

# Act 76 (H.217)

## Frequently Asked Questions (FAQs)

The Child Development Division (CDD) has created this FAQ document to support early childhood education and afterschool program staff, families, and the general public, with understanding the components of Act 76. This act relates to child care and early childhood education and became law on June 20, 2023.

We will update this document as new questions come in, and/or when further clarification to existing questions becomes available.

### Resources

- [Act 76 Webpage](#)
- [Act 76 - Full Text](#)
- [Act 76 - Fiscal Summary](#)
- [Act 76 Status and Summary Chart](#)
- [Overview of Act 76](#) (video of webinar)
- [Overview of Act 76](#) (presentation slides)
- [Act 76 Training Series](#) (short videos from First Children's Finance)
- [Act 76 Changes: Program Director On-Site Time](#)
- [Act 76 Changes: Tuition Rates and Allowability of Additional Fees](#)

### Contacts

- If you did not find your answer in this document or would like additional support in applying this FAQ to your specific situation, please do not hesitate to reach out to us at [ahs.dfcddinfo@vermont.gov](mailto:ahs.dfcddinfo@vermont.gov).
- If you have a question that is related to child care licensing you may also reach out to the Licensor on Duty (LOD) at [ahs.dfcddchildcarelicensing@vermont.gov](mailto:ahs.dfcddchildcarelicensing@vermont.gov) or 1-800-649-2642 option 3.
- First Children's Finance can support you and your program with business planning related to Act 76 through its state-funded Business Technical Assistance Program (BTAP), which provides expert business training, technical assistance, and consulting to help start, sustain, and grow child care businesses. To contact First Children's Finance, you can visit their [website](#), complete the [BTAP Inquiry Form](#), or email them at [infovt@firstchildrensfinance.org](mailto:infovt@firstchildrensfinance.org).

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## Section 1 - General Questions

### 1. What is Act 76?

Act 76 is a bill related to early childhood education. The law makes significant investments and policy changes that will impact child care in both early childhood and afterschool settings, and will impact the families who are served in these settings.

The General Assembly intended Act 76 to:

- Increase access to and quality of child care, afterschool, and summer programs statewide.
- Provide financial stability to child care programs.
- Stabilize and support the state's early childhood workforce.
- Better support Family Child Care Homes.
- Increase equitable access to and quality of Universal Prekindergarten (UPK) offerings for four-year-olds.

The [full bill is available to view online](#). CDD has also created a [Summary and Status Chart](#) that breaks down the key elements of Act 76. This chart is available to view on our website and will be updated on a regular basis.

## Section 2 - Child Care Financial Assistance Program (CCFAP)

### A. The State Reimbursing Child Care Programs on Behalf of Families

#### 1. Can you tell me more about the changes in CCFAP rates paid to programs?

See the breakdown [chart of the CCFAP Rates per Act 76](#).

- On July 2, 2023, the CCFAP state rates adjusted to a simplified and higher rate schedule that better reflects the cost of providing child care. The new capped rates will apply to programs regardless of their STARS rating; this is designed to ensure that families receive a similar benefit from CCFAP no matter which program their child attends, while supporting all programs in achieving high-quality standards.
- Effective with the CCFAP service period beginning December 17, the state rate increased by 35% of the rate that was effective July 2, 2023. The following also took effect:
- Effective with the CCFAP service period beginning December 17,

the state no longer uses the provider rate agreement when determining its CCFAP payments. The State automatically pays the state rate for families receiving CCFAP benefits.

Providers no longer need to charge the same rate for CCFAP and private pay families in order to receive the maximum CCFAP payment. Providers have the ability to set tuition rates at their discretion.

- By July 1, 2024, the state rate for Registered Family Child Care Homes will increase by 50% of the difference between current Family Child Care Home rates and licensed centers' state rates. The state rates for licensed centers will not change.

**2. My program does not accept child care financial assistance. Can my program expect to receive financial support through this new law?**

The financial benefits of Act 76 are primarily for families and programs that participate in the Child Care Financial Assistance Program (CCFAP). Act 76 will expand eligibility for CCFAP so that, over time, many more families will qualify and can benefit from the program. Child care programs that are willing to accept CCFAP are eligible for Act 76 Readiness Payments even if they do not currently serve families with CCFAP benefits. Act 76 also funds a \$10M Child Care Quality and Capacity Incentive Program to begin after July 1, 2024 that will include expanded financial incentives for STARS, serving infants and toddlers, offering specialized child care, and other quality and capacity related achievements; funds will also support coaching and technical assistance for programs working meet quality and capacity related goals.

**3. (UPDATED) What does “payment shall be based on enrollment” mean? What changes can we expect?**

“Payment based on enrollment” means that a program receives payment on behalf of a child with CCFAP certificate as the child is enrolled in that program and the payments are not reduced for a child’s occasional absence. (“Payment based on enrollment” does NOT mean paying for a number of slots nor paying a child care program for children who are no longer enrolled in that program.)

Per Act 76, CDD was asked to “define ‘enrollment’ and the total number of allowable absences to continue participating in the program.” On February 26, 2024, CDD issued a [memo](#) that defined enrollment as being when:

- A child has an active CCFAP certificate tied to a specific child care program;
- The program submits its bi-weekly CCFAP Attendance with hours of attendance or applicable coded days for the child;
- CCFAP attendance does not exceed allowable coded days.

The enrollment definition was developed in consultation with the Office of

Racial Equity and CDD stakeholders. The enrollment memo also provided related implications for CCFAP policy, logistics, and technology supports. Additional information will be provided to programs by June 30, 2024.

**4. Will we still be required to maintain attendance records even though eligibility will be based on enrollment, and not attendance?**

Programs are still required to maintain attendance records. These are important for compliance with both Child Care Licensing regulations and Child Care Financial Assistance Program rules. Any additional updates will be provided as available through email ([sign up online](#)) and the [CDD blog](#).

**5. Why was a change made to disconnect a program's STARS rating from the amount of CCFAP funding that they receive?**

Linking STARS ratings with CCFAP payment levels was intended to encourage quality improvement from programs, but had the unintended consequence of creating financial inequities for families who sent their children to programs with lower STARS ratings. Removing STARS ratings as a factor in determining CCFAP rates ensures that families receive a similar benefit from CCFAP, no matter which program their child attends. Paying higher CCFAP rates to all child care programs is intended to support all programs in achieving high-quality standards.

**6. Now that CCFAP is no longer linked to STARS ratings, is there an incentive for programs to participate in STARS? Why should I continue to participate in STARS?**

Vermont's revised STARS program is designed to support programs engaged in continuous quality improvement to strengthen their practices and support positive outcomes for children.

Programs participating in STARS will have multiple financial and programmatic incentives to increase their STARS level and maintain high levels of quality, including:

- STARS levels will be recognized in a new \$10M Quality and Capacity Incentive program to be established in 2024.
- STARS level 3 and above is still required to be a Specialized Care Provider which can result in increased payments.
- STARS levels 4 or 5 are still required for Universal Prekindergarten Prequalification.
- A STARS level above 1 is still a requirement for some grants and other funding opportunities.

Visit our [STARS webpage](#) to learn more about this revised system.

**7. Would a Licensed Family Child Care Home (FCCH) use the Licensed Center state rates or the Registered Home rates as their new**

**reimbursement rate standard?**

Licensed FCCHs would use the Licensed Center rates as their new reimbursement rate standard. This is the current policy, and it will not change.

- 8. Will families that are eligible for Universal Prekindergarten (10 hours of PreK during school year established in Act 166 of 2013) also be eligible for CCFAP at the new rates? Will the CCFAP payment to the programs be reduced by the amount of the Act 166 weekly assistance for the 35 weeks of eligibility of Act 166, or will programs receive the gross amount of the CCFAP plus the Act 166 payment for the same child?**

There is no change to the interaction between CCFAP payments and Universal Prekindergarten payments in Act 76. Per current policy, if a child is enrolled in an Act 166 program, their 10 hours of PreK are deducted from the CCFAP certificate. For example, if a family is authorized for 40 hours per week of care and their child attends 10 hours of PreK at a full day/full week child care program, a full-time 30-hour certificate is created. If a family is authorized for 25 hours per week of care and their child attends 10 hours of Pre-K at a full day/full week child care program, a part-time 15-hour certificate is created.

- 9. Does Act 76 change how a program offers discounts, scholarships, etc. (ex. active employee discount) within the rules of creating a Provider Rate Agreement?**

CDD does not have requirements or guidance related to a program sets its rates or offers discounts or scholarships. Those decisions are at the program's discretion. For support in structuring a discount policy within your program if you would like to have one, [First Children's Finance](#) is a great resource. They can be reached by completing their [Inquiry Form](#) or emailing them directly at [InfoVT@firstchidlrensfinance.org](mailto:InfoVT@firstchidlrensfinance.org).

- 10. Act 76 requires application and waitlist fees to be waived for families who qualify for CCFAP subsidies. What should I do if I don't know if the family is qualified for CCFAP?**

Visit [CDD's Act 76 website](#) to read a memorandum on [Act 76 Changes: Tuition Rates and Allowability of Additional Fees](#).

A program or provider may ask a family if they have applied and found eligible for CCFAP even if a CCFAP certificate for a specific program has not been generated. (While an eligibility specialist cannot create a CCFAP certificate to a specific program until they know a child's start date, that child's family may have already completed their program application and been determined to be eligible for CCFAP.) If the family is eligible for CCFAP, you should not collect any application or waitlist fees.

If the program or provider has already collected these fees from a family that is found to be eligible for CCFAP at the time they were paid, they

would need to reimburse that family for those charges. For many families, that would be a credit against their weekly family share.

You may need to establish a new system internally of checking to see if a family paid application or waitlist fees when you learn they are eligible for CCFAP.

Programs who are interested in avoiding this recordkeeping have the option of eliminating application and waitlist fees for all families.

**11. If a program's tuition rate is lower than the CCFAP state rate (when the rates go up in January 2024), how should programs explain the difference to families? What rate should they post to comply with the Act 76 requirement to make tuition rates publicly available? Does CDD have language that they suggest providers use?**

The state of Vermont reimburses providers for care provided to children eligible for CCFAP at a statewide-determined rate designed to make care more affordable for families and support stability and quality for child care programs. In some cases, this reimbursement to the child care program may be more than a program's published tuition; in other cases, it may be less than the published tuition.

The CCFAP Statement of Eligibility for families states how much will be paid to the provider as well as the calculated Weekly Family Share, and informs the family that "It is important that you review the actual co-payment that you will be charged with your child care provider and understand what you are responsible to pay."

Programs should make their established tuition rates for private pay families publicly available. A memo on [Act 76 Changes: Tuition Rates and Allowability of Additional Fees](#) can be found on the [CDD's Act 76 website](#).

CDD will update its materials on CCFAP to explain that the CCFAP reimbursement rate is based on the state rate, that it may differ from the provider's established rate, and that intention is to reimburse programs for the cost of quality care.

**12. (NEW) Do I still need to complete a Provider Rate Agreement (PRA) to receive CCFAP payments?"**

Yes! The PRA is still required to receive CCFAP payments. CDD collects required data on provider rates, and providers are required to agree to the Provider Responsibilities as part of their PRA submission.

## **B. Expansion of Eligibility for Families**

**1. (UPDATED) Does Act 76 impact who is eligible for CCFAP?**

Yes. Over time, more families will become eligible for CCFAP. As of April 2024, CCFAP serves families earning up to 400% of the FPL, and in October

2024, CCFAP will serve families earning up to 575% of the FPL. CDD plans to implement a robust communications and outreach campaign to families likely to be eligible for CCFAP in 2024 as these changes go into effect.

- 2. (UPDATED) Do you have, or will you create, a document showing families the FPL eligibility increases for family size, and listing dates for when these new guidelines will go into effect?**

The income guidelines for CCFAP are available on CDD's [CCFAP webpage for families](#). This includes the income guidelines effective April 7, 2024 as well as those for October 2024.

- 3. Currently, parents/guardians who work part-time qualify for part-time CCFAP benefits. Will this change under Act 76? Will there still be part-time and full-time benefits offered, or will hours families work not be a factor in eligibility?**

Act 76 did not change this. Families will still qualify based on their service need and will be issued a statement of eligibility which will identify if they are eligible for a part-time, full-time, or extended care schedule.

## **C. Other Financial Supports for Programs Accepting CCFAP**

- 1. With all these changes happening, is there support for programs in creating new budgets? We want to realize the potential to do things like hire new staff, create a new wage scale, and provide staff with added benefits.**

Yes! The First Children's Finance Business Technical Assistance Program (BTAP), provides expert business training, technical assistance, and consulting to help start, sustain, and grow child care businesses. You can visit the [BTAP website](#), complete the [Inquiry Form](#), or email them at [infovt@firstchildrensfinance.org](mailto:infovt@firstchildrensfinance.org) for help with your specific situation.

- 2. (UPDATED) Is the Readiness Payment Program up and running? Where can I find more information about the Readiness Payments?**

The Readiness Payment Program has closed. \$21M was distributed to over 800 programs between September 2023 and April 2024. This was a one-time program.

- 3. What is the state doing to increase the number of child care slots that are available to families?**

In the last few years, the State has funded several grant opportunities to increase the child care capacity in family child care homes, center-based child care and preschool programs, and afterschool programs through partnerships with Vermont nonprofits: [Make Way for Kids grants](#) for early care and education now being lead by First Children's Finance and the [Room for Me](#)



[grants](#) with Vermont Afterschool; click those links for more information on grant application availability and timelines. The state plans to continue grants to support start up or expansion in future years as well.

## D. Other CCFAP-Related Changes

### 1. Am I still allowed to charge fees, such as Art fees, to cover additional art supplies?

The fees mentioned in Act 76 are specific to child care waitlist and application fees. This law does *not* apply to fees that are associated with offering services to an enrolled family, such as an enrollment fee to cover supplies or an enrollment deposit that would then be applied against tuition payments. Additional fees may be charged to families at the programs' discretion, but must be documented in policies and procedures as stated in rule 4.7 within child care licensing regulations. Please see the [Act 76 Changes: Tuition Rates and Allowability of Additional Fees memo](#) for more details.

## Section 3 - Child Care Licensing

### 1. Do tuition rates need to be available to the general public or just to current and prospective families?

Act 76 requires child care providers to make their tuition rates available to the public. Although CDD is still in the process of revising its rules and policies, child care programs and providers should aim to come into compliance with this provision as soon as possible. Please see the

[Act 76 Changes: Tuition Rates and Allowability of Additional Fees](#) memo for more details.

CDD recommends that providers make their rates available to the public by posting them on their program's website, sharing their rates with their local Community Child Care Support Agency, or providing them upon request to all who ask. Doing so will meet the requirement of the law. In the future, the Division plans to update the Child Care Development Information System (CDDIS) to permit programs to post their rates through the portal.

### 2. Why is the State of Vermont allowed to require providers to publicly post their rates?

In creating Act 76, the Legislature consulted with legal counsel. They determined that the State is allowed to make rules related to tuition, given that early childhood education and afterschool programs receive significant public financing.

### 3. (NEW) What is the “tuition increase rate cap”? What % increase is allowed for the state fiscal year that starts July 1, 2024?

As of May 23, 2024, the Legislature has delayed implementation of the new

requirement in Act 76 that caps annual tuition increases for all regulated child care programs. The [tuition rate increase cap](#) that was announced for July 2023 to June 2024 is ***no longer in effect***.

Per Act 113 of 2023 Sec. E.318.1, the next tuition increase rate cap will go into effect July 1, 2025. In April 2025, CDD will post notice of the renewed requirement and the higher percentage increase allowed for July 2025 to June 2026. Per statute, this amount is 1.5 times the percentage change of the most recent [Employment Cost Index for Education Services](#). While the cap is intended to support affordability of child care for families, the Legislature recognized that there were questions about interpretation and implementation that will take time to assess.

**4. Will the Family Child Care Home regulations also be amended to include the requirement that program directors be on-site at least 40% of the time children are present?**

There is not a formal “Program Director” role in Family Child Care Home regulations, so this change does not apply to that program type. This change currently applies to Center-based Child Care and Preschool Programs and Afterschool Programs where a formal Program Director role is established in licensing regulations. The Program Director is charged with setting curriculum and supervising staff to ensure their consistent practice and quality within those programs; they do not necessarily regularly lead a group of children which is why it was determined that they could be on-site for fewer hours if desired by that program.

## **Section 4 - Accountability and Administration**

**1. Where can I find more information on how and when the new payroll tax will roll out?**

The new payroll tax, which is an increase of .11% from employees and .33% from employers, will go into the Child Care Contribution Special Fund. Taxes will begin to be collected starting July 1, 2024. The [Vermont Department of Taxes](#) has created a page on the Child Care Contribution; more information on this tax can be found the [Vermont Department of Taxes Child Care Contribution webpage](#).

## **Section 5 – Prekindergarten-Related**

**1. When do the changes to UPK (Universal Prekindergarten) go into effect?**

Act 76 does not make changes to Universal Prekindergarten at this time. The law directs the state to form a Prekindergarten Implementation Committee to create a plan that would provide full-school-day full-school-year Prekindergarten to four-year olds starting in the 25/26 school year. The Committee’s report is due to the Legislature on December 1, 2025. The Committee meetings are public and are announced on the [Vermont Agency of Education event calendar](#).

**2. We often hear the term “mixed delivery system” to describe Vermont’s UPK system. What is a mixed-delivery system?**

A mixed-delivery system means that PreK education is offered in a variety of settings, such as public schools, center-based child care and preschool programs (private or non-profit) and family child care homes. The intention is to support all children to receive a high-quality prekindergarten-level educational experience in the early childhood education setting that their family chooses.

## **Section 6 - Reports and Presentations**

No questions on Act 76-required reports and presentations have been received at this time.