credentials would have been exorbitantly

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34. The CDA National Credentialing Program is "a professional development opportunity for early educators working with children ages birth to 5 years old to demonstrate their knowledge, skills, and abilities in the early childhood education field." It assesses candidates through an exam, an observation, and a portfolio including resources and competency statements prepared by the candidate. See Council for Professional Recognition, Educator Pathways. Also, see examples of CDA training: Teaching Strategies, "Quorum eLearning Courses by CDA Subject Area," February 2022; ChildSavers, "ChildSavers' CDA Training."

35. See U.S. Department of Health & Human Services, Administration for Children & Families, "Head Start Standards Required Training Chart," February 3, 2017. BBB's requirements for staff qualifications are also aligned with the National Association for the Education of Young Children (NAEYC) "Power to the Profession" framework, developed in 2020 by a national task force including several national early childhood advocacy organizations along with the two national teachers unions (American Federation of Teachers and the National Education Association), the National Association of Elementary School Principals, the American Federation of State, County and Municipal Employees, and the Service Employees International Union. NAEYC's "Unifying Framework" specifies that "public school salaries will serve as the minimum benchmark for comparable compensation, assuming comparable qualifications, experience, and job responsibilities" and that "the federal government will serve as the financing backbone for the early childhood education system… as a public good." National Association for the Education of Young Children, "Unifying Framework for the Early Childhood Profession: Executive Summary," March 2020.

36. As common sense suggests, high-quality teaching is no more ensured by academic degrees and credentials than high-quality piloting is ensured by coursework in flying airplanes. See Editorial Board, "Rating U.S. Teaching Programs Could Spur Reform," *Washington Post*, June 18, 2013; Robert Pianta, Jason Downer, and Bridget Hamre, "Quality in Early Education Classrooms: Definitions, Gaps, and Systems," *The Future of Children*, 26, no. 2:119-138; Diane M. Early, et al., "Teachers' Education, Classroom Quality, and Young Children's Academic Skills: Results from Seven Studies of Preschool Programs," *Child Development*, 78, no. 2, March/April 2007: 558 – 580.

In contrast, in-context coaching has been shown to be effective in improving staff practice while costing much less. Coaching programs have conventionally been carried out on site, but a growing number of programs are achieving good results through video coaching, often using smartphones. See M.A Kraft and Hogan D. Blazar, "The Effect of Teacher Coaching on Instruction and Achievement: A Meta-Analysis of the Causal Evidence," *Review of Educational Research*, 88, no. 4, 2010: 547-588; B. O'Keefe, *Primetime for Coaching: Improving Instructional Coaching in Early Childhood*, Bellwether Educational Partners, 2017; Robert C. Pianta et al., "Effects of Web-Mediated Professional Development Resources on Teacher–Child Interactions in Pre-Kindergarten Classrooms," *Early Childhood Research Quarterly*, 23, no. 4, 2008: 431-451.

37. Among center-based staff, 220,000 would have had to get a CDA or an associate's degree to meet BBB requirements; for school-based staff, 125,000 would have had to get a bachelor's degree. Of current home-based staff, roughly 36,000 would have had to get a CDA; if informal "off the books" providers are included, that number rises to well over 150,000. BBB's mandates also far exceeded current state requirements. For home-based staff, just six states now require at least a CDA, 10 states require only a high-school degree, and 20 have no requirements at all. For center-based staff, two states require at least an associate degree, 11 states require only a high school degree, and eight states have no requirements. State requirements for pre-K programs are higher than for childcare workers, but nowhere close to BBB's: 24 states currently require that the lead classroom teacher has a bachelor's degree; 13 states require that the assistant classroom teacher has a minimum of a CDA. See A.R. Datta et al., *NSECE Chartbook – Home-based Early Care and Education Providers in 2012 and 2019: Counts and Characteristics*, OPRE Report No. 2021-85, Washington DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2021; Caitlin McLean et al., *Early Childhood Workforce Index – 2020*, Berkeley, CA, 2021: University of California, Berkeley; National Institute for Early Education Research, "Universal Pre-K: 5 FAQs," July 15, 2021.

38. BBB included a clause exempting existing staff from new credential requirements for a limited period.

expensive for states, even while failing to address the quality of teachers' and caregivers' actual work with children.[39]

*Staff compensation*. BBB's third strategy to improve provider quality was raising staff compensation. The legislation required that to meet the definition of "high quality," a provider must pay early child hood staff at the same rate as public elementary school teachers with comparable experience and credentials, and at least a minimum of a "living wage."[40]

The problem of insufficient pay in early care and education is a serious one: Current pay levels for both childcare and preschool staff rank below almost all other professions in the United States, and large proportions of early childhood workers are on federal assistance.[41] Salary levels have long been inadequate to attract and retain sufficient numbers of talented, effective teachers and caregivers, which has reduced overall workforce quality in the early care and education field. And as wages in other industries have risen over the past year, hiring even minimally competent staff has become increasingly difficult.[42]

Extraordinarily low pay also drives the field's high staff turnover, estimated between 25 to 40 percent annually. While high turnover is bad in any profession, it is particularly detrimental in early care and education because strong, sustained relationships are the key driver of young children's development.[43] Further, frequent staff changes are often most damaging to socially and economically vulnerable children because consistent, nurturing relationships with paid caretakers play an especially important role when children's home environments are inadequately supportive.

But BBB's approach to addressing this serious problem would have required huge, infeasible increases in staff pay. To comply with BBB's mandates, states would have had to raise annual wages by roughly $31,000 per pre-K worker and $34,000 per childcare worker — increases of 103 percent and 123 percent, respectively — based on current median wages (see Table 2). Because staff wages constitute the largest proportion of early care and education costs, such increases would have rapidly driven prices

39. A CDA costs from around $500 to $1,000 depending on the program. An in-state associate's degree costs around $11,000 and an in-state bachelor's degree almost $42,000 for tuition alone. Total cost for the existing workforce to meet BBB requirements would thus amount to $7 billion or more.

40. The BBB legislation did not specifically define how a "living wage" would be calculated. For general figures, see "MIT Living Wage Calculator" and Zippia's "Living Wage Map."

41. The most comprehensive survey of working conditions in the early care and education field found that almost half of workers were receiving federal assistance of some kind. See Marcy Whitebook, Deborah Phillips, and Carollee Howes, Worthy Work, Still Unlivable Wages: The Early Childhood Workforce 25 Years after the National Child Care Staffing Study, University of California, Berkeley: Center for the Study of Child Care Employment, 2014.

42. Molly Smith, Reade Pickert, Olivia Rockeman, "'Not Giving Up': Job Data Show Just How Tight US Labor Really Is," Bloomberg, July 8, 2022.

43. "What children need more than anything is the chance to attach with and bond to adults who are meaningful and important to them," renowned Yale University professor James P. Comer has observed. For young children, "no significant learning can occur without a significant relationship." See John O'Neil, "Building Schools as Communities: A Conversation with James Comer," Association for Supervision and Curriculum Development, 1997; Effortful Educator, "Relationships and Learning: Clarification on a Popular Quote," 2018. Also see National Scientific Council on the Developing Child, *Young Children Develop in an Environment of Relationships*, Working Paper No. 1, Center on the Developing Child, Harvard University, 2009; Allan N. Schore, "Effects of a Secure Attachment Relationship on Right Brain Development, Affect Regulation, and Infant Mental Health," *Infant Mental Health Journal*, 22, no. 1–2, 2001,: 7–66.

to unaffordable levels for both families and public systems, requiring tens of billions in additional annual spending.[44]

### Table 2. BBB-mandated salary increases

| 2021 MEDIAN ANNUAL WAGES (BLS)[45] | | PER WORKER INCREASE REQUIRED BY BBB | |
|---|---|---|---|
| | | $ increase | % increase |
| Childcare worker | $27,490 | $33,860 | 123% |
| Preschool teacher | $30,210 | $31,140 | 103% |
| Kindergarten teacher | $61,350 | - | |

Finally, the cost of this massive pay raise would have greatly exceeded its benefits for raising the quality of care and education children receive. Higher pay levels would certainly increase the number of people choosing to work in early care and education. But because the legislation failed to tie pay to staff performance, it provided no mechanism for raising — much less ensuring — the effectiveness of staff's actual day-to-day work with children. Its preschool provisions in fact explicitly prohibited using child outcomes as a primary assessment of providers.[46]

* * *

In sum, under BBB a provider would have been defined as "high quality" based on just three criteria: 1) Rating highly on the state QRIS, designed according to federal requirements; 2) Employing staff with federally mandated degrees and credentials; and 3) Paying those staff at a rate equivalent to the state's public elementary school teachers. Long experience with K–12 schooling has shown that this approach — increasing government regulation of system inputs like credentials and degrees, staff pay, and curriculum — simply fails to ensure the quality of system *outcomes* defined as child learning and development. K–12 schools are certainly "high quality" by BBB's definition. But that regulated, on-paper quality often bears little relationship to what families and children actually experience in practice. Indeed, BBB's definition of "quality" entirely excluded what families care about: their children's day-to-day experiences and developmental outcomes.

*Unintended consequences*. In addition to the effects of much-increased cost, government control, and regulatory infrastructure, the unintended consequences of BBB's mandated "quality improvement" approaches would likely have negatively affected provider quality overall, for two reasons.

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44. According to U.S. Bureau of Labor data, the total current early care and education workforce includes 949,000 childcare workers and 483,100 preschool teachers with combined 2021 wages of roughly $41 billion. BBB's required increases for the current workforce would more than double wage expenditures to $88 billion annually; if the roughly 185,000 childcare providers currently operating "off the books" are added to the total, wage expenditures in early care and education would reach over $100 billion annually. Implementation of BBB would also require a considerably larger workforce, boosting that total still further. See A.R. Datta et al., *NSECE Chartbook: Home-based Early Care and Education Providers*; Bianca Quilantan, "How Many Teachers are Needed to Make Universal Pre-K Possible?," *Politico*, November 22, 2021; U.S. Bureau of Labor Statistics, "Occupational Outlook Handbook"; Workman, "The True Cost of High-Quality Child Care."

45. Bureau of Labor Statistics, "Occupational Outlook Handbook."

46. Sec. 23002 (c)(5)(I) stipulated that state plans must include "an assurance that the State will meet the requirements of clauses (ii) and (iii) of section 658E(c)(2)(T) of the Child Care and Development Block Grant Act [CCDBG]... with respect to funding and assessments under this section." The referenced section of CCDBG, in turn, stipulates that funds may "not be used to develop or implement an assessment for children that will be the sole basis for a childcare provider being determined to be ineligible to participate in the program carried out under this subchapter; will be used as the primary or sole basis to provide a reward or sanction for an individual provider; [or] will be used as the primary or sole method for assessing program effectiveness."

First, BBB mandates could well have caused the net quality of the early care and education workforce to decline rather than increase. The field already faces a severe and growing staff shortage and, even with higher pay, the pool of potential staff with adequate experience, the capacity to work effectively with young children, and BBB-mandated credentials is much too small to meet BBB's hiring requirements.[47] Existing, high-quality staff with experience and talent but lacking the mandated credentials and degrees could well be replaced by "highly qualified" staff who lack the ability to work effectively with young children. And if much-increased demand for "highly qualified" staff proved impossible to meet, states would likely respond by providing emergency waivers of BBB requirements, leading to hiring standards potentially even below where they are now.[48]

A second potential consequence of BBB's pay mandates would be an increase in the number of children cared for by each staff member. This would mean a substantial reduction in provider quality from the perspective of parents and children because so-called "child-staff ratios," often dismissed as excessive regulation, are in fact one of the most important aspects of a young child's day-to-day experience in nonparental, group care. While research has shown that class size often matters less than teacher quality in K–12 schooling, this does not necessarily hold true in early childhood for two reasons in particular. First, young children need much more intensive, one-on-one interaction and nurturing care for healthy learning and development than older children do, which, in turn, requires a smaller number of children per adult. Second, larger numbers of children per staff member also usually mean larger class sizes. Research has found — as common sense also suggests — that spending all day in big, single-age groups of children with few adults present can be overly stressful for many young children, with adverse effects on their well-being.

Yet BBB entirely ignored these critical tradeoffs between staff-child ratios, class size, and staff pay. Take an eight-baby classroom with two caregivers, for example, which advocates widely promote as the maximum ratio and group size meeting standards for high-quality infant care.[49] BBB's required pay increase would have more than doubled this classroom's total wage costs from $50,920 to $121,230,

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47. Early care and education staffing is now "in a crisis… moving closer toward a catastrophe," as one Head Start leader recently put it. Similarly, a national childcare expert has recently described the field's staffing shortages as "existing and horrendous." Elliot Haspel, "Funding Universal Pre-K and Not Childcare Would Be a Disaster," *The New Republic*, October 13, 2021; Quilantan, "How Many Teachers Are Needed."

48. This is a now-common practice in K-12 schooling that arose in response to much-increased teacher credentialing requirements beginning in the 1980s. See, for example, Phil Engle, "What is an Emergency Teaching Certificate, and When Do You Need One?," ESS; and Richard A. Neumann, "Reconsidering Emergency Teaching Certificates and Alternative Certification Programs as Responses to Teacher Shortages," *Urban Education*, v29 no.1, April 1994: 89-108.

49. Four babies per caregiver and a group of eight babies with two caregivers is typically promoted as the gold standard for staff-child ratios in childcare, although the American Association of Pediatrics and the American Public Health Association now recommend a maximum ratio of three babies per caregiver and a maximum group size of six infants. See National Association for the Education of Young Children, "Staff-to-Child Ratio and Class Size"; National Resource Center for Health and Safety in Child Care and Early Education, *Caring for our Children: National Health and Safety Performance Standards: Guidelines for Early Care and Education Programs*, 4th ed., American Academy of Pediatrics, 2019; U.S. Department of Health & Human Services, Administration for Children & Families, Office of Child Care, "Ratios and Group Sizes."

Some childcare workers, however, have suggested that two adults cannot provide a group of eight babies with adequately nurturing and stimulating day-to-day care — an observation which is consistent with recent scientific advances in understanding of early development. Along the same lines, it is usually assumed that a mother who gives birth to quadruplets — or even triplets —requires at least some assistance in caring for her multiple infants. See National Scientific Council on the Developing Child, *Young Children Develop in an Environment of Relationships*; May Saubier, *Doing Time: What It Really Means to Grow Up in Daycare*, 2012; Schore, "Effects of a Secure Attachment Relationship"; Jack P. Shonkoff and Deborah A. Phillips, Eds., *From Neurons to Neighborhoods: The Science of Early Childhood Development*, Institute of Medicine and National Research Council, Washington, DC: The National Academies Press, 2000.

raising staff wages per baby from $6,365 to over $15,000 annually.[50] In the absence of additional public funding — whether under BBB or in years following — this large increase in per-child cost could eventually put substantial financial pressure on providers to raise the number of children per staff member.[51]

**Diminished parental choice.** Another hallmark of the current federal childcare program, CCDBG, is its strong emphasis on supporting parental choice. CCDBG allows parents to use federal funding for any childcare provider they choose, prohibiting federal or state regulation that could "significantly restrict parental choice," and permitting only that states may require providers to meet state-defined health and safety requirements that "ensure basic protections for children."[52]

CCDBG further stresses parents' right to choose faith-based care in particular, prohibiting any limitation on or exclusion of care by sectarian providers. The law explicitly allows parents to use providers that engage in religious activities, specifying that federal funds "may be expended by providers for any sectarian purpose or activity that is part of the child care services, including sectarian worship or instruction." In fact, faith-based care is what the majority of parents who place their children in center-based care prefer, so this is a crucial provision for many parents.[53]

At first glance, BBB's childcare legislation appeared to provide similarly strong support for parent choice, stipulating that parents would use providers they "choose." But the tangle of regulatory strings attached to BBB funds would have substantially reduced the choices available to parents in practice: requiring states to use the federal government's — not parents' — definition of quality and, accordingly, introducing a wide range of laws and regulations that would end up pushing many childcare providers out of the market. As noted, BBB's pre-K legislation would have further constrained parental choice by requiring that pre-K funding be controlled entirely by the state — not by parents or even local communities — solely to support programs that were chosen and administered by state government.

For many providers, complying with BBB's quality, licensing, pay, and credential requirements, along with an extensive new range of HHS regulations would have been impossible, eliminating those providers as options available to parents. In particular, home- and faith-based providers, community

50. If BBB's intention was to improve provider quality for young children — not just improve work conditions for staff — the legislation might have aimed to raise pay levels by 50 percent to $38,000, for instance (rather by 130 percent to $60,660): enabling smaller group sizes for the same total staff cost specified in the legislation. That is, two caregivers could be paid $38,000 each to together care for a group of five babies for the same per-baby expenditure needed to pay $60,660 each to care for a group of eight. Given the same increase in expenditures, this approach would provide substantially better pay for caregivers while also improving the developmental environment for the infants they were caring for.

51. The ratio of children to caregivers and maximum group sizes is regulated in state statutes for childcare licensing. For the maximum number of children per caregiver and maximum group size permitted for center-based providers across states, see Appendix 2.

52. See 45 CFR Subtitle A, Subpart D—Program Operations (Child Care Services)—Parental Rights and Responsibilities, §98.30 Parental choice.

53. A recent Bipartisan Policy Center (BPC) survey found that over half (53 percent) of families using center-based care choose providers affiliated with a faith organization, totaling roughly 15 percent of all working parents. As BPC reported: "Through our national survey, we found that 31% of working-parent households used center-based care. Out of that 31%, we found that 53% of those families used a faith-based childcare center. Therefore, we found that roughly 15% of all working parents use faith-based childcare centers. Over half (53%) of working families who use center-based care use one that was affiliated with a faith organization," Suzann Morris and Linda Smith, Examining the Role of Faith-Based Child Care, Bipartisan Policy Center, June 4, 2021.

programs, and small "mom and pop" centers would have had an especially difficult time staying in business.[54]

Meeting the ADA's requirements for accessible facilities would have been an especially daunting requirement for many providers. Some would simply be unable to comply (such as a family childcare provider located on the top floor of a two-family home or a preschool in a church basement), precluding them from receiving BBB funds entirely. In other cases, renovations necessary for compliance might be feasible but expensive. BBB included "Facilities Grants" for states to help providers cover the new costs of meeting ADA mandates. But the legislation further stipulated that only providers with facilities used *primarily* for childcare could receive funds for major renovations, thus excluding most family and faith-based providers.

Finally, BBB intended to place substantial restrictions on faith-based care, specifically. In a remarkably disingenuous provision, the legislation directly suggested that parents could choose faith-based providers if they wished, stating: "Nothing in this section shall preclude the use of… certificates for sectarian child care services if freely chosen by the parent." Yet this sentence underscoring parental choice was immediately followed by one that would have drastically limited the faith-based choices parents actually had: "For the purposes of this section," the legislation continued, "child care certificates shall be considered *federal financial assistance to the provider*."[55] As the U.S. Department of Health and Human Services website explains, this means that providers "may use government money only to support the *non-religious* social services that they provide": faith-based organizations receiving such federal funds must "separate… their inherently religious activities from the government-funded services that they offer."[56] Any faith-based providers unable or unwilling to comply with this restriction would therefore be eliminated from the pool of publicly-funded options available to parents.[57]

*Increased alignment between early childhood and K–12 schooling*. Finally, BBB would potentially have reduced parental choice still further by moving early care and education programs much closer toward alignment — and therefore, potential integration — with the K–12 system. This likely effect, too, is not immediately obvious because BBB stipulated that both the childcare and pre-K programs would be implemented through a "mixed-delivery" system of eligible providers including licensed center-based, family, and faith-based providers for both programs, along with public school districts and Head Start agencies for pre-K.

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54. From 2005 to 2017, the number of licensed, small family childcare homes (defined as one person serving as sole caregiver with no employees) fell by 48 percent: from 328,107 to 233,251. Surveys found that one major cause was new regulations, many associated with growing state "quality rating and improvement" systems. See Rachel Greszler and Lindsey M. Burke, "Rethinking Early Childhood Education and Childcare in the COVID-19 Era," Heritage Foundation Backgrounder No. 3533, September 30, 2020; U.S. Department of Health & Human Services, Administration for Children & Families, *Addressing The Decreasing Number of Family Child Care Providers in the United States*, 2019.

Further, as states receiving BBB funding aligned their childcare systems around BBB's requirements, non-complying providers could eventually be prohibited from operating, including those that were privately funded. Even if permitted to operate, providers deemed ineligible for public funds would be coping with a considerable market disadvantage.

55. See Subtitle D (b)(1)(B): "Nothing in this section shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For the purposes of this section, child care certificates shall be considered Federal financial assistance to the provider," italics added.

56. U.S. Department of Health & Human Services, "What are the Rules on Funding Religious Activity with Federal Money?", August 11, 2014, italics added.

57. For further discussion of this issue, see, for example, Luke Broadwater "Biden's Child Care Plan Faces Resistance from Religious Groups," *New York Times*, November 14, 2021; Patrick T. Brown and Brad Wilcox, "If You Like Your Church Preschool, Can You Keep It?," Deseret News, November 10, 2021.

Yet much of how this "mixed delivery" system would have played out in practice hinged on BBB's definition of "eligible provider." That definition would have strongly favored K–12 and Head Start, eventually leading to considerably less diversity among care and education providers. Specifically, the legislation defined "eligible providers" as those center-based, family, and faith-based providers, Head Start agencies, or public-school districts that:

- Were licensed by the state (eventually under new standards negotiated with state labor unions, as BBB required);
- Employed workers with the federally required degrees and credentials;
- Paid workers on the same scale as public-school teachers and a minimum of a living wage;
- Met federal Head Start Performance Standards — within one year for pre-K and within six years for childcare;
- Operated on a full-day, full-year schedule for pre-K programs (equivalent to a K–12 schedule and thus excluding morning preschool programs, for example); and
- Were complying with a broad range of civil rights laws and regulations, including ADA requirements for accessible facilities.

**The bill prescribed a substantial transfer of power from families to federal and state government agencies, promoting providers' compliance with a range of federal and state laws and regulations over parental choice.**

Among existing providers, Head Start agencies and K–12 schools are considerably more likely to be meeting at least most of BBB's "eligible provider" requirements already, and — perhaps along with a handful of large, for-profit childcare chains like KinderCare and Bright Horizons — have much greater capacity to meet all of them. Because Head Start is limited to serving children living in poverty though, substantial BBB funds would probably end up directed to K–12 schools. This would increase the feasibility of eventually integrating early childhood programs into a state's K–12 school system, thus greatly reducing the options available to families and diminishing parental choice still further.[58]

Overall, BBB thus aimed to shift the federal role from funding parents to funding highly regulated government programs instead. The bill prescribed a substantial transfer of power from families to federal and state government agencies, promoting providers' compliance with a range of federal and state laws and regulations over parental choice.[59]

58. Among parents who can choose, a public-school pre-K program is not what they prefer — among families earning over $100,000 per year, just 1 in 10 choose a public-school pre-K program. Institute for Education Sciences, *Early Childhood Program Participation: 2019*, Table 5, U.S. Department of Education, 2019.

59. Notably, BBB's striking shift from funding parents to funding programs stands in direct contrast to growing public support for directing K–12 funds to parents instead of schools so they can access the schools they believe are best for their child. See American Federation for Children, "New Poll: Overwhelming Support for School Choice," June 28, 2022; David N. Bass, "Nearly Three-in-Four Support School Choice, Poll Finds," *Carolina Journal*, March 1, 2022; National School Choice Week Team, "New Survey: America's Families are Rethinking K-12 Education," National School Choice Week, January 23, 2023.

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Beyond its direct implications for the early care and education field, BBB would have had two additional effects. The first of these was a transfer of wealth from lower- to higher-income populations. The second was that the legislation strongly incentivized placing children in paid childcare, which would likely have led to considerably more children spending large proportions of their first five years in group, institutional care.

**Transfer of wealth from lower- to higher-income populations.** BBB was often described as aiming to help the families who were struggling the most financially. But that was not how the legislation actually allocated funds. Instead, it would have resulted in transferring wealth from lower-income to higher-income taxpayers, providing considerably greater financial benefits to some families over others, both within and across states.

*Large new benefits for higher-income families*. While the current federal childcare program targets subsidies at families earning under 85 percent of state median income (with many states setting income requirements below that federal limit), BBB aimed to expand publicly subsidized early care and education to much higher-income families, directing huge amounts of government funding to families earning up to 250 percent of state median income.[60] It's widely appreciated that raising children is expensive, and families would presumably prefer to spend less rather than more of their own money on its costs. But a four-person Ohio family earning $228,000 annually (250 percent of state median income), for example, is likely to have sufficient disposable income to pay for childcare, even if they would rather spend their money on something else.

Thus, while the White House promoted BBB as helping families earning up to $300,000 annually, few of the more affluent families it would have benefitted actually require public assistance to access the childcare they need. In fact, among parents with annual household income of $100,000 or more, three-quarters reported that cost was *not* the primary obstacle they faced to obtaining childcare.[61]

Further, higher-income parents have a much stronger preference for paid, non-family care.[62] That is, BBB aimed to provide wealthier families with public assistance they do not actually need for something of greater value to them in the first place. Similarly, while the pre-K program was characterized as "universal," considerable work schedule flexibility — or a nanny — is required to accommodate pre-K's typical 9 a.m. to 3 p.m. schedule. Since lower-income families are less likely to have either flexible work schedules or nannies, higher-income families would be more likely to benefit from publicly-funded

60. For an Ohio family of four, for example, 85 percent of state median income is an annual household income of $77,500, while 250 percent of state median income is $228,000 — an annual income almost three times greater. For a comparison of 85 percent vs. 250 percent of state median income across states see Appendix 1.

61. Institute for Education Sciences, *Early Childhood Program Participation: 2019*, Table 7.

62. See, for example, Bipartisan Policy Center and Morning Consult, *Are Parents' Child Care Preferences Changing? Overview of BPC's Parent Survey*, January 2021.

pre-K, too.[63]

*Disparate family benefits across states*. Finally, the financial benefits BBB would have provided to families varied widely across states. That is, at current childcare prices, families with the same relative income and the same number of children in childcare would have received substantially greater financial benefit in some states than in others — both in absolute terms and as a percentage of their household income:[64]

- For a family at 75 percent of state median income with two children in childcare, for example, the annual financial benefit would have ranged across states from $14,000 to more than $44,000 in absolute terms and from 21 percent to 43 percent of household income.
- For a family at 150 percent of state median income with two children in childcare, BBB's annual benefit would have ranged from under $5,000 to over $30,000 and from 3.6 percent to 14.6 percent of household income.
- For a family at 250 percent of state median income (the highest-income eligible families) with three children in childcare:
    - Annual financial benefits would have been well over $25,000 in some states — e.g., $27,000 in California, $37,000 in Massachusetts, and $43,000 in D.C.
    - In others, annual benefits would have been well under $10,000 — e.g., $9,000 in Arkansas, $8,000 in Kentucky, and $5,000 in Mississippi.

For instance, at 2018 childcare prices, a five-person Massachusetts family earning 250 percent state median income — $380,600 — with three children in childcare would have received an annual benefit of $33,500 per year. A five-person Kentucky family earning 250 percent state median income — $233,200 — with three children in childcare would have received an annual benefit of $5,665 per year.

Furthermore, the number of children for whom a family would have had to pay 100 percent of childcare costs with no public assistance also varied considerably at higher income levels across states. A four-person family earning 250 percent state median income in California ($247,000) would have had to use their own money to pay for the first child they put in childcare, while public funds would cover childcare costs for all subsequent children. A four-person family earning 250 percent state median income in Mississippi ($172,000), on the other hand, would have had to pay childcare costs for both their first *and* second child, receiving no public assistance with childcare costs until their third child was in paid care.

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63. Advocates often argue that establishing a program as universal or near-universal will make it more sustainable due to increased support among middle- and upper-income taxpayers. It is worth noting, however, that while universal programs may have greater sustainability, they often fail to serve disadvantaged children well. Indeed, long experience with the nation's largest universal program for children, the K-12 public schools, vividly illustrates that widely popular programs benefitting middle- and upper-middle income children may, in practice, be considerably worse quality for children from lower-income families. See Katharine B. Stevens and Meredith Tracy, *Still Left Behind: How America's Schools Keep Failing Our Children*, American Enterprise Institute, September 2020. Stephen J. Ceci and Paul B. Papierno have further shown how, in general, universalizing an intervention intended to narrow gaps often results in "increased disparity and a widening of the gap that existed prior to universalizing the intervention." See "The Rhetoric and Reality of Gap Closing: When the 'Have-Nots' Gain but the 'Haves' Gain Even More," *The American Psychologist* 60, no. 2 (March 2005), 149–60.

64. For recent childcare prices by state see Child Care Aware of America, *The US and the High Price of Child Care: Appendices*, 2019.

*Redistributing resources from some states to others*. Given the history of state participation in federal programs, some — often less wealthy — states would predictably choose not to participate in either the childcare program, the pre-K program, or both. In fact, the Congressional Budget Office (CBO) predicted this exactly, explicitly basing their cost estimates for BBB's childcare and pre-K provisions on the assumption that large numbers of states would *not* participate.[65] BBB would therefore have redistributed taxpayer dollars from nonparticipating to participating states — meaning that families in states that did not participate would be subsidizing childcare and pre-K for families in states that did. Moreover, BBB stipulated a fixed sum of money for the first three years, to be distributed among BBB-funded states. So, the greater number of states that did not participate, the more money participating states would have received.

In sum, while BBB was widely characterized as providing help for all struggling families and their young children, many of the families it would actually have helped are far from struggling. At the same time, the federal government officially expected BBB to do nothing for more than two out of five young children across states.

**Financial incentives for putting young children in childcare.** Finally, BBB would have established a substantial financial incentive for placing young children in nonparental, group care. At lower income levels, families would pay nothing, regardless of how many of their children they put in childcare. In most other cases, after a family put at least one child in childcare, the cost for additional children would be entirely covered by public subsidy and therefore, from the family's point of view, "free." That is, the legislation was designed such that the families gaining the most financially were those putting the most children in childcare, for the greatest number of hours per day, starting when their children were the youngest. Financial benefits would also increase steeply as more of a family's younger children were in childcare instead of at home.

For example, take a Maryland family of two parents and three young children with an annual income of $156,000 (125 percent of state median income) and assuming Maryland's average cost of center-based care in 2018:[66]

- If the family put their four-year-old in full-time childcare, they would pay $6,240 and receive an annual public subsidy of $4,244.
- If they put their two-year-old in full-time childcare along with the four-year-old, their payment would remain unchanged while their annual public subsidy would increase to $16,311.
- If they put their one-month-old infant in full-time childcare along with the toddler and four-year-old, they would receive an annual public subsidy of $31,714, again with no increase in what they paid.

65. The Congressional Budget Office projected that well over one third of the nation's young children live in states that would not participate in one or another of the programs — 40 percent for the childcare program and 45 percent for the pre-K program — thus reducing the legislation's total projected cost by billions. See Congressional Budget Office, "Supplementary Information for Sections 23001 and 23002 of HR 5376, Table 1: Children Estimated to be Eligible for, and Enrolled in, Proposed Federal Child Care and Pre-K Programs."

66. Child Care Aware of America, *US and the High Price of Child Care*.

In other words, BBB provided families with a large financial incentive to put their children in the care of paid workers outside the home, along with the further potential benefit of increased family income through additional wages. In the above example, for instance, the federal government would in effect have been paying a family $27,470 to put their baby and toddler in publicly funded, nonparental care rather than raising those children at home. If the baby and toddler were instead cared for by a parent, on the other hand, the family would lose that large public subsidy on top of lost wages — amounting to a large financial penalty for raising their own young children.

The most significant problem with incentivizing parents to put their children in paid, nonparental, group care is that it is contrary to the best interests of many children. High-quality, affordable childcare is often crucial to the self-sufficiency and well-being of lower-income families, and research has shown that exceptionally high-quality early care and education programs can provide valuable benefits to socially and economically vulnerable children.[67] Yet for many young children the optimal "early learning environment" is their own home. Young children learn and develop best in stable, familiar environments with small, mixed-age groups of well-known, trusted people who give them consistent, supportive, one-on-one attention and care. In general, those conditions are more likely to be present in at-home, family settings than even the highest-quality, paid group care.

## A Better Path Forward

Improving the environments where children spend their earliest years and helping parents balance work with raising young children are crucial policy goals. Many continue to promote Build Back Better's early care and education legislation as the best way to achieve those goals. But close analysis shows that BBB prescribes the wrong approach to this important issue.

BBB would have negatively affected families, children, and providers in multiple ways, through both intended and unintended consequences. As discussed in this report, BBB eliminated important strengths of CCDBG. It would have substantially expanded the regulatory state, while greatly increasing federal power and decreasing state and local control. It would have diminished parental choice. It would have failed to improve provider quality overall and, in fact, might well have decreased it. It would have transferred wealth from lower-income to higher-income populations.

BBB also reflected — and aimed to institutionalize — a misguided view of what young children and their families want and need. President Biden has characterized the core problem BBB would address as a "caregiving crisis" that forces parents into "serving as unpaid caregivers" while "putting their careers on hold." BBB thus aimed to build an "infrastructure of care" that excludes families: replacing a substantial proportion of family care with a government-paid, professional workforce trained to "cultivate the potential of young children" starting at birth.[68] In other words, while highlighting the crucial role of early care, the legislation simultaneously diminished the role of parents in providing it,

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67. Katharine B. Stevens, *Workforce of Today, Workforce of Tomorrow: The Business Case for High-Quality Childcare*, American Enterprise Institute, 2017.

68. Ironically, for older Americans the White House promotes "innovative models that expand home- and community-based alternatives to institutional care," aiming to "eliminate the institutional bias that pervades our public programs." Joebiden.com, "The Biden Plan for Mobilizing American Talent and Heart to Create a 21st Century Caregiving and Education Workforce."

incentivizing parents to outsource much of the care for their young children

High-quality early environments are critically important to children's development. But the central policy issue with respect to publicly funded, nonparental care is neither a lack of closely regulated, government early care and education programs nor too many families raising their own small children. Rather, the problem to be solved is inadequate access to high-quality providers for lower-income children whose families *must* work for economic survival, so those children have the same opportunity for healthy development that more affluent children already have.

CCDBG is the federal program currently aimed to help these children by providing subsidies for families earning less than 86 percent of annual state median income, averaging $80,500 for a family of four.[69] But CCDBG is falling far short of accomplishing its goal. In 2019, just 12 percent of eligible children under age 6 received CCDBG subsidies because not enough funds are available for families who need them.[70] For the small percentage of families that do receive subsidies, funds are often insufficient to access the kind of high-quality providers that more affluent people choose for their own children.[71]

**What lower-income families need are adequate funds, not a huge, new, federally controlled program providing nonparental group care and education for all children under age six.**

Inadequate subsidies also lead to extremely low pay for early childhood workers — below that of almost all U.S. occupations — hurting the children those workers are caring for in three ways. First, the field is often unable to attract the kind of people parents want to leave their children with in the first place. Second, earning poverty-level wages causes financial and emotional stress for many workers, which, in turn, negatively affects the children in their care. And finally, low wages cause high staff turnover, precluding the consistent, trusted relationships young children need to develop well.[72]

Increasingly, however, the way these problems are framed has been leading us farther and farther down the wrong policy road. The fact that some families need more help paying for high quality early care and education does not mean that the federal government should be playing a central role in designing and running it. Nor does it mean that our aim should be "childcare for all." The negative consequences of both — however unintended — are potentially severe.

69. See Appendix 1.

70. Nina Chien, "Factsheet: Estimates of Child Care Eligibility & Receipt for Fiscal Year 2019," U.S. Department of Health & Human Services, Office of the Assistant Secretary for Planning & Evaluation, September 2022; Rasheed Malik, "The Build Back Better Act Substantially Expands Child Care Assistance," Center for American Progress, December 2, 2021.

71. The providers that families can access with CCDBG subsidies often fail to meet even basic health and safety standards. An HHS investigation across nine states — carried out through unannounced site visits by the Office of Inspector General — found that 96 percent of licensed childcare providers paid with CCDBG subsidies had one or more potentially hazardous conditions, including fire code violations, unsanitary conditions, unsafe playgrounds, toxic chemicals accessible to children, and failure to comply with criminal records, child abuse and neglect, and sex offender registry check requirements for employees.

72. Young children experience their world primarily as "an environment of relationships"; stable, nurturing relationships are the "active ingredient" of children's healthy development and thus key to high-quality care. National Scientific Council on the Developing Child, *Young Children Develop in an Environment of Relationships*.

What lower-income families need are adequate funds, not a huge, new, federally controlled program providing nonparental group care and education for all children under age six. At the same time, federal policy must bolster, not diminish, parents' crucial role in their children's well-being and development. Policy should therefore aim to improve early care and education environments for lower-income children by maximizing parents' agency in determining where and by whom their young children are cared for.

Three principles should guide federal policymaking toward this end:

- **Direct resources to the children and families for whom most is at stake.** Federal childcare and preschool funds should be targeted to parents who *must* work, yet do not have access to high-quality providers for their young children — helping families who cannot pay, rather than those who would prefer not to.

  Half of America's children under age six live in families with annual household income under $82,000.[73] For the families and children in this group with all parents working outside the home, assistance in paying for early care and education makes a critical difference.[74]

- **Expand and strengthen informed family choice.** BBB advocates argue that the early care and education (ECE) market is "broken."[75] In response, BBB sharply constrained that market for childcare and eliminated it altogether for pre-K, essentially extending a K–12-like system to children from birth onwards.

  Yet the ECE market *does* work in higher-income communities, as the Center for American Progress has recently noted.[76] The solution is not to replace that market with a huge federal program, but rather make it work, too, for the lower-income families who need access to high-quality care and education the most.[77]

- **Design programs that all states are willing to participate in.** Federal programs to improve child well-being must aim to reach children in all 50 states. When the design of a federal early childhood program ignores states' concerns, the program simply fails children in those states. Indeed, programs that are not intentionally designed for maximum state participation essentially prioritize the well-being of young children in some states over others.

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73. Current Population Survey (CPS) Annual Social and Economic Supplement, "Family Income in 2021," United States Census Bureau.

74. See Katharine B. Stevens, "Child Care is Critical," *US News & World Report*, January 12, 2017.

75. Janet L. Yellen, "Remarks by Secretary of the Treasury Janet L. Yellen on Shortages in the Child Care System," U.S. Department of the Treasury, September 15, 2021.

76. Workman, "The True Cost of High-Quality Child Care."

77. The Minnesota Early Learning Scholarships (MELS), launched in Minneapolis 20 years ago, provides an outstanding model of a family-centered, choice-driven approach. MELS provides low-income working families with scholarships — akin to Pell grants for young children — which they can use at a broad range of providers. A widely promoted rating system called Parent Aware gives parents user-friendly information on providers' locations, characteristics, and quality. By empowering lower-income parents in the early care and education market, MELS also created stronger demand for quality, which has substantially increased the supply of high-quality providers.

The Child Tax Credit could also be used to give lower-income families more agency in deciding how best to care for their young children whether through nonparental care or by staying home full- or part-time themselves if they choose. See Katharine B. Stevens and Matt Weidinger, *Improving Early Childhood Development by Allowing Advanced Child Tax Credits*, American Enterprise Institute, April 2021.

The Child Care and Development Block Grant (CCDBG) — the existing federal childcare program — is a strong vehicle for accomplishing these aims. The program's 2014 reauthorization included particular emphasis on supporting healthy child development.[78] Core to CCDBG is the importance of respecting and supporting parents' decisions regarding the care and education of their children. And the program is explicitly designed to maximize state engagement. Federal early care and education policy should build on CCDBG's strengths by making the program work better for the families it aims to serve.[79]

As noted, CCDBG's subsidies currently reach only a fraction of lower-income working families and are often insufficient to give those families access to the providers that more affluent families choose. But that is not a flaw with the program's fundamental design. Subsidies can be increased to a level that enables lower-income working families to choose and access the early care and education providers they decide are best for their children. This approach will provide much-needed help for the families who currently do not have access to high quality early care and education. At the same time, it will drive more robust competition in the preschool market, increasing the supply of high-quality providers.

Improving the well-being of America's young children is crucial, both to their life chances and the success of our nation overall. The central policy question is not, "How do we extend public education to children starting at birth?", however, but rather: "How do we best promote the healthy development of all young children?" Through CCDBG, the federal government can help empower and support the lower-income working parents who truly need assistance, giving their young children a better chance to flourish.

## ABOUT THE AUTHOR

Katharine B. Stevens is the founder and CEO of the Center on Child and Family Policy.

78. CCDBG's reauthorization — passed in the Senate with an overwhelming majority of 88 to 1 — heavily stressed child development and learning (neither "development" nor "learning" was mentioned in the original bill), and strongly emphasized the importance of standards and quality. See Katharine B. Stevens, "A Pivotal Shift in the New Child Care and Development Block Grant," AEIdeas, November 24, 2014.

79. As a notable step in this direction, Senator Tim Scott along with eight cosponsors introduced the Child Care and Development Block Grant (CCDBG) Reauthorization Act of 2022, S. 3899, in March 2022. As of April 2023, the bill had a total of 14 cosponsors. A companion bill, H.R.9394, was introduced in the House in December 2022.

## APPENDIX 1: 200% Federal Poverty Level vs. 75% State Median Income vs. 250% State Median Income in 2022

| STATE | 200% Federal Poverty Level (family of 4) | 75% State Median Income (SMI) (family of 4) | 250% State Median Income (SMI) (family of 4) | State Median Income (SMI) (family of 4) |
|---|---|---|---|---|
| Alabama | $53,000 | $60,571.50 | $201,905.0 | $80,762 |
| Alaska | $53,000 | $78,052.50 | $260,175.0 | $104,070 |
| Arizona | $53,000 | $61,670.25 | $205,567.5 | $82,227 |
| Arkansas | $53,000 | $53,613.75 | $178,712.5 | $71,485 |
| California | $53,000 | $73,983.00 | $246,610.0 | $98,644 |
| Colorado | $53,000 | $79,590.00 | $265,300.0 | $106,120 |
| Connecticut | $53,000 | $93,815.25 | $312,717.5 | $125,087 |
| Delaware | $53,000 | $77,925.00 | $259,750.0 | $103,900 |
| DC | $53,000 | $103,172.25 | $343,907.5 | $137,563 |
| Florida | $53,000 | $60,807.75 | $202,692.5 | $81,077 |
| Georgia | $53,000 | $63,638.25 | $212,127.5 | $84,851 |
| Hawaii | $53,000 | $81,373.50 | $271,245.0 | $108,498 |
| Idaho | $53,000 | $59,865.00 | $199,550.0 | $79,820 |
| Illinois | $53,000 | $76,625.25 | $255,417.5 | $102,167 |
| Indiana | $53,000 | $64,933.50 | $216,445.0 | $86,578 |
| Iowa | $53,000 | $70,665.75 | $235,552.5 | $94,221 |
| Kansas | $53,000 | $67,713.00 | $225,710.0 | $90,284 |
| Kentucky | $53,000 | $60,305.25 | $201,017.5 | $80,407 |
| Louisiana | $53,000 | $61,334.25 | $204,447.5 | $81,779 |
| Maine | $53,000 | $70,170.00 | $233,900.0 | $93,560 |
| Maryland | $53,000 | $93,605.25 | $312,017.5 | $124,807 |
| Massachusetts | $53,000 | $98,439.00 | $328,130.0 | $131,252 |
| Michigan | $53,000 | $70,119.00 | $233,730.0 | $93,492 |
| Minnesota | $53,000 | $84,706.50 | $282,355.0 | $112,942 |
| Mississippi | $53,000 | $51,653.25 | $172,177.5 | $68,871 |
| Missouri | $53,000 | $66,389.25 | $221,297.5 | $88,519 |
| Montana | $53,000 | $65,581.50 | $218,605.0 | $87,442 |
| Nebraska | $53,000 | $70,245.00 | $234,150.0 | $93,660 |
| Nevada | $53,000 | $61,881.75 | $206,272.5 | $82,509 |
| New Hampshire | $53,000 | $90,615.75 | $302,052.5 | $120,821 |
| New Jersey | $53,000 | $96,589.50 | $321,965.0 | $128,786 |
| New Mexico | $53,000 | $50,961.75 | $169,872.5 | $67,949 |
| New York | $53,000 | $78,729.00 | $262,430.0 | $104,972 |
| North Carolina | $53,000 | $63,411.75 | $211,372.5 | $84,549 |
| North Dakota | $53,000 | $78,065.25 | $260,217.5 | $104,087 |
| Ohio | $53,000 | $68,388.75 | $227,962.5 | $91,185 |
| Oklahoma | $53,000 | $57,106.50 | $190,355.0 | $76,142 |
| Oregon | $53,000 | $70,537.50 | $235,125.0 | $94,050 |
| Pennsylvania | $53,000 | $75,746.25 | $252,487.5 | $100,995 |
| Rhode Island | $53,000 | $80,877.75 | $269,592.5 | $107,837 |
| South Carolina | $53,000 | $60,729.75 | $202,432.5 | $80,973 |
| South Dakota | $53,000 | $66,540.75 | $221,802.5 | $88,721 |
| Tennessee | $53,000 | $60,579.75 | $201,932.5 | $80,773 |
| Texas | $53,000 | $64,043.25 | $213,477.5 | $85,391 |
| Utah | $53,000 | $67,906.50 | $226,355.0 | $90,542 |
| Vermont | $53,000 | $74,388.00 | $247,960.0 | $99,184 |
| Virginia | $53,000 | $81,716.25 | $272,387.5 | $108,955 |
| Washington | $53,000 | $80,313.75 | $267,712.5 | $107,085 |
| West Virginia | $53,000 | $57,822.00 | $192,740.0 | $77,096 |
| Wisconsin | $53,000 | $74,766.00 | $249,220.0 | $99,688 |
| Wyoming | $53,000 | $71,860.50 | $239,535.0 | $95,814 |

U.S. Department of Health and Human Services, Administration for Children and Families, "State Median Income (SMI) by Household Size: 2022."

## APPENDIX 2: Maximum Child Care Ratios and Group Size by State

| | Infants (birth to 12 months) | | Toddlers (12 months to age 3) | | 3-Year-Olds | | 4-Year-Olds | |
|---|---|---|---|---|---|---|---|---|
| STATE | Maximum Number of Infants Per Caregiver | Maximum Infant Group Size | Maximum Number of Toddlers Per Caregiver | Maximum Toddler Group Size | Maximum Number of 3-Year-Olds Per Caregiver | Maximum 3-Year-Old Group Size | Maximum Number of 4-Year-Olds Per Caregiver | Maximum 4-Year-Old Group Size |
| Alabama | 5 | ** | 8 | ** | 8 | ** | 18 | ** |
| Alaska | 5 | 10 | 6 | 12 | 10 | 20 | 10 | 20 |
| Arizona | 5 | ** | 8 | ** | 13 | ** | 15 | ** |
| Arkansas | 6 | 12 | 9 | 18 | 12 | 24 | 15 | 30 |
| California | 4 | ** | 6 | 12 | 12 | ** | 12 | ** |
| Colorado | 5 | 10 | 7 | 14 | 10 | 20 | 12 | 24 |
| Connecticut | 4 | 8 | 4 | 8 | 10 | 20 | 10 | 20 |
| Delaware | 4 | 8 | 8 | 16 | 10 | ** | 12 | ** |
| DC | 4 | 8 | 4 | 8 | 8 | 16 | 10 | 20 |
| Florida | 4 | ** | 11 | ** | 15 | ** | 20 | ** |
| Georgia | 6 | 12 | 10 | 20 | 15 | 30 | 18 | 36 |
| Hawaii | 4 | 8 | 8 | ** | 12 | ** | 16 | ** |
| Idaho | Ratios determined by point system | | | | | | | |
| Illinois | 4 | 12 | 8 | 16 | 10 | 20 | 10 | 20 |
| Indiana | 4 | 8 | 7 | 14 | 10 | 20 | 12 | 24 |
| Iowa | 4 | ** | 6 | ** | 8 | ** | 12 | ** |
| Kansas | 3 | 9 | 7 | 14 | 12 | 24 | 12 | 24 |
| Kentucky | 5 | 10 | 10 | 20 | 12 | 24 | 14 | 28 |
| Louisiana | 6 | ** | 12 | ** | 14 | ** | 16 | ** |
| Maine | 4 | 8 | 5 | 10 | 10 | 20 | 10 | 20 |
| Maryland | 3 | 6 | 6 | 12 | 10 | 20 | 10 | 20 |
| Massachusetts | 3 | 7 | 10 | 20 | 10 | 20 | 10 | 20 |
| Michigan | 4 | 12 | 8 | 16 | 10 | ** | 12 | ** |
| Minnesota | 4 | 8 | 7 | 14 | 10 | 20 | 10 | 20 |
| Mississippi | 5 | 10 | 12 | 14 | 14 | 14 | 16 | 20 |
| Missouri | 4 | 8 | 8 | 16 | 10 | ** | 16 | ** |
| Montana | 4 | ** | 8 | ** | 8 | ** | 10 | ** |
| Nebraska | 4 | 12 | 6 | ** | 10 | ** | 12 | ** |
| Nevada | 6 | ** | 10 | ** | 13 | ** | 13 | ** |
| New Hampshire | 4 | 12 | 6 | 18 | 8 | 24 | 12 | 24 |
| New Jersey | 4 | 12 | 10 | 20 | 10 | 20 | 12 | 20 |
| New Mexico | 6 | ** | 10 | ** | 12 | ** | 12 | ** |
| New York | 4 | 8 | 5 | 12 | 7 | 18 | 8 | 21 |
| North Carolina | 5 | 10 | 10 | 20 | 15 | 25 | 15 | 25 |
| North Dakota | 4 | 10 | 7 | 20 | 7 | 14 | 10 | 20 |
| Ohio | 5 | 10 | 7 | 14 | 12 | 24 | 14 | 28 |
| Oklahoma | 4 | 8 | 8 | 16 | 12 | 24 | 15 | 30 |
| Oregon | 4 | 8 | 5 | 10 | 10 | 20 | 10 | 20 |
| Pennsylvania | 4 | 8 | 6 | 12 | 10 | 20 | 10 | 20 |
| Rhode Island | 4 | 8 | 6 | 12 | 9 | 18 | 10 | 20 |
| South Carolina | 5 | ** | 9 | ** | 13 | ** | 18 | ** |
| South Dakota | 5 | 20 | 5 | 20 | 10 | 20 | 10 | 20 |
| Tennessee | 4 | 8 | 7 | 14 | 9 | 18 | 13 | 20 |
| Texas | 4 | 10 | 11 | 22 | 15 | 30 | 18 | 35 |
| Utah | 4 | 8 | 7 | 14 | 12 | 24 | 15 | 30 |
| Vermont | 4 | 8 | 5 | 10 | 10 | 20 | 10 | 20 |
| Virginia | 4 | ** | 10 | ** | 10 | ** | 10 | ** |
| Washington | 4 | 8 | 7 | 14 | 10 | 20 | 10 | 20 |
| West Virginia | 4 | 8 | 8 | 16 | 10 | 20 | 12 | 24 |
| Wisconsin | 4 | 8 | 6 | 12 | 10 | 20 | 13 | 24 |
| Wyoming | 4 | 10 | 8 | 10 | 10 | 24 | 12 | 30 |

Prenatal-to-3 Policy Impact Center, "Prenatal-to-3 Policy Clearinghouse Evidence Review: Child Care Ratios," 2020; U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care, "Child-Staff Ratios and Maximum Group Size Requirements in 2011," 2013.