



# House Bill 2166 and Senate Bill 236:

Addressing Suspension and Expulsion of Young Children in Early Care and Education Programs

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A report to the Oregon Legislature

**January 2024**



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Pears, K.C., Lauzus, N., Scheidt, D. & Guyer, S. (2022). Findings from Oregon’s Early Childhood Care Provider Survey 2022: Challenges and Opportunities for Professional Development and Coaching—Executive Summary. Report submitted to the Oregon Early Learning Division and Early Learning Council, November 2022.	
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## Executive Summary

The last twenty years have seen a growing acknowledgment of the prevalence and impact of suspension and expulsion in early learning and care programs – those serving children from 6 weeks to five years old. The Department of Early Learning and Care’s (DELIC) most recent survey of families in 2022 showed that 9.1% of all families with a child under the age of five had a child asked to leave care in the last year. The survey also confirmed the disparate rates by which young children are asked to leave programs, with the highest rate of any racial or ethnic group being African American or Black children at 16.1%. Children with developmental disabilities or medical needs were asked to leave programs at a rate of 22.1%. The survey results also make it clear that suspension and expulsion is an issue present for all young children, not just preschool age children.

About **14%** of the children who had **experienced suspension or expulsion** were infants and another approximately **17%** were toddlers.

The rate of children being asked to leave care across all families in Oregon has steadily been increasing since 2019. Given the negative effects on employment caused by problems in child care reported above, this suggests that a substantial number of families may then face other negative impacts as a result of being asked to leave care. Children who are suspended or expelled also miss out on valuable learning opportunities and may experience emotional stress with lasting impact.

### Legislative Response

During the 2021 session, the legislature passed two bills, HB 2166 and SB 236, addressing suspension and expulsion of young children in early care and education programs. HB 2166 established the Early Childhood Suspension and Expulsion Prevention Program (ECSEPP) to provide technical assistance to reduce expulsion or suspension in programs serving children from birth through age five and address disparities in the rates of suspension and expulsion. During the same session, the legislature also passed SB 236, which prohibits any early care and education program that is either licensed or receiving public funds from suspending or expelling any child as of July 1, 2026.

SB 236 directed the agency to submit a report on the steps needed to implement this prohibition. Because successful implementation depends on support and technical assistance to early care and education providers that are part of the ECSEPP, this report also covers progress towards implementing this program, and recommended steps to support its successful rollout.

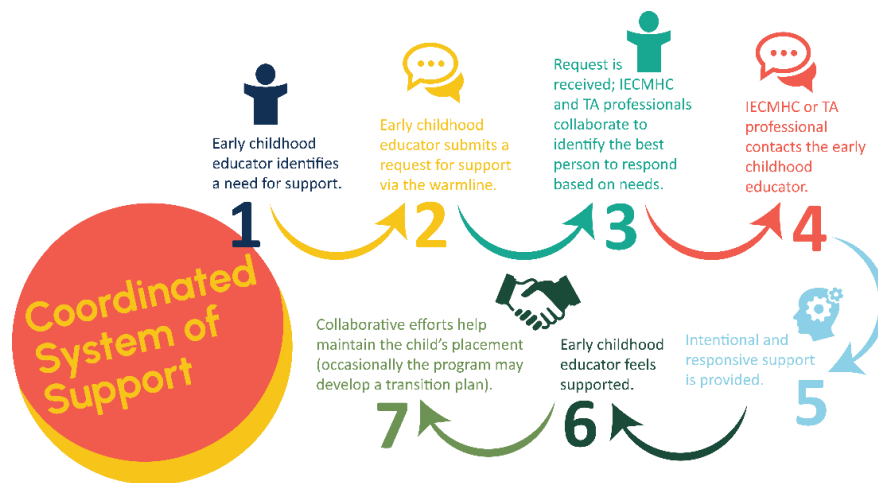
### Early Childhood Suspension & Expulsion Prevention Program Planning & Development

Thanks to the passage of the Student Success Act and the creation of the Early Learning Account, the legislature has made significant investments in professional learning for the early care and education workforce. This includes foundational training(s) and one-on-one coaching. ECSEPP is intended to build on those investments, focusing primarily on developing regional Infant Early Childhood Mental Health Consultants (IECMHC) to assist child care providers when confronted with children exhibiting behaviors providers find challenging. This gap in services to be filled by IECMHC is particularly needed when a child does not meet the eligibility for the more



intensive and individually tailored services offered by Early Intervention and Early Childhood Special Education (EI/ECSE), administered by the Oregon Department of Education.

In addition to developing the regional capacity for IECMHC, DELC is also identifying a central entity to coordinate these services and operate a warmline for families and child care providers. As outlined in the graphic below, the warmline would allow an assessment of the level of support or intervention needed to prevent a child from being suspended or expelled from a program. The warmline will be available for programs and parents to request support starting in mid-2025. Because Oregon's ban on suspension and expulsion will be one of the most comprehensive in the nation, it is likely that additional resources will be necessary to meet the statewide level of need.



### Enforcing a Ban on Suspension & Expulsion in 2026

In addition to the prevention supports underway for the workforce, DELC is also preparing the regulatory infrastructure for implementing the ban. DELC is currently undergoing a substantial revision of its enforcement framework, aiming to elevate efficiency, consistency, and accountability in protecting the well-being and safety of children in child care facilities. The proposed changes introduce a new approach that integrates risk assessments, considers the number of violations per visit, evaluates combinations of violations, and considers a cumulative and comprehensive assessment to guide enforcement actions. The proposed structure offers a consistent and transparent approach to enforcement, reducing ambiguity and ensuring equitable treatment for all child care facilities.

This proposed structure would allow flexibility when enforcing the ban on suspension and expulsion, acknowledging the availability of training and local resources and the number of violations of this policy, and allow the provider to be connected to a regional service provider for additional supports. DELC hopes to begin piloting the enforcement framework by the end of 2024.

### Gaps in Statutory Authority to Enforce SB 236

Neither HB 2166 nor SB 236 granted DELC the enforcement authority for the new requirements established in these bills. Recommended statutory changes would allow DELC to enforce the ban and investigate its violation for the facilities currently subject to monitoring and investigation, as well as the ability to leverage DELC's progressive enforcement approach that begins with regular inspections and provides educational resources, technical assistance, and referrals to support services before resorting to intermediate or terminal sanctions.

## i. Introduction and Legislative History

During the 2021 session, the legislature passed two bills, HB 2166 and SB 236, addressing suspension and expulsion in early care and education programs.

HB 2166 established the Early Childhood Suspension and Expulsion Prevention Program (ECSEPP) to provide technical assistance – including mental health consultation services – to early care and education providers and to support stable and inclusive placements for children and families. The program was created to reduce expulsion or suspension in programs serving children from birth through age five, and address disparities in the rates of suspension and expulsion based on race, ethnicity, language, ability, or any other protected class identified by rule by the Early Learning Council.

The focus of ECSEPP is to provide training and technical assistance to child care providers that support: children's social emotional development; children's positive racial identity development; antibias practices in early childhood care and education programs and inclusive practices in early childhood care and education programs. HB 2166 directed the Early Learning Division (now the Department of Early Learning and Care (DELIC)) to build capacity within communities to administer these supports. The legislation also required that, once this system of supports had been established, an early care and education program that is either licensed or receiving public funding must request services from ECSEPP when a young child is facing potential suspension or expulsion.

During the same session, the legislature also passed SB 236, which prohibits any early care and education program that is either licensed or receiving public funds from the Early Learning Division (now DELIC) from suspending or expelling any child as of July 1, 2026. SB 236 directs the agency to conduct a study of: (1) the use of suspension in early childhood care and education programs; and (2) efforts to reduce suspension and expulsion in early childhood care and education programs. This report is due to the legislature on September 15, 2024.

SB 236 also directed the agency to submit a separate report on the steps needed to implement the prohibition of suspension and expulsion in early childhood care and education programs, including the process for investigations and contested case hearings related to any violations of this prohibition, and any recommendations for legislation needed for successful implementation. This report is being submitted in fulfillment of this requirement.

Because the ability to successfully implement the prohibition of suspension and expulsion mandated in SB 236 depends on providing the supports and technical assistance to early care and education providers that are part of the ECSEPP, this report also covers progress towards implementing this program, as well as the recommended steps necessary to support its successful rollout. The ECSEPP is projected to launch simultaneously with the warmline in mid-2025 and will include access to expanded professional development, technical assistance, and Infant and Early Childhood Mental Health Consultation.



## ii. Suspension & Expulsion: What it is, why it matters and what we know

The last twenty years have seen a growing acknowledgment of the prevalence and impact of suspension and expulsion in early learning and care programs – those serving children from six weeks to five years old. Suspension and expulsion can be defined in several ways, including “soft-expulsion,” where “practices that make it so that the program is not a viable or welcoming care arrangement for the family and leaves the family with little choice but to withdraw their child.” An example of soft-expulsion is when a family is required to pick up a child early so frequently that it impacts the parent’s employment, and the family is forced to leave the program without formally being asked. In the report provided to DELC, *Families’ Experiences of Early Childhood Suspension and Expulsion: Messages for Building More Inclusive Environments*, parents reported that having their child expelled from care had numerous negative consequences impacting employment, family financial stability, and personal wellbeing. Parents/caregivers risked loss of their jobs, frequent requests to pick up their child early, keep their child home for specific events or activities all of which impact the families’ financial situations. In many of these instances the parent/caregiver misses work and continues to pay for child care they are not able to utilize. Decades of research show that exclusionary discipline practices in the early years are ineffective and developmentally inappropriate. Children who are removed from the classroom lose out on valuable learning opportunities. Their emotional well-being may suffer, and school might no longer feel like a safe place. Instead, they may feel unwelcome and develop a negative association with school. Exclusion also disrupts the continuity of care, which is important to fostering strong early education experiences (McMullen, 2018).

- **Suspension:** Practices that involve removing or excluding the child from the classroom or program
- **In-School Suspension:** Removing a child from the classroom and sending a space apart from the rest of the group.
- **Out-of-School Suspension:** Requiring the family to pick the child up early due to behavioral issues.
- **Expulsion:** The permanent removal or dismissal from the program.

Source: *SRI Education Glossary*

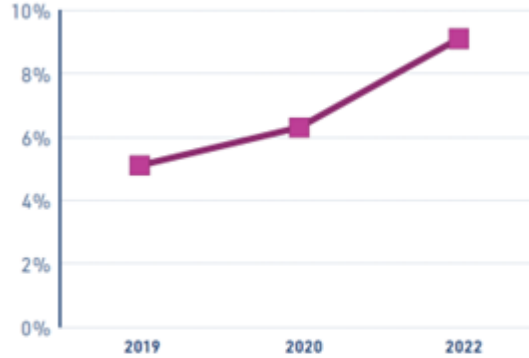
In 2005, Dr. Walter Gilliam published research demonstrating that young children experience rates of suspension and expulsion from early learning and care settings across the country at rates far higher than previously realized (Gilliam, 2005). This research found that publicly-funded preschool programs expel children at rates three times higher than the rates of expulsion in K-12<sup>th</sup> grades. A subsequent study by Dr. Gilliam found that the rate of expulsion from privately funded or community-based child care programs was nearly thirteen times higher than those of K-12. In addition, the study found that the rates of expulsion differ dramatically based on the race and ethnicity of the child. Children of color are more likely to be suspended or expelled than their white peers. In particular, Black/African American boys are the most likely to experience suspension and expulsion.

Oregon research has confirmed that suspension and expulsion from early learning and care programs is also an issue in this state. Through the federal Preschool Development Grant, DELC has been able to contract with Oregon researchers to survey parents of young children and child care providers across the state. The first of these surveys was conducted in the fall of 2019. These surveys have asked both families and child care providers about their experiences with



suspension and expulsion of young children. The 2022 survey of families found that 9.1% of all families with a child under the age of five had a child asked to leave care in the last year, a significant increase from the 6.3% the first year the survey was first conducted in 2019. (Pears, 2023)

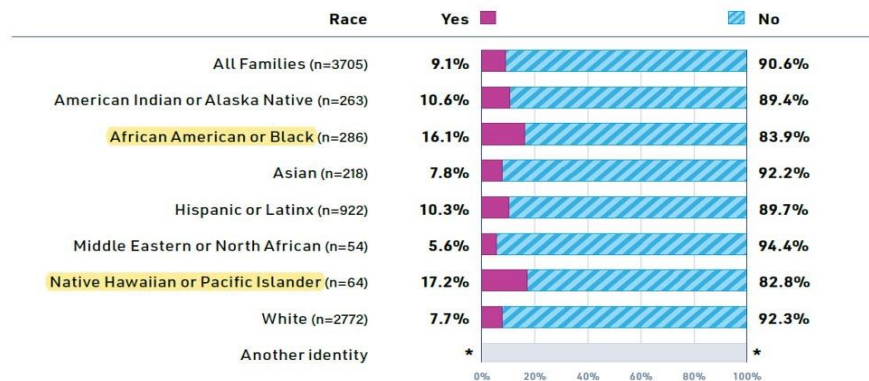
**Figure 33. Rates of children asked to “take a break” from care across time in Oregon**



(Figure taken from Pears, Bruce, et al., 2023, p.44)

The most recent survey also found a similar pattern in Oregon to that found by national studies in the disparate rates by which young children are asked to leave programs, with the highest rate for African American or Black children at 16.1%. Children with developmental disabilities or medical needs were asked to leave programs at a rate of 22.1%.

**Figure 26. Rates of children being asked to “take a break” from care by child race/ethnicity**



The most common reason that parents were told for why their child needed to “take a break” was that the provider could not manage their child’s behavior toward other children or adults, with 33% reporting this as the reason they were given. The next most common reason was the provider reported that their child was not adjusting emotionally, crying, or experience separation anxiety, at 20%.



The survey results make it clear that suspension and expulsion is an issue for all young children, and not just preschool age children.

About **14%** of the children who had **experienced suspension or expulsion** were infants and another approximately **17%** were toddlers.

These surveys have also looked at suspension and expulsion from the perspective of early learning and care providers. 20% of providers reported that in the last year they had asked a child to leave care or take a break because the program could not meet the child's needs. The number one reason reported was because they were not able to meet the child's need for behavioral support at 84%, followed by reporting that the child's behavior was potentially dangerous to other children at 73.7%. More than half of providers reported that they had tried to get support for addressing the needs of children whose behaviors they considered challenging, but less than a quarter of providers reported that they had access to an Infant and Early Childhood Mental Health Consultant (IECMHC). (Pears, 2022)

### iii. Oregon's strategy for reducing suspension & expulsion

To successfully implement the prohibition on suspension and expulsion mandated in SB 236, Oregon needs to ensure that early learning and care providers are supported to address behaviors that they experience as challenging and are equipped to address implicit biases that contribute to the disproportionate rates at which young children are suspended and expelled. Therefore, a significant focus of DELC's suspension and expulsion reduction strategy is on professional development, technical assistance, coaching, and other supports for the workforce. The Infant and Early Childhood Mental Health Consultation (IECMHC) program being developed through HB 2166 is one part of this larger workforce strategy.

DELC's approach is based on the Public Health Model of Prevention, which includes universal promotion, secondary prevention, and tertiary intervention.

**Universal promotion:** Foundational training and professional development that all early learning and care providers have access to that enables them to provide high-quality, inclusive, culturally responsive early learning and care to any and every child in their program. These are educational opportunities and training that could be provided through an institution of higher education such as a community college, through a regional Child Care Resource & Referral entity (CCR&R) or through a community-based training.

**Secondary prevention:** Training, coaching, consultation, mentoring, observation and assessment, instructional leadership, and other technical assistance that is grounded in equity and culturally responsive, and offered as targeted strategies in response to a specific need or situation identified by an early learning and care provider that typically relates to a child at risk of or exhibiting challenging behaviors. DELC has been developing a statewide system of technical assistance and coaching through the CCR&Rs that can support this Secondary prevention.

**Tertiary intervention:** More intensive and individualized coaching and support through Infant and Early Childhood Mental Health Consultation focused on maintaining the stability of a child's enrollment in a program when there are persistent challenges.

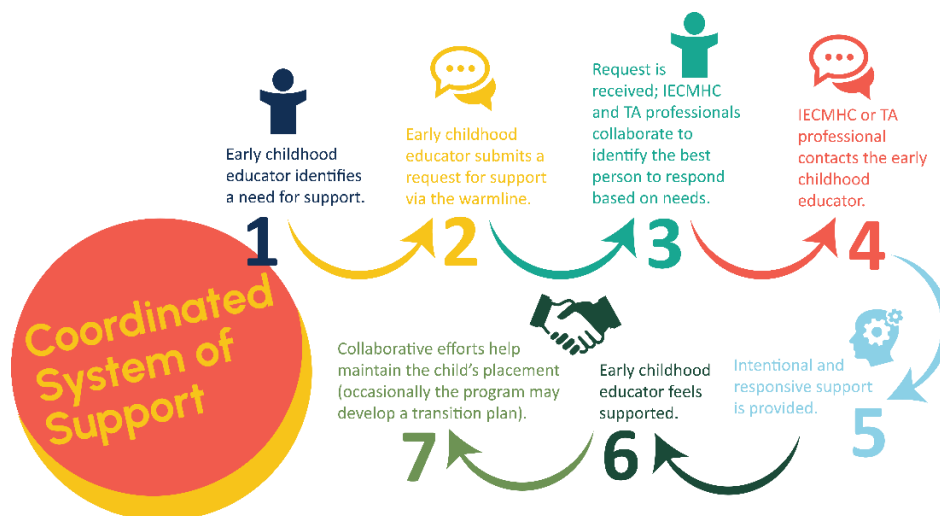




Much of this work builds off and complements existing parts of Oregon's early childhood professional learning system, such as the Child Care Resource & Referral agencies (CCR&R). CCR&Rs, funded by DELC, are regionally based programs serving every county in the state to recruit and provide technical assistance and training for early learning and care programs, both home- and center-based. CCR&Rs expand access to professional development on an array of early education topics designed to be accessible to all early educators in the state. They are the primary programs that DELC mobilizes when it is necessary to provide professional development content that is consistently delivered and made widely available, and they provide other forms of consultation and coaching to early learning and care programs across Oregon.

In addition to building these three levels of workforce supports, DELC is developing a "warmline" as a single point of contact that will enable early learning and care providers to access the appropriate resources when confronted with behaviors they experience as challenging. Resources accessed through the warmline could include the Secondary Prevention offered by a coach based in a local CCR&R or the more intensive Tertiary Intervention offered by an Infant and Early Childhood Mental Health Consultant, depending on the assessed needs of the child and the provider.

The warmline will be available for any early educator or parent to quickly request help. In most cases, an early educator will identify a need for support, and they will make the request. These requests will often be related to challenging behaviors that the early educator is experiencing with a child or children. Once the request is submitted, it will be routed to regional early learning partners in the same service area. Regional technical assistance organizations will work together to identify what type of technical assistance most closely aligns with the early educator's request. One of the local technical assistance professionals will contact the early learning and care program and schedule a time to visit. Through a collaborative effort, the technical assistance provider will help the early educator develop and implement strategies to reduce the challenges they are experiencing and will identify other resources that may be beneficial to the early learning and care program.



As the early educator implements these strategies, the issues they were experiencing will, typically, lessen. In some instances, the challenging behaviors that a child is exhibiting may persist. This is where the technical assistance professional, early educator and parent may decide to bring in additional local partners that have specialized expertise to provide tertiary level prevention or intervention supports. Local organizations that provide technical assistance and consultation will work together to develop a teaming or triaging plan that will guide how they respond to requests for support from early learning and care programs. This robust

teaming structure will be an ongoing collaborative process where local regional partners respond to the needs of early learning and care programs. If the needs of the child and early educators require connections to critical intervention programs, this teaming process would include Early Intervention/Early Childhood Special Education, Infant and Early Childhood Mental Health Consultation, county Behavioral Health and other regionally specific organizations with specialized expertise. This collaborative process to transition from secondary to tertiary services will build an intensive support system and relationship that helps the early educators to maintain a child in care and the child to participate successfully.

### Advisory Committee

DELIC has been working with community partners in various ways during the development of ECSEPP. As the development and implementation of the program became more complex, it was critical to form an ongoing formal advisory committee. Trauma Informed Oregon (TIO), in partnership with DELIC, began recruitment for an advisory committee for the Early Childhood Suspension and Expulsion Prevention Program in July of 2023. TIO developed a process to prioritize the selection of committee members representing these key leadership areas:

- Caregivers (parents, foster parents, family members, and other responsible adults caring for children under five years of age)
- Early Care and Education providers of all types
- Coaches, consultants, trainers, and other professionals who provide content expertise, coordination of services, and other supports to ECE providers
- Specialized Service staff in fields like early intervention and early childhood special education
- Infant and Early Childhood Mental Health Consultants (IECMHC)
- Community members connected personally or professionally with Oregon's early childhood community

TIO screened all applications by the end of August 2023 and provided recommendations to DELIC for final notification of selected committee members. The committee members were invited to their first meeting in November 2023 and are meeting on a monthly basis. The advisory committee is in the process of prioritizing the areas they will work to co-design and/or advise the development of the program in these critical areas: professional development for early learning and care professionals and technical assistance staff, developing and providing equity centered infant and early childhood mental health consultation and technical assistance, coordination of local systems to support early educators, and the development and design of the study on suspension and expulsion and ongoing program evaluation (see [Appendix B](#) for Advisory Opportunities).

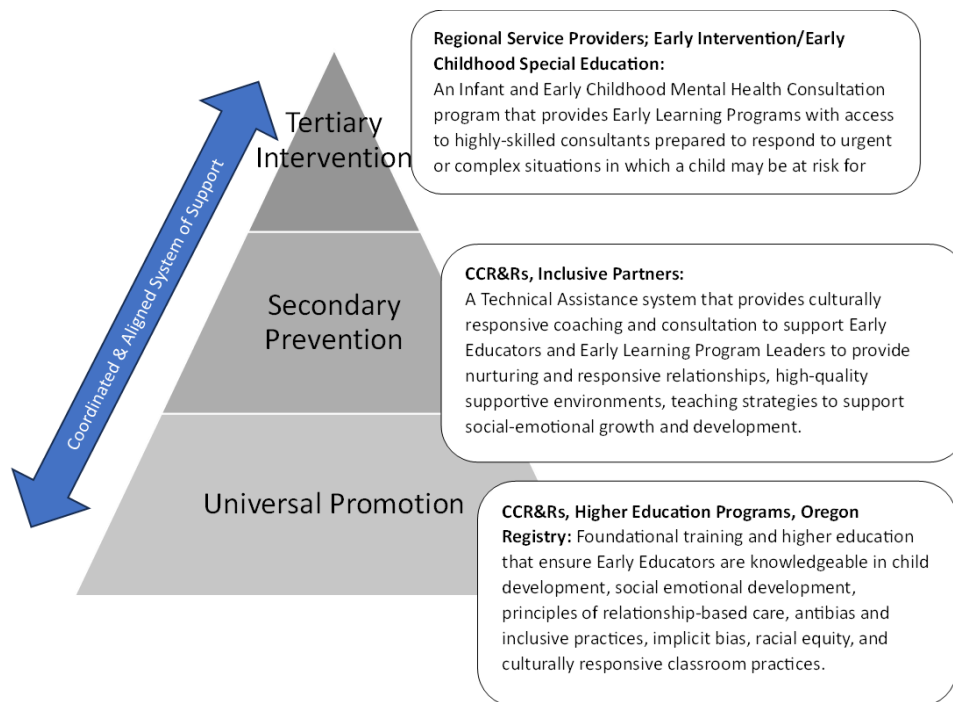
## iv. Professional Learning System and IECMHC: What is already in place and what are we building

Thanks to the legislature's investment through the Student Success Act, DELIC has been building Oregon's early care and education professional learning system, with a focus on the Universal and Secondary levels described above. The biggest gap in that professional learning system has been at the Tertiary Intervention level when an early learning and care provider experiences a child with a challenging behavior that they do not know how to address. This gap is particularly problematic when the child does not meet the eligibility for the more intensive and individually tailored services offered by Early Intervention and Early Childhood Special Education (EI/ECSE).



The Infant and Early Childhood Mental Health Consultation program that DELC is implementing under HB 2166 is designed to address this gap.

## Tiered Model of Suspension and Expulsion Prevention in Early Learning



## Universal Promotion Strategies: Foundational Education, Training, and the Pyramid Model

DELC funds a considerable amount of universal promotion strategies that are available to all early learning and care professionals in Oregon. Foundational training in child development, social/emotional learning, trauma responsive care, and inclusion practices are currently available primarily through the CCR&R system. Additionally, DELC funds statewide scholarships and regional consortia initiatives led by, or in partnership with, institutions of higher education to build education pathways that address systemic and cultural barriers to make higher education degrees and certificates accessible. The participating community colleges and universities provide advisory and navigation services that support early educators on their individual educational journey. These universal supports are being provided to existing and new early educators considering opportunities to enter the workforce.

As noted earlier, suspension and expulsion disproportionately impacts children with disabilities, with 22.1% of Oregon's families with children with developmental disabilities or medical needs reporting that their child had been asked to leave or take a break from a program. Therefore, it is important that Oregon's universal strategies for preventing suspension and expulsion be integrated with its strategies for ensuring inclusion of children with disabilities in all early learning and care settings. DELC is working closely with the Oregon Department of Education (ODE) and, most specifically, with their Early Intervention/Early Childhood Special Education program to support the Oregon Early Childhood Inclusion Initiative (OEI) and leverage the Pyramid Model for Promoting the Social and Emotional Competence of Young Children (hereafter, Pyramid Model) as a universal promotion strategy.

The Pyramid Model is a framework of evidence-based practices that promotes positive social, emotional, and behavioral outcomes of young children birth to five, supports a reduction in disparities in discipline practices, promotes family engagement, and fosters inclusion of children



with, and at risk for, developmental delays and disabilities. It also provides supports for designing high-quality early learning environments, schedules and routines, clear expectations and rules, supportive transitions, and engaging all children. The Pyramid Model is a foundational framework that, once fully implemented, will reduce suspension and expulsion in early learning and care programs.

Through a partnership with Oregon Department of Education, the Pyramid Model Consortium, and joint funding to the Early Learning System Initiative (ELSI) at Oregon State University, DELC has recently funded six Training of Trainer (ToT) sessions to increase the number of community-based trainers available to train early learning and care programs on the Pyramid Model practices. These trainers are now ready to train early educators in their communities. Over 45 of the trainers that were trained in these four sessions work for a CCR&R.

Our current professional learning system's foundational training supports through CCR&Rs, higher education approaches, and Oregon Registry knowledge areas are not yet widely equipped to provide training to early educators on the impacts of implicit bias, bias management practices, and supporting positive racial identity development. With the disparate use of suspension and expulsion and the highest rate affecting African American or Black children at 16.1%, it is critically important that early educators receive universal supports that help them to build skills and capacity to understand these foundational areas so that problematic responses to cross-cultural differences in how children express and interpret emotions are not leading to suspension and expulsion of children that are Black or Brown. The advisory committee for the Early Childhood Suspension and Expulsion Prevention Program will be setting priorities in the professional development and foundational practices quadrants of this work and will co-design strategies in these areas.

### **Secondary Prevention Strategies: Technical Assistance and Coaching**

A foundational level of training is critical for the early learning and care workforce, but to embed this learning into practice, there needs to be more individualized, in person consultation, coaching and technical assistance. DELC is building out the professional learning system's ability to provide technical assistance and coaching directly to early learning and care providers. Most of this coaching and technical assistance will be provided through the CCR&Rs. For the CCR&Rs to be able to deliver high-quality technical assistance and coaching, there needed to be a system in place to train technical assistance providers and coaches. DELC funded the Oregon State University Hallie E. Ford Center to create the Early Learning System Initiative (ELSI). This initiative has successfully completed and implemented the early learning coaching competencies and employs mentor coaches who work with technical assistance and coaching staff in CCR&Rs and Oregon Prenatal to Kindergarten programs to increase the effectiveness of coaches working with state-funded preschool and infant/toddler programs.

The CCR&Rs are currently funded to provide the following level of technical assistance and coaching:

- 70 quality improvement specialists that can work intensively with 544 early learning and care programs
- 19 infant toddler specialists working with over 210 early educators
- 44 coaches and 22 quality specialists working with Preschool Promise and Baby Promise programs.

DELC will leverage CCR&R quality improvement staff and coaches so that they are able to provide Secondary Prevention support in alignment with the Pyramid Model and support the



Early Childhood Suspension and Expulsion Prevention Program. Secondary prevention strategies will be a part of the response when early educators request support for challenging behaviors through the warmline. CCR&Rs will be provided with additional technical assistance tools to support early learning and care programs so that more individualized work with coaches and consultants infuses approaches in managing bias, racial identity development, trauma informed care, and inclusion practices. The connection to coaching and other individualized consultation after early educators receive training, will help them naturally embed and demonstrate it in practice.

In addition to the above technical assistance roles, DELC is enhancing the workforce by expanding the Inclusive Partners program. The current statewide program is comprised of five staff members of DELC, previously located within the Oregon Department of Human Services. The program supports inclusive practices for children with disabilities and medical needs in early learning and care settings. Inclusive Partners helps promote and support inclusive practices by offering technical assistance, consultation services, and professional development opportunities for early educators. If children in early learning and care programs have an identified disability, Inclusive Partners staff can conduct assessments to determine whether children are eligible for the high needs rate available through Employment Related Day Care. Once eligible, this subsidy supplement is provided to early learning and care programs to help them provide additional resources and support to strengthen the care environment for the child.

DELC will fund each CCR&R to hire a Regional Inclusive Partner in each of their organizations. This position will initially focus on providing consultation to early learning and care programs that are struggling to meet the needs of children. Each Regional Inclusive Partner will be a part of the response system when programs request support. These positions will partner with the other CCR&R technical assistance staff and the newly created Infant and Early Childhood Mental Health Consultants in each local region to provide a continuum of expertise that is mobilized based on the needs that each early learning program identifies. CCR&Rs will receive funding to hire these positions in January 2024, and each of these new positions will be provided with training and support from DELC Inclusive Partners mentors to build a more robust local array of inclusion supports.

### **Tertiary Intervention: Infant and Early Childhood Mental Health Consultation**

Infant and Early Childhood Mental Health Consultation has been shown to promote positive outcomes for children, interrupt the impact of implicit bias, and prevent and reduce the use of suspension and expulsion. Research has shown that early learning and care programs who have access to an Infant and Early Childhood Mental Health Consultant are less likely to practice exclusionary discipline (Davis, 2020; Gilliam, 2016). Currently, only a small number of Oregon's early learning and care programs have access to IECMHC and only when made available due to program requirements (e.g., Head Start performance standards) or local funding initiatives. Until now, there has been no statewide program or state funding for IECMHC. DELC is remedying this situation by providing funding for the infrastructure, development, and implementation of the first statewide IECMHC program as a tertiary intervention.

### **IECMHC Program Model**

DELC has committed to building a statewide IECMHC program that centers equity, interrupts bias, promotes belonging and prevents suspension and expulsion. The program will create a consistent model across the state with shared objectives, standards of practice, professional development activities, and data and evaluation protocols while recognizing and creating flexibility for the unique needs and perspectives of Oregon's regions.



To achieve these goals, DELC is developing:

- **A Central Entity:** DELC will fund one organization to provide statewide, centralized expertise on IECMHC and centralized coordination of IECMHC implementation. The Central Entity will provide direct support to Regional Service Providers. DELC anticipates announcing the Central Entity organization in March 2024, followed by a rapid stand up of Central Entity functions from April-June 2024.
- **Regional Service Providers:** DELC will fund 15 organizations that will hire IECMH Consultants and provide IECMHC services to early learning programs within the region where the organization is located. These 15 organizations represent 15 distinct geographic regions, and, together, these regions cover the entire state. Regional Service Providers have been announced for 11 out of 15 regions. Grants are expected to be executed in January 2024, with initial grant activities beginning in February 2024. DELC is working with the remaining four regions to identify a Regional Service Provider in each region. (See appendix for list of awardees)
- **A Warmline:** The warmline will enable early educators to request technical assistance, including but not limited to IECMHC, to support the stability of children's enrollment and prevent suspension and expulsion. Educators may access the warmline to request general technical assistance support at any time. When an educator identifies that a child is at risk of suspension or expulsion, the educator will be required, as per HB 2166, to request support through the warmline to prevent suspension or expulsion from occurring.

While the initial investment in Infant and Early Childhood Mental Health Consultation is important and necessary as part of a multi-tiered system of support, this investment alone will only address a fraction of the needs.

### Central Entity

Because DELC has committed to building a statewide IECMHC program that centers equity, interrupts bias, promotes belonging, and prevents suspension and expulsion, it is important to have a Central Entity that knows and deeply understands IECMHC models, and supports quality and consistency across the statewide implementation to ensure fidelity to the model. The Central Entity will be responsible for ensuring that the IECMHC program has statewide standards of practice, guidelines for implementation, data collection protocols, continuous quality improvement processes, and shared outcomes.

The Central Entity will collaborate with DELC in developing and implementing the IECMHC Program by:

- Developing standards and guidelines for IECMHC programs that is culturally responsive, implemented with a focus on antibias and inclusive practices, and is effective in preventing the use of suspension and expulsion
- Defining the essential skills and competencies for IECMH Consultants
- Supporting the knowledge and skill development of IECMH Consultants and program leaders through strategies such as:
  - Core training and onboarding
  - Communities of Practice
  - Reflective Supervision (particularly where not available locally)
  - Licensure Supervision (particularly where not available locally)
  - Equity Dialogues and Affinity Spaces



- Developing a variety of strategies and workforce pathways to increase the diversity of Oregon's IECMHC workforce.
- Providing technical assistance and implementation support to Regional Service Providers on all aspects of implementing and administering an IECMHC program, including the development of job descriptions and hiring protocols, strategies for developing authentic relationships and understanding the current and historical context of the communities being served, and instruction on the use of selected screening and assessment tools.
- Engaging in Continuous Quality Improvement and Evaluation Activities, adjusting program practices and updating technical assistance to Regional Service Providers as needed.

DELIC released a Request for Proposals (RFP) to solicit proposals from organizations interested in becoming the Central Entity. Below is the projected timeline for this process:

- December 22, 2023: RFP released
- February 9, 2024: RFP closes
- February 16, 2024: Competitive bids invited to second round selection process
- March 1, 2024: Intent to Award announced
- March 29, 2024: Contract executed
- Spring/Summer 2024: Central Entity begins work.

### Regional Service Providers

While DELIC is building a statewide IECMHC program, it is important that IECMHC services be closely connected to and reflective of the individual regions and communities across the state. DELIC's model includes funding 15 Regional Service Providers. These entities will be located within the geographic region to be served, hold connections with other early learning system partners, poised to promote development of the IECMHC workforce, and have the needed foundations to implement equity centered IECMHC.

In creating the design for Regional Service Providers (RSPs), DELIC used the existing geographic boundaries of the fifteen CCR&R regions because these are the primary technical assistance organizations that will partner with RSPs locally. DELIC ran the Request for Applications (RFA) for the RSPs during Fall 2023 and received applications from organizations in 11 out of 15 regions. The applicants represented a variety of different types of entities, including Early Learning Hubs, Child Care Resource & Referral Agencies, Education Service Districts, Relief Nurseries, and Community-Based Organizations. With the funding provided in HB 2166, the Regional Service Providers can hire a minimum of 22 Infant and Early Childhood Mental Health Consultants throughout the state. These initial investments are critical and will require additional resources to move to full scale implementation.

Regional Service Providers will be responsible for hiring staff and providing IECMHC services to early learning programs within each of Oregon's 15 regions. To fulfill this function, Regional Service Providers will engage in activities falling into two major categories: 1) Function as a member of a Coordinated System of Support and 2) Implement Equity Centered IECMHC to Prevent Suspension and Expulsion.

Building the IECMHC workforce will require both regional and statewide strategies. On behalf of DELIC, the BUILD Initiative reviewed data on the current early childhood mental health consultation workforce and their previous employment. Prior to these individuals becoming IECMHC, 61% were clinicians, 41% were early educators, 39% were home visitors, 33% worked in other family support roles, and 31% were parenting program facilitators. Existing consultants also reported that they know individuals who have the foundational competencies that would make them successful as IECMHC. The strategies that existing consultants identified for building the



workforce were: ensuring that people receive job specific trainings; financial support to support higher education opportunities; job shadowing; mentorship and the ability to learn about the unique work through school and other connections. These opportunities will be a part of the services provided by the Central Entity as they work with other organizations to build the IECMHC workforce.

DELG currently funds early childhood higher education consortium models in multiple regions and a higher education scholarship program that makes education opportunities accessible, allowing early educators and other classroom coaches, consultants, and leaders to attend college before they enter the field or to enhance their educational journey within the field. In the 2023 legislative session, HB 3561 Early Childhood Care and Learning Scholarship Program would have significantly contributed to workforce development in IECMHC. The bill expanded eligibility for the scholarship to allow IECMHC and other specialized coaches and consultants to access this critical scholarship fund. However, the session ended with no funds allocated to the Higher Education Coordinating Commission to provide scholarship funds to early learning students. Adding resources to this scholarship fund would create important opportunities to develop the IECMHC workforce.

### **Coordinated System of Support:**

While Regional Service Providers will provide IECMHC services to early learning programs in their region, there are also a variety of other Early Learning System partners providing technical assistance services to the same early learning programs. It will be important that these various supports for early educators are coordinated. When an early learning program identifies that a child is at risk for suspension or expulsion and submits a request for support to the warmline, it will be important to have local cross-agency coordination to determine which agency or which role is the best match with the needs of the program. In cases of severe challenging behaviors, recent exposure to traumatic events, a child's placement in foster care, or other disruptions that have created particularly challenging situations, the skills and training of the IECMHC are likely to be the best match. In other cases, it may be that the early educator already has an existing relationship with another technical assistance provider, finds this existing relationship to be supportive, and the technical assistance provider holds the competencies and skills needed to support the educator in supporting the child. Regional Service Providers will work with the other technical assistance providers and partners in their region to develop and implement a regional teaming plan to ensure that any early educator submitting a request for support receives the support they need to maintain the enrollment of a child.

### **Infant and Early Childhood Mental Health Consultation**

IECMH Consultants will provide the following services:

- Conducting interviews with educators and/or family members to gather information about concerns
- Visiting early learning programs to conduct an observation of a child or the early learning environment
- Engaging in a reflective conversation with educators about the educator's experiences supporting an individual child or group of children
- Identifying implicit biases and engaging educators in a reflective conversation to increase awareness and interrupt the impact of bias
- Conducting weekly visits to the early learning program to collaborate with educators in identifying and trying new strategies to support an individual child or group of children
- Providing brief consultation to family members and, when appropriate, assisting with referrals for additional supportive services
- Facilitating a transfer of services to a different technical assistance provider when appropriate





- Collaborating with other technical assistance providers as a member of the Coordinated System of Support

## v. Progress and timelines

### Regional Service Providers

Currently, DELC is in the process of developing grant agreements with Regional Service Providers in 11 regions. The Regional Service Providers selected fall into roughly three separate cohorts based on the length of time required to establish a Coordinated System of Support and/or to develop essential knowledge and readiness to implement IECMHC.

- January 31, 2024: Grant Agreements executed (initial 11 regions)
- February 2024: Regional Service Providers begin Planning Grant Activities
- March 31, 2024: Grant Agreements executed (remaining 4 regions)
- May-June 2024: Cohort 1 transitions from Planning to Implementation Grants; IECMHC services begin in Cohort 1 regions
- August-October 2024: Cohort 2 transitions from Planning to Implementation Grants; IECMHC services begin in Cohort 2 regions
- December 2024-January 2025: Cohort 3 transitions from Planning to Implementation Grants; IECMHC services begin in Cohort 3 regions

Regional Service Providers in Cohort 1 are close to readiness for implementation. They will focus on a short period of planning *either* to develop a Coordinated System of Support *or* to develop an equity-centered workforce development and recruitment plan.

Regional Service Providers in Cohort 2 will focus on a period of planning that includes a focus on developing a Coordinated System of Support *and* developing an equity-centered workforce development and recruitment plan.

Regional Service Providers in Cohort 3 will focus on the same activities as Cohort 2 but require a longer period to complete the activities. Some Cohort 3 organizations have more community engagement and/or relationship building activities with early learning system partners to conduct to be ready for implementation.

Regional Service Providers will begin with a Planning Phase that will cover the following topics:

#### Developing A Regional Plan for Regional Teaming

- Establish collaborative partnerships with early learning system partners (where not already in place). At minimum, initial partners should include CCR&Rs and Early Learning Hubs, with encouragement to include Tribal partners, culturally specific early learning programs, OPK/Head Start/Early Head Start programs, and EI/ECSE.
- Convene or co-convene early learning system partners to develop cross-agency plans for responding to Warmline referrals (see *Coordinated System of Support* below for more details)

#### Understanding the Unique Characteristics of Equity-Centered IECMHC

- Develop an understanding of how IECMHC is different from coaching, other types of consultation, and direct mental health treatment services
- Develop an understanding of equity centered IECMHC competencies and skills in preparation for developing job descriptions, priorities for recruitment and hiring, and workforce development strategies to expand the racial, cultural, and linguistic diversity of the IECMHC workforce

#### Assessing Organizational Policies and Procedures to Promote Equity and Belonging



- Using an equity lens, review salary structures and compensation policies, as needed, to recognize the linguistic abilities and lived experience of IECMH Consultants
- Using an equity lens, review the organization's culture and use of trauma informed and culturally responsive practices

#### Developing an "IECMHC Workforce Equity Plan"

- Identify short- and long-term workforce equity goals and tangible actions steps in the areas of:
  - Recruitment, retention, and compensation
  - Competencies and qualifications
  - Core training and ongoing professional development, and
  - Reflective supervision

The "IECMHC Workforce Equity Plan" is to ensure intentionality in recruiting and sustaining a diverse IECMH workforce. The development of this plan will be supported by the Central Entity and will include both short-term and long-term strategies to diversify the IECMH workforce in Oregon.

Each region will need to transition from planning to implementation at their own pace. In some regions, the planning period may last as little as three months, while in other regions, the planning period may last up to 12 months, the maximum length of time for a planning period.

The selected RSPs will also be invited to join a Learning Collaborative to support these planning activities. The Learning Collaborative will initially be staffed by DELC, and then supported by the Central Entity once that organization is up and running.

As each RSP transitions to an Implementation Grant, they will begin recruiting and hiring IECMH Consultants. By this time, each organization should have identified workforce priorities for hiring that include:

- The current qualifications of this individual that have prepared them to provide IECMH (e.g., education, work experience, lived experience)
- The current IECMH competencies that this individual holds. If certain competencies are not in place, the potential for developing the competencies after hire
- The individual's readiness to address racism and implicit bias with consultees
- Options for tuition reimbursement for graduate level classes and other forms of support for professional development

#### **Warmline**

DELC has been working with its internal Information Technology leadership to incorporate the development of the warmline into the central entity Request for Application. The central entity will work with DELC to identify viable strategies for creating the warmline. At this point, Enterprise Information Services and our internal Information Technology leadership will support DELC in administering any technological solutions that are identified. The warmline may be implemented as a partnership with existing DELC funded organizations that administer data system solutions and/or phone and online consultation. The decision for the implementation of the warmline will be in partnership with the selected central entity and will build upon existing funded infrastructure. The warmline will be developed with the Central Entity and DELC's internal IT team throughout 2024 and will go live for early educators and parents to access in mid-2025.

#### **Suspension & Expulsion Best Practices Research Report**

SB 236 directs DELC to conduct a study of: (1) the use of suspension in early childhood care and education programs; and (2) efforts to reduce suspension and expulsion in early childhood care and education programs. This report is due to the legislature on September 15, 2024.



To carry out this requirement, DELC has contracted with the Research Justice Institute (RJI) at the Coalition of Communities of Color (CCC). As part of its research design CCC will prioritize families and early educators who are part of and serve communities of color, the LGBTQIA+ community, non-English speaking communities, and disability communities. Currently, the CCC is utilizing prior early learning research studies and reports to generate a comprehensive baseline of knowledge. These reports center lived experiences of families and early educators who disproportionately experience suspension and expulsion. The research report will include:

- **Baseline of Knowledge Report**
  - Who does or does not use exclusionary practices in Oregon? Why or why not?
  - Who in Oregon is or is not suspended or expelled? Why or why not?
  - How can Oregon's early learning and care system better support early educators, families, and young children, with the goal of eliminating the use of exclusionary discipline practices?
- **Qualitative data collection through engagement with community partners**
  - Learn from early educator experts who successfully keep children in care
- **Resource Mapping**
  - Identify technical assistance resources that providers currently access
  - Highlight gaps in resource available to marginalized communities

## **vi. Implementation and enforcement of suspension & expulsion prohibition**

This section of the report discusses DELC's plan and approach for enforcing both the requirement that early learning and care providers access the ECSEPP program before considering suspending or expelling a child (HB 2166) and the prohibition of suspension and expulsion that goes into effect July 1, 2026 (SB 236). These provisions apply to programs licensed by the DELC and programs receiving public funds administered by DELC. Most programs will fall under DELC's licensing authority. Therefore, DELC's intention is to implement these requirements within its existing licensing, investigation, and enforcement framework. This framework is built around a continuum of enforcement, where DELC's response to an identified violation of licensing rules usually starts with technical assistance and only moves to penalties or other actions, such as revocation of a license, when there is a continued and persistent pattern of on-going violation. When possible, DELC provides opportunities and time for a program to correct noncompliance prior to citation or further sanctions. For those programs that receive public funds administered by DELC and are not subject to DELC's licensing authority, these requirements will be included in contracts with the subject providers and enforced through DELC's contract monitoring process.

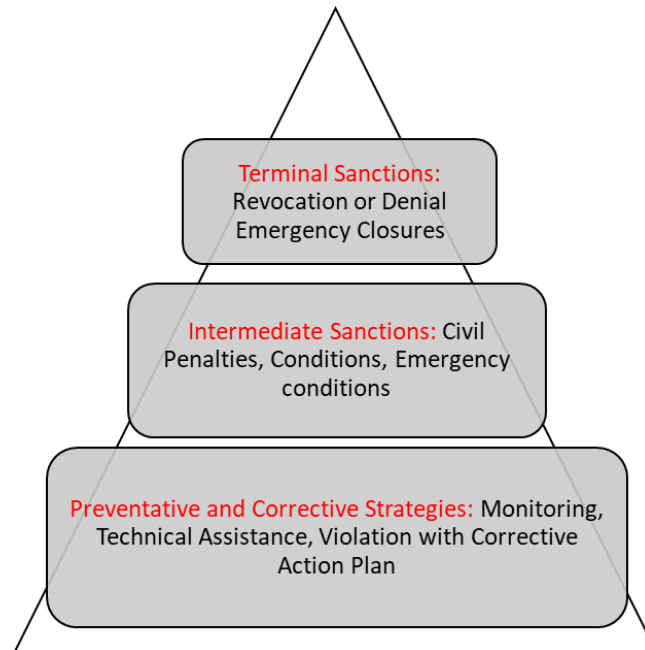
However, DELC has also identified gaps in the statutory authority granted to it under both SB 236 and HB 2166 that would currently limit its ability to enforce both the ban and the requirement for providers to access HB 2166. This section also identifies recommendations for addressing those statutory gaps. The description below of how DELC intends to monitor and enforce these requirements assumes that the legislature has addressed these statutory gaps prior to implementation.

The Department of Early Learning and Care (DELC) has authority and responsibility for the regulation of the state's child care system per ORS 329A.260, pursuant to rules adopted by the Early Learning Council (ELC). DELC regulates child care facilities through its Child Care Licensing Division (CCLD), which generally has the same functions as its predecessor, the Office of Child Care.



## DELC's continuum of enforcement

DELC frames its enforcement strategies as a pyramid in structure. The base of the pyramid represents preventative and corrective strategies, which are implemented for the purpose of helping programs achieve compliance. These interactions are the primary strategies utilized with child care facilities within DELC. Most licensed programs will not experience intermediate or terminal sanctions because of regulatory violations.



### **Preventative and Corrective Strategies:**

#### **Prelicensure Orientation, Training, and Initial Inspection:**

DELC requires several preservice training courses to support the child care workforce in understanding and meeting minimum health and safety standards. Prior to initial licensure, DELC field staff conduct on-site visits to ensure that licensing requirements are met before children enter care. During this time, licensing staff offer technical assistance and guidance to programs to support compliance. DELC has developed resources that can be given to child care facilities as the need arises. These include form templates, rule guidance documents, short videos, and lists of available community resources. Both the requirement to access the ECSEPP supports and information on the prohibition of suspension and expulsion will be folded into these materials and resources.

#### **Ongoing Inspections and Monitoring:**

Inspections, whether conducted for initial or renewed licensing, are scheduled visits during which licensing staff perform on-site comprehensive reviews of a child care facility. Monitoring visits occur in the mid-licensing period and are a federal Office of Child Care requirement. They are unscheduled, unannounced visits conducted by licensing staff, and are intended to ensure that child care facilities are maintaining compliance with child care rules. During either type of facility visit, technical assistance may be provided to assist the provider in gaining and maintaining compliance with child care rules. A program may also receive a noncompliance finding, which comes in the form of a written letter noting the rules which were found to be in violation of rule. The letter serves as a warning to the child care facility prior to issuance of intermediate sanctions (such as a civil penalty), if not corrected. In addition, DELC staff make a follow-up visit or contact the program to ensure the violation was corrected after the noncompliance finding.

letter is issued. DELC intends to include the SB 236 and HB 2166 requirements in the inspection, monitoring and noncompliance finding letter processes.

### **Technical Assistance:**

Technical assistance may be provided during scheduled licensing inspections, unannounced monitoring, or compliance visits, or during specific technical assistance visits, which may be requested by the program or offered by DELC field staff. In many cases, DELC staff will find that a child care facility may not have a clear understanding of the rules which leads them to be out of compliance. Technical assistance can also be offered as an explanation prior to a citation. This gives child care facilities an opportunity to correct the noncompliance without any repercussions from DELC. DELC does not respond solely with technical assistance in the event of serious violations which have the potential to cause significant harm to children if violated. Serious violations are defined in rule as:

- Children are in imminent danger
- More children in care than allowed by licensed capacity
- Use of prohibited disciplinary methods
- Children are not being supervised
- Multiple or serious fire, health or safety hazards are present
- Extreme unsanitary conditions are present
- Adults are in the facility who are not enrolled in the Central Background Registry (CBR)
- A facility is providing child care without the appropriate licensure.

As these definitions stand today, rules for suspension and expulsion would not fit into the definition of "serious violation," and therefore, could be addressed with technical assistance. However, if violations of suspension and expulsion regulations occur in combination with violations of other rules, a determination may be made on a case-by-case if it would be appropriate to define the incident to fall within the serious violation definition of "multiple or serious fire, health, or safety hazards" as referenced above. Technical assistance in the case of a violation could be a referral to the program required by HB 2166, and a discussion with the child care facility that suspension and expulsion is prohibited by DELC. Multiple violations of the same rule will typically lead to stronger enforcement actions.

### **Letters of Noncompliance and Corrective Action:**

Letters of noncompliance and corrective action are written letters of documentation and notification sent by DELC to a child care facility to communicate findings of noncompliance with child care rules and may include the corrective action(s) required for the child care facility to come into compliance. All serious valid complaints and noncompliance letters are required to be posted at the child care facility for 12 calendar months in an area where they may be clearly viewed by parents. Additionally, the violations have been posted on the web through the Child Care Safety Portal for five years. If the suspension and expulsion ban were included in DELC's current enforcement structure, a provider would have the potential of receiving a noncompliance letter. If a provider received a noncompliance letter for the violation of rules adopted for the suspension and expulsion prohibition, those letters would be posted on the Child Care Safety Portal, and DELC would expect corrective action, as that is the case for all rule violations.



## Intermediate Sanctions:

### Civil Penalties:

Civil penalties are fines imposed by a state or federal agency for violation of laws or regulations. The use of civil penalties is one part of the enforcement toolbox that the DELC may use to reinforce compliance with the rules. The amount assigned to the civil penalty varies depending on the severity of the violation and the license type. ORS 329A.992 defines the maximum dollar amount per violation. In addition to civil penalties that apply to licensed child care facilities, DELC may also impose fines for child care that is provided unlawfully (when a license is required). Individuals have the right to appeal to any agency decision to impose a civil penalty through the contested case hearings process. A violation of the suspension and expulsion ban would be subject to the issuance of civil penalty and the associated contented case hearing rights

### Civil Penalty amounts for Licensed Programs

Current fine amounts			Maximum allowed by rule	
License Type	Repeat non-serious violation	Repeat serious violation	Maximum for each non-serious violation	Maximum for each serious violation
RF	\$50	\$100	\$250	\$750
CF	\$75	\$150	\$400	\$1200
CC	\$100	\$200	\$800	\$2500

### Conditions and Emergency Conditions:

Conditions are restrictions added to a license above and beyond what is required by rule. Conditions may be placed on a license due to a child care facility repeatedly violating a specific rule or set of rules that DELC believes could affect the health and safety of children. A condition limits the child care facility's scope of caring for children, while allowing them to continue operating in a way that supports the health and safety of children in their care. ORS 329A.300(3)(c) and 329A.330(9)(c) authorize DELC to issue emergency conditions on licensed facilities if DELC finds a danger to the health and safety of the children receiving care at the licensed facility. Individuals have hearing rights to challenge proposed conditions.

## Terminal Sanctions:

### Revocations:

A revocation is the action taken to stop a licensed facility from operating when DELC determines that the child care facility cannot or will not comply with health and safety regulations. The revocation process is used in cases of significant noncompliance or reoccurring noncompliance that does not improve over time. The deficiencies may be repeated violations of the same requirements or continual violations of different requirements. The degree and severity of violation are important factors taken into consideration in the decision to revoke the license. CCLD does not pursue this option often, with a total of 1 revocation in 2023 out of around 4000 active licensed facilities total as of December 2023.



A licensee has hearing rights for proposed revocation and must respond within 21 days to request a hearing. Through the contested case hearings process, an administrative law judge will make a final determination upon the revocation.

Similar to a revocation, an application for initial, renewal, or reopening of a child care license may be denied when there is evidence that the applicant is unable or unwilling to comply with child care statutes and rules. A denial is a legal action on the application, and a revocation is a legal action against the active license. CCLD does not pursue this option frequently either, with a total of 27 denials in 2023, out of around 4000 total active licensed facilities as of December 2023. Either sanction affords the licensee the opportunity to request a hearing before a final order is issued.

### **Emergency Suspensions:**

A suspension of a facility's license is issued to stop the licensed facility from operating. The suspension process is used when a licensed facility is operating in a way that presents an imminent threat to the health or safety of children, or when there are issues with an individual's DELC background check (Central Background Registry or "CBR") enrollment who is associated with the facility and the individual lives at the facility or is the facility's sole operator. This legal action also allows a licensee to request a hearing, however, DELC can suspend a license while waiting for the hearings process. Typically speaking, a violation of a suspension and expulsion ban rule would not rise to the level of an imminent threat to children, and DELC does not anticipate Emergency Suspensions associated with these rules.

### **Complaints and Investigations:**

Upon DELC's receipt of a complaint regarding a child care facility or unlawful child care, the complaint is initially screened to ensure that the allegation is within DELC's regulatory authority. If the alleged rule violation is within the scope of DELC's authority, DELC is obligated by state and federal law to investigate and make a finding on the allegations reported to DELC. If the complaint is not regulatory in nature or there are concerns of a criminal or child abuse/neglect nature, appropriate partner agencies, such as law enforcement or the Oregon Department of Human Service's child abuse reporting hotline, will be notified for appropriate follow-up. If the complaint alleges child abuse or neglect occurring at the child care facility, the DELC investigation may be conducted in tandem with ODHS's Office of Trainings, Investigations and Safety (OTIS) investigators.

The assigned DELC Investigative Specialist will conduct background research into the facility and may contact the complainant for additional information prior to visiting the facility. The complaint visit must be conducted within three business days of the complaint being assigned. During the unannounced complaint visit, the Investigative Specialist may conduct interviews with facility staff and/or parents, request and review records, take photos and/or video, and will conduct an inspection of the child care facility. The Investigative Specialist will document their observations, any observed noncompliance, and any technical assistance provided.

After the initial complaint visit, the Investigative Specialist will meet with other DELC staff members to review the visit and determine the next steps. Follow-up visits may be conducted if appropriate.

Once the investigation has been completed, the complaint will be given one of three findings, which are defined by OAR 414-075-0130(19) (*promulgated December 2023*):



- Valid: When a reasonable person could conclude the noncompliance occurred based on the evidence
- Invalid: When a reasonable person could not conclude that the noncompliance occurred based on the evidence
- Unable to substantiate: When a reasonable person could not decide whether the noncompliance occurred because of conflicting evidence or information is not available.

In cases where a valid finding has been issued, civil penalties or other sanctions may be imposed. Findings are communicated to a child care facility in writing. Facilities impacted by regulatory actions by DELC may request a findings review wherein DELC staff not previously involved in the investigation will review the matter and either change or uphold the determination.

Complaints of violations of rules regarding suspension and expulsion would be addressed through this same investigatory process.

DELC will likely only learn of incidents related to suspension and expulsion through a complaint or self-report. It would be unlikely licensing staff would observe a suspension or expulsion through routine inspections. DELC anticipates that there will be an increase in investigations associated with these complaints. It is unknown how many of these complaints DELC will receive or how long those investigations will take, but DELC would need additional staff to respond in a timely manner to these additional regulatory complaints.

### **Proposed Revisions of Child Care Enforcement Structure:**

DELC is currently undergoing a substantial revision of its enforcement framework, aiming to elevate efficiency, consistency, and accountability in protecting the well-being and safety of children in child care facilities. The proposed changes introduce a new approach that integrates risk assessments, considers the number of violations per visit, evaluates combinations of violations, and considers a cumulative and comprehensive assessment to guide enforcement actions. The proposed structure offers a consistent and transparent approach to enforcement, reducing ambiguity and ensuring equitable treatment for all child care facilities. The framework also accommodates variations or ranges in risk levels based on the frequency of violations, mitigating factors outside of the child care facility's control, or severity of the issue, providing a flexible yet systematic framework for enforcement.

### **Key Components of the Proposed Revisions of Child Care Enforcement Structure:**

The revision incorporates a risk assessment framework, categorizing each rule violation into low, medium, high, and extreme risk levels based on their potential of harm to children or the severity of the violation. This proposed structure considers whether there is a single violation or multiple violations during a single visit and identifies enforcement responses based on the frequency of noncompliance. Acknowledging that multiple violations may involve varied risk levels at any visit, the proposal introduces a point-based scoring system to determine the overall risk associated with combinations of low, medium, high, and extreme-risk violations. This will align enforcement responses with cumulative risk scores, ensuring that actions are proportionate to the severity and frequency of violations. Recommendations may include technical assistance, warnings, citations, civil penalties, denials, suspensions, or revocations.

Centering equity is paramount in DELC's development of risk-assessed rules. This framework, coupled with demographic data collection, will enable DELC to identify and address disparities or inequities in the application of regulations, specifically as they may pertain to historically marginalized or oppressed populations. It will also allow for timely and periodic assessments of the impact of enforcement practices on different demographic groups, thus facilitating any





policy adjustments needed to promote equity and continuous quality improvement. The framework will also establish consistent enforcement standards, ensuring that all licensed child care facilities are held to the same expectations, regardless of their location or community. This promotes healthy and safe child care environments for all children in care.

DELC is largely still in the conceptual phase of revisions to its enforcement structure and is currently underway with a period of data collection that will be integral to ensure that risk assessments of each rule are accurate. DELC hopes to begin piloting this enforcement framework by the end of 2024.

## vii. Gaps in statutory authority to enforce SB 236

The section above describes how DELC proposes to enforce both the requirements of HB 2166 and SB 236 regarding suspension and expulsion using the existing complaint, investigation, remediation, and action processes currently used by DELC to enforce other child care licensing rules. However, neither HB 2166 nor SB 236 granted DELC the enforcement authority for the new requirements established in these bills. Without statutory amendments to these bills, the requirements will remain symbolic and unenforced. With statutory changes, enforcement of the ban and investigation of its violation would be available to DELC for the facilities currently subject to monitoring and investigation, as well as to DELC's progressive enforcement approach, authorized by ORS 329A.346, that begins with regular inspections and provides educational resources, technical assistance, and referrals to support services such as Child Care Resource and Referral or Inclusive Partners before resorting to intermediate or terminal sanctions.

To implement the goals of Senate Bill 236, DELC recommends the following legislative changes.

Current ORS 329A.625 is limited to banning the suspension or expulsion of children in child care but not the enforcement of that statute. DELC recommends an amendment that would add a new subsection to or otherwise amend ORS 329A.625 to grant the Early Learning Council the authority to approve administrative rules regarding the investigation and enforcement of matters involving suspensions or expulsions. This will allow the Early Learning Council and DELC to create clear rules with processes of how investigations and enforcement of violations of ORS 329A.625 will be carried out.

Currently, ORS 329A.390 grants DELC the ability to investigate the various early learning programs that are under DELC's regulatory authority, but it excludes investigations regarding possible suspensions or expulsions by not including ORS 329A.625 in the list of statutes subject to investigation. DELC recommends amending ORS 329A.390 to also list ORS 329A.625 with the other statutes covered by DELC investigations.

Current ORS 329A.992 grants DELC the authority to issue civil penalties to people or programs in violation of administrative rules or statutes regulated by DELC, but it excludes issuing civil penalties to people or programs that have unlawfully suspended or expelled a child care child by not including ORS 329A.625 in the list of statutes subject to civil penalties. DELC recommends amending ORS 329A.992 to also list ORS 329A.625 with the other statutes that DELC may issue civil penalties to people or programs for violating.

**Statutory changes** that could enable full enforcement of the ban in ORS 329A.625 include amending:

- ORS 329A.260 to refer to minimum standards for the administration of "ORS 329A.030 [and], 329A.250 to 329A.450 **and ORS 329A.625**"; and
- ORS 329A.390 similarly to authorize investigations of violations of ORS 329A.625.



AND

- ORS 329A.625 to:
  - grant rulemaking authority to the Council to define what is suspension or expulsion and to identify exceptions, to consider specific scenarios where the overall health and safety of children in care can be ensured only with a suspension or expulsion, for example, when partnering with ODHS or law enforcement in cases of abuse or neglect.
  - refer to “subsidy funds” administered by DELC instead of to the more general “state public funds,” to align with the scope of DELC’s authority, or (as shown in the example below) refer specially to “subsidized care facility” as defined.
  - ORS 329A.625 to refer to licensed facilities and subsidized care facilities only, to align with the scope of DELC’s authority.

Granting the ELC rule-making authority around suspensions and expulsions would also address another challenge in implementing SB 236. The inflexibility with which SB 236 is currently written, neither giving the ELC rule-making authority nor the DELC discretion in enforcement of the ban, will limit DELC’s ability to use a contextual and flexible approach when enforcing the ban. For example, if a child is a perpetrator of abuse towards other children, the facility would violate the ban by expelling that child in an effort to protect the other children in care. DELC recommends that the statute should be amended to provide for rulemaking authority for appropriate exceptions and other requirements, including those described in HB 2166.

## **viii. Conclusion**

During the last twenty years, awareness of both the frequency and the detrimental impact of early childhood suspension and expulsion for young children and their families has grown. Recognizing this impact, the 2021 legislature took action passing both supports to prevent suspension and expulsions (HB 2166) and a prohibition of the practices in programs licensed or funded by DELC (SB 236). DELC currently anticipates having supports to providers from the ECSEPP up and running by mid-2025, a year in advance of the ban. DELC has also been planning how to integrate the ban into its current structure for monitoring and enforcing child care licensing rules. This structure focuses on a continuum of enforcement that starts with technical assistance to a provider and only moves to penalties or other actions when there is a continued and persistent pattern of non-compliance. However, for DELC to integrate the enforcement of these new requirements related to suspension and expulsion, state statutes need to be amended to ensure that DELC has this enforcement authority. DELC also recommends granting the Early Learning Council rule-making authority to define exceptions to the SB 236 prohibitions.



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## Appendix A

### IECMHC Regional Service Providers

Region	Backbone/Lead Agency	Lead Agency Program	Subcontracted Partners, if applicable
Central (Deschutes, Crook & Jefferson Counties)	Neighbor Impact	Neighbor Impact Child Care Resources (CCR&R)	
Clackamas County	Clackamas ESD	Clackamas ESD	Clackamas County Children's Commission
Eastern (Malheur, Wallowa, & Baker Counties)	Malheur ESD	Early Learning Department of Malheur ESD	
Lane County	United Way of Lane County	Early Childhood Hub of Lane County	Quality Care Connections (CCR&R). Oregon Community Programs
Linn, Benton, and Lincoln Counties	Linn Benton Community College	Family Connections/LBL CCR&R	
Marion, Polk, and Yamhill Counties	Willamette ESD	Willamette ESD, EI/ECSE	
Multnomah County	Black Parent Initiative	Black Parent Initiative and CAIRO	
	Center of African Immigrant & Refugee Organization (CAIRO)		
North Coast (Tillamook, Clatsop, & Columbia Counties)	Northwest Regional ESD	North Coast CCR&R	
Southern (Jackson & Josephine Counties)	Family Nurturing Center	Family Nurturing Center (Relief Nursery)	
The Gorge (Gilliam, Hood River, Sherman, Wasco & Wheeler Counties)	Columbia Gorge ESD	Columbia Gorge ESD	
Washington County	Community Action Organization	Washington County CCR&R	
Blue Mountain (Union, Morrow, and Umatilla Counties)	TBD		



Frontier (Grant & Harney Counties)	TBD		
South Central (Douglas, Klamath & Lake Counties)	TBD		
South Coast (Coos & Curry Counties)	TBD		



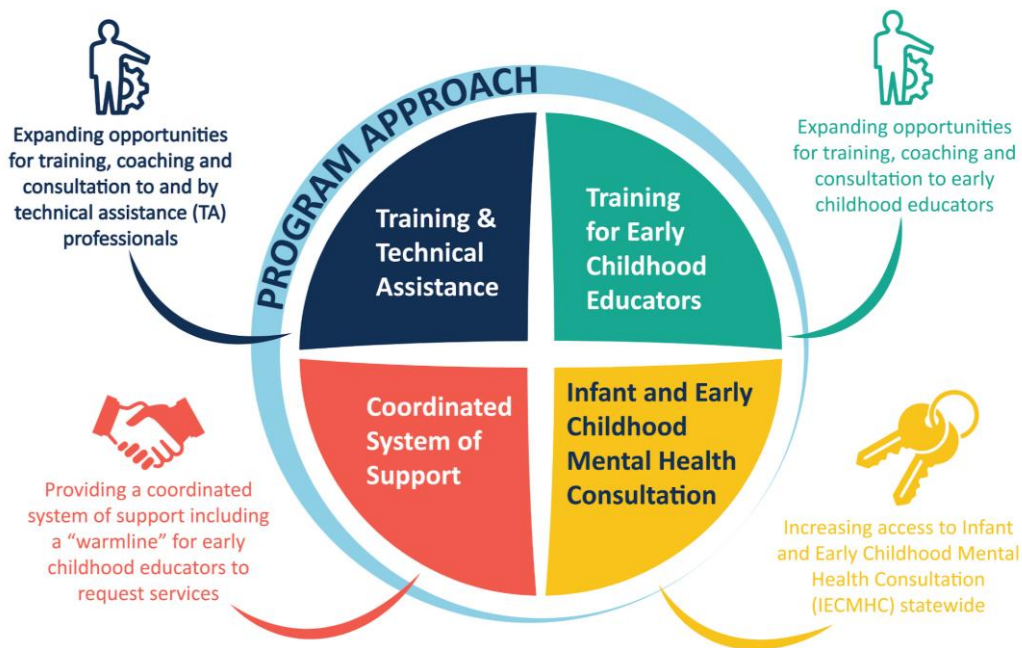
## Appendix B

Early Childhood Suspension & Expulsion Prevention Program Advisory Committee Opportunities

### Advisory Opportunities by Quadrant

*Draft January 11, 2024*

The graphic below describes the key areas that are critical to building the Early Childhood Suspension and Expulsion Prevention Program. It represents the programmatic elements that must be in place to enhance the skills of early educators and provide them with a support system that mobilizes various existing and new resources in their communities to help them maintain relational care for young children and their families. The descriptions of the four categories below represent the four quadrants of the ECSEPP approach. Each quadrant is highlighted and connected to sections of the legislation where there are potential opportunities for the advisory committee to co-design the elements of the program. These areas are intended to be potential considerations for the advisory committee, and the advisory committee is welcome to recommend other strategies to develop a holistic program design.



These are brief descriptions of the quadrants that strategies are organized under:

- **Professional development:** includes training for early childhood educators, as well as the training of and by technical assistance professionals.
- **Coordinated system of support:** how a range of technical assistance, coaching, and infant and early childhood mental health consultation will be coordinated at the regional level to provide support to early childhood educators and programs.
- **Infant and early childhood mental health consultation:** increase the availability and access to infant and early childhood mental health consultation in each region of the state to be one of several types of support for early childhood educators and programs.
- **Study/Evaluation:** the study will provide an understanding of the current use and disparities of use of suspension and expulsion and will recommend effective strategies



informed by community that reduce exclusionary practices. The data that is collected will be examined through comprehensive evaluation for the purpose of informing continuous efforts to reduce and eliminate suspension and expulsion.

*The following items have been cross-referenced with the 2021 legislative requirements in HB 2166 and SB 236 and summarize the connection to ECSEPP legislation (HB 2166) with advisory opportunities.*

## Professional Development

- A. **Trauma-informed practices:** What strategies are working in communities that build trauma-informed practices in partnership with early learning and care programs? (Section 1.3)
- B. **Racial Equity:** What professional development and technical assistance approaches will build racial equity in early learning and care programs? (Section 1.3a)
- C. **Social-Emotional Growth:** What is needed for education professionals to promote social-emotional growth beyond the Pyramid Model? (Section 1.3b)
- D. **Positive Racial Identity:** Develop approaches to professional development that build positive racial identity (Section 1.3d)
- E. **Antibias approaches** System-wide antibias approaches to professional development (Section 1.3d)
- F. **Subject Matter Expertise:** What other subject matter expertise do you want to be involved, and in what ways, to guide implementation of the 4 areas of technical assistance capacity to be built: children's social-emotional development, positive racial identity, antibias practices in ECE programs, and inclusive practices in ECE programs. (Section 1.3d)
- G. **Definition, Standards, and Technical Assistance Expertise:** Advise the Central Entity which will be developing standards and guidelines in common definitions, standards and guidelines related to antibias practices, inclusive practices, suspension and expulsion, and culturally responsive technical assistance. (Section 1.4a-e)
- H. **Technical Assistance Practices:** Build strategies for antibias and inclusive technical assistance practices. (Section 1.4a-e)

## Coordinated System of Support

- A. **Warmline:** Advise DELC and the Central Entity about the development of Warmline strategies and approach that connects ECE programs and professionals to the regional coordinated system of support of technical assistance and IECMHC. (Section 1.3c)
- B. **Teaming Approach:** Advise DELC on the technical assistance and IECMHC teaming approach and provide recommendations to ensure the process is supportive of early learning and care program requests and needs. (Section 1.3e,f,g)
- C. **Triaging:** Advise DELC and central entity on best practices to teaming or triaging local regional community-based supports to early learning and care programs. (Section 1.3e,f,g)
- D. **Support for Families:** Advise Central Entity to develop additional approaches to enhancing community-based support for families involved in multiple systems. (Section 1.3b and e,f,g)
- E. **System Partners:** Advise DELC on what system partners with which types of subject matter expertise you want to engage with to guide implementation as it relates to areas in and outside of DELC's immediate sphere of influence. (Section 1.3e,f,g)
- F. **Integrated Mental and Behavior Health Supports:** Advise on what integrated mental and behavioral health and social-emotional supports look like in communities. How does the advisory group want to work on areas that are out of DELC's current services and supports? (Section 1.5)



## Infant and Early Childhood Mental Health Consultation (IECMHC)

- A. **Stages of Implementation:** Advise Central Entity on various stages of implementation of IECMHC. (Section 1.3c)
- B. **Workforce Pathways:** Advise Central Entity on implementing [the Centering Racial Equity report](#) recommendations and discuss additional considerations on how to build workforce pathways of mental health consultants' knowledge, skills and competencies. (Section 1.4e)
- C. **IECMHC Competencies:** Advise Central Entity on skills and competencies for mental health consultants. (Section 1.4e)

## Research Study/Evaluation

- A. **Evaluation of SEPP:** Work with AB Cultural Drivers to design evaluative systems to collect information to understand if the services implemented are reducing the use of suspension and expulsion. (Section 1.3e,f,g)
- B. **Data Collection:** Advise on the development of standards for data collection and evaluation approach to assess program impact, including eliminating disparities in exclusionary practices based on race, ethnicity, language, ability or other protected classes. (Section 1.4f)
- C. **Baseline of Knowledge:** Review the Baseline of Knowledge Report, advise on its implications, and provide recommendations. (Section 1.3)
- D. **Research Study:** Review and engage in the development of the Research Study design. (Section 1.3)

