

**Department for Children and Families**  
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*Agency of Human Services*

To: All Regulated Child Care Programs and Providers  
From: Janet McLaughlin, Deputy Commissioner, DCF Child Development Division  
Date: September 14, 2023  
Re: Act 76 Changes: Tuition Rates and Allowability of Additional Fees

On June 20, 2023, the Vermont Legislature passed a new law affecting child care programs, [Act 76](#). Among other things, the Act created two new statutes, 33 V.S.A. § 3516 and 33 V.S.A. § 3517, which went into effect on July 1, 2023. This memo provides information on how these two statutes affect the rates and fees charged by all regulated child care programs and providers in Vermont.

Section 3516 of Vermont's child care statutes (33 V.S.A. § 3516) governs child care waitlist and application fees. The law states:

*A child care provider shall not charge an application or waitlist fee for child care services where the applying child qualifies for the Child Care Financial Assistance Program pursuant to section 3512 or 3513 of this title. A child care provider shall reimburse an individual who is charged an application or waitlist fee for child care services if it is later determined that the applying child qualified for the Child Care Financial Assistance Program at the time the fee or fees were paid.*

This law *only* governs application and waitlist fees; these are fees that some programs collect before a child is offered a place in a program. 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. This law applies to any waitlist and application fees collected after July 1, 2023.

Child care programs should revise their policies and practices as soon as possible to eliminate these fees, and programs should refund any such fees they have collected since July 1 from parents of children who qualify for the Child Care Financial Assistance Program (CCFAP). The Division will add this new legal requirement to all future CCFAP Provider Agreements.

Section 3517 of Vermont's child care statutes (33 V.S.A. § 3517) governs child care tuition rates. The law states:



*A child care provider shall ensure that its tuition rates are available to the public. A regulated child care provider shall not impose an increase on annual child care tuition that exceeds 1.5 times the most recent annual increase in the NAICS code 611, Educational Services. This amount shall be posted on the Department's website annually.*

This new statute requires child care providers to make their tuition rates available to the public. Although the Division 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.

The Division recommends making rates available to the public by posting rates on your program's website, sharing your rates with your local Community Child Care Support Agency, or providing them upon request to all who ask. Doing so will meet the requirement of the law. Additional details will be provided as new rules and guidance are developed. 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.

The new statute also places a cap on annual child care tuition increases. As directed, the Division has [posted notice](#) of this new requirement on its website. Under the law, regulated child care programs may not increase their annual tuition more than 7.2% for the year ending June 30, 2024. This amount is 1.5 times the percentage change of the most recent [Employment Cost Index](#), for March 2023.<sup>1</sup>

*How to calculate a rate increase:*

Divide the amount of your program's planned tuition increase by your current tuition amount.

For example, if you plan to set your tuition at \$25,000 per year, and your current rate is \$20,000 year, then the new tuition rate minus current rate is the increase in tuition amount (\$25,000 – \$20,000 = \$5,000 increase)

The \$ amount increase divided by the current tuition rate is the percentage increase in tuition rate.

$\$5,000 \div \$20,000 = 25\% \text{ increase}$

In this example, the rate increase (25%) *exceeds* the cap set in the law (7.2%). So, the planned tuition rate is too high under section 3517.

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<sup>1</sup> This figure comes from the U.S. Bureau of Labor Statistics' measurement of change in total compensation for all educational services workers (NAICS code 611).



We understand this rate cap limits programs' ability to manage costs in response to unforeseen circumstances. It is possible the Division may seek waiver authority in the future.

We encourage programs to make plans to come into compliance as soon as possible. The Division strongly recommends that your program maintain documentation on rate changes, including any documentation regarding rationale and communications about the rate increase, in case such records are needed.

It is important to note that, per another provision in Act 76, the amount your program charges for tuition will not impact the amount the State pays for CCFAP reimbursement in the future. Beginning January 1, 2024, the State will pay a CCFAP state rate regardless of your program's "usual and customary rate," and the Division will no longer compare CCFAP payments to the rates in your Provider Rate Agreement. Your program *does not* need to increase its tuition rates to receive the full CCFAP state rate beginning in 2024.

### **Questions?**

The [Vermont office of First Children's Finance](#) is funded by CDD to offer business-related technical assistance to child care programs. The Office can offer advice on approaches to setting tuition rates for your child care business. Their website includes videos explaining these changes.

The Child Development Division team is also here to help. Please send your questions to [ahs.dcfcdinfo@vermont.gov](mailto:ahs.dcfcdinfo@vermont.gov).

You can also reach out to the licensor on duty: 800-649-2642 Option 3 or [ahs.dcfcdchildcarelicensing@vermont.gov](mailto:ahs.dcfcdchildcarelicensing@vermont.gov).

