



OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

TO: Licensed Child Development Facilities Caring for Infants, Toddlers and/or Preschoolers

FROM: Sara Mead
Deputy Superintendent of Early Learning

RE: Waiver Policy for Fiscal Year 2024 (FY24) Early Childhood Educator Pay Equity Fund

DATE: Oct. 5, 2023

I. Summary

On Sept. 7, 2023, the Office of the State Superintendent of Education (OSSE) announced the establishment of a waiver policy for FY24 for child development facilities that lack sufficient revenues to meet [FY24 minimum salary requirements](#) of the Early Childhood Educator Pay Equity Fund for all eligible staff. This document offers guidance on the waiver process.

OSSE may waive compliance with the minimum salary requirements for FY24 of the Early Childhood Educator Pay Equity Fund if a provider demonstrates their inability to meet the minimum salary requirements without operating at an unsustainable budget deficit and meets the identified criteria.

II. Initial Waiver Application Timeline and Process

From Oct. 16, 2023 – Nov. 15, 2023, providers participating in the FY24 Early Childhood Educator Pay Equity Fund will be able to apply for a waiver of the minimum salary requirements. OSSE will review all applications and notify providers if their application was approved or denied by Dec. 15, 2023. All determinations made by OSSE are final.

Providers whose waiver application is not approved by OSSE and are already enrolled in quarter one (Q1) of the FY24 Early Childhood Educator Pay Equity Fund, may choose to opt out of the program for Q2 or remain in the program and pay eligible staff wages or salaries that meet or exceed the FY24 [minimum salaries](#). Providers who choose to opt out of the program for Q2 will be required to demonstrate that they used the first quarterly payment entirely to increase compensation for eligible teachers and assistant teachers. Providers who have a waiver application denied by OSSE who decide to exit the program may provide compensation to

eligible early childhood educators through one-time bonuses in Q1. This is the only circumstance in which providers may meet the minimum salary requirements through bonuses rather than increasing regular compensation paid to eligible staff.

III. Waiver Application Timeline and Process After the First Quarter of FY24

Providers who do not participate in Q1 of the FY24 Early Childhood Educator Pay Equity Fund and enter the program in future quarters will have the opportunity to apply for a waiver when they opt-in to the program.

Providers who participate in the Early Childhood Educator Pay Equity Fund and do not apply for a waiver in Q1 may apply for a waiver in future quarters but must meet minimum salary requirements for all quarters for which they do not have an approved waiver.

The eligibility criteria, requirements and required application information are the same regardless of when a provider applies for a waiver.

IV. Requirements to Receive a Waiver

Any provider who has employees¹ and enters into an agreement to participate in the FY24 Early Childhood Educator Pay Equity Fund may apply for a waiver. To be granted a waiver, a provider must meet the following requirements:

- Demonstrate that the child care provider's revenues cannot cover the costs to operate while paying minimum required salaries for the Early Childhood Educator Pay Equity Fund, even after taking into account the provider's anticipated child development facility (CDF) payroll funding formula revenues.
- Provide an assurance that the provider will use all funds received from the CDF payroll funding formula to increase salaries or wages for eligible teachers and assistant teachers, cover taxes and mandatory benefits associated with higher salaries or wages and/or provide health or other discretionary benefits for staff.
- Agree to participate in the [DC Shared Services Business Alliance](#) (DC SSBA) support for the Early Childhood Educator Pay Equity Fund program to receive technical assistance

¹ Home and expanded home caregivers are small business owners and are often self-employed. As business owners, some home caregivers and expanded home caregivers may not take a salary, but rather receive profits of the business. CDHs and CDXs who have employees other than the business owner and participate in the Early Childhood Educator Pay Equity Fund are required to demonstrate that they meet minimum salary requirements for their employees. However, OSSE will not require CDHs or CDXs to demonstrate compliance with the minimum salary requirements for home caregivers or expanded home caregivers who are self-employed small business owners.

on business practices and financial sustainability, including sharing relevant business financial information as requested.

V. Application Requirements

Providers applying for a waiver must submit the following information with their application:

- A complete FY24 Early Childhood Educator Pay Equity Waiver Application in the format prescribed by OSSE.
- Payroll records or related documents that demonstrate the salaries paid to eligible educators as of Sept. 30, 2023, before any adjustments related to the FY24 Early Childhood Educator Pay Equity Fund.
- A certified financial statement showing the program's revenues and expenses for the most recent fiscal year available.
 - If a certified financial statement is not available, a provider may submit alternative documentation that details the program's revenues and expenses.
- Projected monthly or annual operating budget for FY24 showing the provider's anticipated CDF payroll funding formula revenue and operating costs if the provider pays all eligible teachers and assistant teachers the minimum required salaries under the FY24 Early Childhood Educator Pay Equity Fund.
 - Note: OSSE will provide a forecast award statement to all providers participating in the FY24 Early Childhood Educator Pay Equity Fund in early October 2023. Providers should include as revenue the CDF payroll funding formula amount included in OSSE's forecast award.
- A summary statement outlining why the provider is unable to meet the FY24 minimum salaries.

VI. Requirements for Providers with Approved Waivers

Providers with approved waivers shall do the following:

- Submit to OSSE on or before the date specified by OSSE a salary schedule that describes the wages or salaries that the provider will pay to eligible teachers or assistant teachers following receipt of the first quarterly CDF payroll funding formula award. OSSE reserves the right to review, approve and/or request modification of the salary schedule to ensure adequate and equitable increased pay for eligible early childhood educators employed by the provider.
 - *The minimum wages or salaries paid to teachers and assistant teachers must be higher than the wages or salaries paid as of Sept. 30, 2023, as documented by*

the provider in the waiver application but are not required to meet the minimum salary requirements for the FY24 Early Childhood Educator Pay Equity Fund.

- Following receipt of the first quarterly CDF payroll funding formula and for the remainder of FY24, pay eligible educators wages or salaries that are higher than the wages or salaries paid as of Sept. 30, 2023, as documented in the provider waiver application.
 - Providers shall submit payroll records or related documents to demonstrate compliance with this requirement.
- Demonstrate, through submission of financial data and reports in the format prescribed by OSSE, that CDF payroll funding formula awards are used in only the following ways:
 - to raise wages or compensation of eligible teachers and assistant teachers, including associated payroll taxes.
 - to pay administrative costs associated with implementing the salary scales and meeting OSSE requirements related to the Early Childhood Educator Pay Equity Fund as outlined in the Provider Agreement.
 - to pay costs of health and other fringe benefits for early childhood educators and other child development facility employees.
- Provide to OSSE or its designees, upon request:
 - Monthly child enrollment data
 - Annual operating budget
 - Certified financial statements
 - Most recent available annual tax filing.
- Be subject to increased Early Childhood Educator Pay Equity Fund monitoring.

VII. Terms of the Waivers

The following terms shall apply to all FY24 Early Childhood Educator Pay Equity Fund waivers:

- Waivers are issued at the discretion of OSSE and may be revoked by OSSE at any time, upon violation of any condition attached to the waiver.
- Approved waivers will be in effect for the remainder of FY24 and will be revoked with the termination of a FY24 Early Childhood Educator Pay Equity Fund Provider Agreement or FY24 Early Childhood Educator Pay Equity Fund Provider Agreement Addendum.
- Noncompliance with the terms of the waiver shall void the waiver and require compliance with the FY24 minimum salary requirements. Non-compliance with FY24 minimum salaries without an approved waiver will result in a non-compliance finding for the FY24 Early Childhood Educator Pay Equity Fund program.

- Child development facilities that receive a waiver may choose to terminate their participation in the FY24 Early Childhood Educator Pay Equity Fund program, subject to the terms included in the FY24 Early Childhood Educator Pay Equity Fund Provider Agreement/Addendum.
 - Should a facility that holds a waiver choose to terminate its participating in the FY24 Early Childhood Educator Pay Equity Fund, OSSE will continue enhanced monitoring of the provider's compliance during all quarters for which the provider received a CDF funding formula award payment and may issue a noncompliance finding if a provider is found to be out of compliance with the terms of its waiver during the period in which it was participating in the program.
 - Providers operating under a waiver who terminate their participation in the FY24 Early Childhood Educator Pay Equity Fund may not apply for another waiver in FY24 should they attempt to rejoin the program.