

BOARD of SUPERVISORS



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MEMORANDUM

TO: September Jarrett, Director, Office of Early Care and Education

FROM: *OW*
for Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: August 9, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Yee on July 31, 2018:

File No. 180807

Ordinance amending the Administrative Code to establish the Early Care and Education for All Initiative, to be funded by appropriations from the Babies and Families First Fund, including procedures concerning a spending plan and reporting requirements.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Maya Castleman, Office of Early Care and Education

1 [Administrative Code - Early Care and Education for All]

2
3 **Ordinance amending the Administrative Code to establish the Early Care and**
4 **Education for All Initiative, to be funded by appropriations from the Babies and**
5 **Families First Fund, including procedures concerning a spending plan and reporting**
6 **requirements.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Chapter 20 of the Administrative Code is hereby amended by adding Article
16 XVII, consisting of Sections 20.17-1, 20.17-2, and 20.17-3, to read as follows:

17 **ARTICLE XVII: EARLY CARE AND EDUCATION FOR ALL**

18
19 **SEC. 20.17-1. EARLY CARE AND EDUCATION FOR ALL INITIATIVE.**

20 *The Office of Early Care and Education (OECE) shall establish and maintain the Early Care*
21 *and Education for All Initiative (Initiative), to provide support for quality early care and education for*
22 *children in San Francisco families, consistent with this Article XVII. The Initiative shall be funded by*
23 *appropriations from the Babies and Families First Fund established in Section 10.100-36 of this*
24 *Administrative Code, in addition to such other appropriations as the Board of Supervisors may direct*
25 *by ordinance. This Article XVII implements Section 2112(d)(2) of the Business and Tax Regulations*

1 Code, by facilitating the allocation of moneys in the Babies and Families First Fund among the
2 purposes set forth in subsections (d)(1)(A), (d)(1)(B), (d)(1)(C), and (d)(1)(D) of Section 2112.

3
4 **SEC. 20.17-2. SPENDING PLAN.**

5 (a) Within 30 days of the effective date of this Article XVII, OECE shall submit to the Board
6 of Supervisors a report setting forth the procedures OECE intends to use to develop the spending plan
7 described in subsection (b). These procedures shall be designed to encourage broad and diverse
8 community engagement—including, but not limited to, engagement with employees working in early
9 care and education, the owners of businesses offering early care and education, parents, nonprofit
10 organizations, philanthropists, and academic experts—in the development of that spending plan, and
11 shall include the development of a wide range of mechanisms by which engaged community members
12 may communicate with OECE. These mechanisms shall include, but need not be limited to, one or
13 more public town halls, one or more surveys, a dedicated page on OECE's existing website, and a
14 social media presence. Each of these mechanisms shall be advertised prominently on OECE's website.

15 (b) Within six months of the effective date of this Article XVII, and subject to the budgetary
16 and fiscal provisions of the Charter, OECE shall submit to the Board of Supervisors a five-year
17 spending plan for the Initiative, and a proposed resolution to approve the spending plan. It is the
18 Board's intent that this spending plan provide guidance to the Board when the Board adopts future
19 appropriations ordinances. The spending plan shall estimate the anticipated funds available to the
20 Initiative, identify specific programs or services to be offered as components of the Initiative, and
21 specify the level of funding proposed for each such component in light of anticipated funds available to
22 support the Initiative as a whole. To the extent possible in light of anticipated available funds, the
23 spending plan shall, in a manner consistent with subsection (c), be designed to achieve the following
24 goals:
25

1 (1) Providing support for quality early care and education to all San Francisco
2 children under the age of six from households whose incomes are at or below 85% of State Median
3 Income, and who are listed as eligible, on that basis, to receive support for early care and education—
4 but who, because of a lack of available resources, are not receiving the full amount of support to which
5 they are entitled;

6 (2) Providing financial support for measures to increase the compensation of early
7 care and education professionals and staff by not less than 10%, in a manner designed to improve the
8 quality and availability of early care and education;

9 (3) Providing support for quality early care and education to all San Francisco
10 children under the age of four whose families earn up to and including 200% of Area Median Income,
11 in a manner proportionate to family income (such that families with lower incomes receive
12 proportionately more support);

13 (4) Undertaking other measures designed to improve access to early care and
14 education services that support the physical, emotional, and cognitive development of San Francisco
15 children under the age of six.

16 (c) The spending plan described in subsection (b) shall reflect that, during the five-year
17 period covered by the spending plan, the Initiative's primary priority shall be providing the support
18 described in subsection (b)(1), the Initiative's secondary priority shall be providing the support
19 described in subsection (b)(2), and the Initiative's tertiary priority shall be providing the support
20 described in subsection (b)(3). Notwithstanding the foregoing sentence, this subsection (c) shall not be
21 construed to require OECE to completely address any particular priority, or to achieve any particular
22 objective with respect to any particular priority, before addressing other Initiative goals identified in
23 subsection (b). In developing the spending plan, OECE shall retain discretion to allocate resources
24 among the Initiative goals identified in subsection (b) as OECE deems most appropriate, giving due
25 consideration to the general priorities identified in this subsection.

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2 (d) To promote stability and continuity in early care and education, the spending plan
3 described in subsection (b) shall contain provisions addressing policies for financial reserves, strategic
4 one-time expenditures, and other strategies designed to manage revenue volatility.

5 (e) Within 90 days of introduction of the resolution to approve the spending plan described
6 in subsection (b), the Board shall take any action it deems necessary, in its discretion, to approve,
7 amend, or reject the proposed resolution and spending plan.

8
9 **SEC. 20.17-3. REPORTS.**

10 The spending plan described in Section 20.17-2(b) shall also include metrics designed to
11 evaluate the effectiveness of the Initiative and each of its specific components. Within one year of
12 OECE's submission of the spending plan to the Board of Supervisors, and on an annual basis
13 thereafter, OECE shall prepare, and submit to the Board of Supervisors, a report evaluating the
14 effectiveness of the Initiative and each of its specific components, using the metrics previously
15 developed in OECE's spending plan. Before OECE submits this annual report to the Board of
16 Supervisors, OECE's Citizens Advisory Committee shall have an opportunity to review the report and
17 submit related recommendations to OECE.

18
19 Section 2. Severability.

20 (a) Except as provided in subsection (b), if any section, subsection, sentence,
21 clause, phrase, or word of this Article XVII, or any application thereof to any person or
22 circumstance, is held to be invalid or unconstitutional by a decision of a court of competent
23 jurisdiction, such decision shall not affect the validity of the remaining portions or applications
24 of the Article. The Board of Supervisors hereby declares that, except as provided in
25 subsection (b), it would have enacted this Article, including each and every section,
subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional,

1 without regard to whether any other portion of this Article or application thereof would be
2 subsequently declared invalid or unconstitutional.

3 (b) If, as provided in Section 2115(b) of the Business and Tax Regulations Code,
4 imposition of the Early Care and Education Commercial Rents Tax in Section 2104 of the
5 Business and Tax Regulations Code is held in its entirety to be facially invalid or
6 unconstitutional in a final court determination, this Article XVII shall be void and of no force
7 and effect, and the City Attorney shall cause it to be removed from the Administrative Code.
8

9 Section 3. Effective Date.

10 This ordinance shall become effective 30 days after enactment. Enactment occurs
11 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
12 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
13 Mayor's veto of the ordinance.
14

15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: Matthew Lee
18 MATTHEW LEE
19 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Early Care and Education for All]

Ordinance amending the Administrative Code to establish the Early Care and Education for All Initiative, to be funded by appropriations from the Babies and Families First Fund, including procedures concerning a spending plan and reporting requirements.

Existing Law

At the June 5, 2018 election, the voters approved Proposition C, which imposes additional taxes on revenue from the lease of certain commercial real property. Revenues raised by this tax are to be used primarily to fund quality early care and education for young children. In particular, Proposition C specifies that most of its revenues should be spent on certain “Eligible Programs” related early care and education; nevertheless, Proposition C leaves the Board of Supervisors and the Office of Early Care and Education discretion to allocate resources amongst those programs.

Amendments to Current Law

This ordinance would require the Office of Early Care and Education (OECE) to establish the Early Care and Education for All Initiative, which would provide support for quality early care and education for children in San Francisco families. The Initiative would be funded by revenues raised by Proposition C, in addition to such other appropriations as the Board of Supervisors might direct by ordinance.

The ordinance would further require OECE to develop, and submit to the Board for approval, a five-year spending plan for the Early Care and Education for All Initiative. The spending plan would be intended to provide guidance when the Board adopts future appropriations ordinances. In advance of the spending plan, the ordinance also requires OECE to report to the Board regarding its plans to foster community engagement in the development of the spending plan.

The ordinance identifies four goals for the spending plan: clearing the current waitlist of children eligible for support for early care and education; increasing compensation of early care and education professionals and staff by not less than 10%; expanding support for early care and education to families earning up to 200% of Area Median Income; and undertaking other measures to improve access to early care and education services. These goals are intended to be consistent with the “Eligible Programs” set forth in Proposition C. The ordinance also directs OECE to prioritize amongst those goals in general terms (with this

prioritization matching the order in which the four goals were just recited in this legislative digest), but this direction is general, and OECE retains discretion (after giving due consideration to the ordinance's general priorities) to submit a spending plan proposing whatever allocation of resources OECE deems most appropriate.

To promote stability and continuity in early care and education, the ordinance also requires the spending plan to contain provisions addressing policies for financial reserves, strategic one-time expenditures, and other strategies designed to manage revenue volatility.

Finally, the ordinance also requires the spending plan to include metrics designed to measure the effectiveness of the Early Care and Education for All Initiative and each of the Initiative's specific components. Each year, OECE would be required to report to the Board regarding the effectiveness of the Initiative and its components, using those metrics.

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