



CHILD CARE LAW CENTER

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INCLUDING CHILD CARE IN LOCAL PLANNING

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If communities are to succeed in increasing child care capacity, they must undertake long-range child care planning as part of their overall planning process. Convincing the local jurisdiction to include child care in planning decisions involves several strategic steps. First, advocates must learn how the local planning process operates and how, if at all, the local jurisdiction handles child care in planning decisions. Second, the advocate should document the community's particular child care needs. This is especially important when educating local planning and elected officials about why child care is a critical component of quality community development and when proposing specific language to key politicians and planners. Finally, advocates should begin to develop recommendations for amending general plans or local ordinances to meet the community's need for child care.

Understanding the Local Planning Process

Before developing specific proposals, advocates should review local law to see how and whether the jurisdiction views child care as part of its overall planning strategy. In some cases, this may require a survey of local ordinances, with a careful review of zoning codes to identify the types of child care facilities permitted in each zone as well as the permits and fees required. Several child care planning councils and other organizations have developed reports, surveys and matrixes of this kind of review that could serve as helpful models. This initial survey should also include a review of the local general plan for its' treatment of child care. General plans can be quite bulky with many parts not particularly relevant to child care, but they are the "blueprint" for local land use and planning decisions so they are discussed in detail below.

Assessing Local Child Care Needs

Documenting the local need for child care helps educate local planners, business leaders, and officials about the importance of encouraging, and planning for, the creation of child care slots. There is the added benefit that an evaluation will help local child care providers decide whether expansion of their programs – or opening new programs – makes good business sense.

Frequently, facilities development advocates will find that the local child care planning council has already evaluated the community's child care infrastructure. Many communities have conducted Economic Impact Reports that show that the licensed child care industry is a major contributor to community economic well-being and growth.

Even if more research and analysis is necessary, both the local planning council and the resource and referral agency will have information vital to a thorough evaluation. Rather than duplicating work already done, advocates should coordinate with these agencies to determine what, if any, considerations need to be researched. If local advocates lack the resources to conduct an adequate evaluation, one option, discussed below, might be to require the local government itself to assess child care needs.

After gaining a basic understanding of planning and the local laws affecting child care, and documenting the need, advocates can focus on designing policy proposals that remove planning barriers and meet local needs. The most common types of policy options are discussed briefly below.

Options for Implementing Child Care Policies

A. Require Planners to Consider Child Care in Reports, Surveys, and Studies

Some advocates have stressed the importance of requiring local planners to gather data on child care demand as part of adequate city planning. Some jurisdictions have responded by making reporting on child care needs a continuing priority. Before passing its first general plan in 1990, the City of West Sacramento produced a report on child care needs and resources. The report started with an overview of the child care industry, including the types of care available, the role of subsidies, land use policies affecting child care development, and quality issues. The authors also reviewed the availability of, demand for, and cost of care in West Sacramento specifically, and summarized the results of a parent survey concerning needs and current child care usage. The report included an estimate of future child care demand, which was expected to increase over the coming years. Due in part to this documentation, the City Council ultimately approved a general plan that included a child care element.

B. Require that Local Land Use Ordinances and Planning Codes Reduce Barriers to Child Care

One of the most efficient ways to promote child care is to ensure that land use policies do not serve as barriers to child care facilities development. Local jurisdictions can change their zoning code or use general plan provisions to reduce zoning barriers for child care centers. The City of South San Francisco included a provision in its general plan stating that efforts to promote the development of child care facilities “should include . . . [p]ermitting childcare centers in all districts.” The City of West Sacramento wrote a similar, but slightly more restrictive provision stating that “[c]hild care facilities shall not be precluded in any land use designation except the Open Space and Heavy Industrial designations.”

Even without changing allowed uses in any particular zone, local ordinances or general plans can be amended to simplify local procedures for obtaining a child care permit. Permit applications can be technical and difficult for child care providers who typically are unfamiliar

with land use terminology or zoning processes. This approach was adopted by the City of West Sacramento, which required city officials to “streamline processing and permit regulations to promote the development of child care facilities.” San Diego County agreed to “[c]ooperate with ... the region’s cities to draft a model ordinance or procedure for the processing of permits for child care facilities” and to “[w]ork with the region’s cities to develop uniform zoning policies regarding location, parking and other requirements.” The City of Los Angeles has recently streamlined its permitting process and a planning guide for child care facilities.

C. Require Mitigation or Incentive Measures to Encourage Developers to Plan for Child Care Facilities

To address a lack of child care slots, some cities and counties require developers to mitigate the specific impact of their projects on the local child care supply, and/or have offered incentives to a range of developers to help develop the child care infrastructure.

Requiring mitigation calls for specific data that documents the need for child care and links the type of project to its effects on child care supply. A jurisdiction that provides clear instructions on mitigation will have a stronger legal basis for defending an exaction requirement than one that determines exactions on an informal, case-by-case basis. This need for a precise approach explains why some local plans, such as San Diego County’s, require planners to “[d]evelop a formula for use in assessing the child care needs created by new development.”

Incentives and mitigations – also called exactions – differ in terms of the immediate outcome. Exactions may require developers to create on-site facilities or choose an alternative such as “in lieu” fees paid by developers to the city or county. The local government, in turn, pools these fees to support the development of child care slots in the area. An incentive system, on the other hand, might take longer to produce positive effects as developers weigh the costs and benefits of taking part in the program. Results depend on developers choosing to take advantage of incentives to increase child care availability, rather than being *required* to mitigate effects on child care.

D. Provide for Governmental Assistance (Informational and Financial) in Child Care Development

Local planning department staff, as well as personnel from other government agencies, can serve as powerful resources to local child care providers. For example, the planning department could be required to develop a written “start-up guide” for child care centers and family child care homes within the jurisdiction. In addition to locating the relevant planning, building, fire, and business license requirements in a single and convenient document for providers, this type of guide may have the additional benefit of requiring that all the relevant departments coordinate with each other with respect to child care.

Local government also can assist child care development efforts by making resources available. Placing child care centers in public lands or buildings can lower significantly the financial burden of creating a center, and public dollars can be used as grants or low-interest loans for child care development, particularly for those child care facility types of greatest need. Communities may have funds or other resources available for a variety of projects; advocates may wish to survey the types of programs and projects available to see if child care can gain access to those resources.

E. Support the Inclusion of Child Care Facilities at Transportation Hubs

From a planning perspective, placing child care facilities near key transportation corridors or centers is sensible. This can reduce the number and distance of trips families must make during the work day, saving time for parents and reducing vehicle emissions and traffic congestion in the region as a whole. Furthermore, because many families will use transportation hubs, child care providers located in these areas will have a strong market for their services. To promote the development of child care facilities at transportation hubs, advocates can take several approaches. The most concrete would be a general plan mandate that transportation centers include child care facilities nearby.

F. Coordinate with Local School Districts, Parks and Recreation Facilities to Maximize Child Care Opportunities

As populations increase and decrease, the need for certain community facilities changes as well. These community facilities, often suitable for child care, may go unused for quite some time—until the next “baby boom.” Public schools are perhaps the best known example of facilities whose usage tracks population growth and decline. Even during baby booms, schools, which are designed specifically for children’s use, often are left empty after the school day ends. By coordinating with the local school district, cities and counties may be able to uncover new child care development opportunities.

Other types of community facilities, such as parks and recreation buildings, may be used during “off-times” as well. Finally, military base closures provide opportunities for child care providers to occupy space that may be suitable for children. Advocates should work with communities to determine whether these types of locations may be available for use as child care centers.

Including Child Care in the General Plan

A. What is a General Plan?

Local counties, as well as child care advocates, have attempted to connect community and child care planning by advocating for inclusion of child care in communities’ general plans. As the

general plan is the foundation for development upon which all land use decisions are based, including child care in the general plan compels planners to determine their child care objectives at the outset, and places child care into the long-range growth strategy of the community. Involvement in the development of the general plan and its constituent elements presents the opportunity to:

- Make child care as important as other considerations when long range planning occurs;
- Develop a legal basis for requesting that child care needs be considered before building permits, site permits, subdivision and other land use approvals are given;
- Develop a legal basis for zoning ordinances that would be favorable to the establishment of child care; and
- Educate decisionmakers and the public about the need for and importance of planning affirmatively for child care.

California law requires each county or city planning department to prepare, for adoption by the local legislative body, a “comprehensive, long-term general plan for the physical development” of the jurisdiction. The general plan serves as a “constitution” for future community development, and all land use approvals must be consistent with it. Every general plan must include a statement of development policies, as well as diagrams and text setting forth objectives, principles, standards, and plan proposals.

State law requires that a general plan address seven specific issues, called “elements”:

- Land Use: As the central framework for the entire plan, the Land Use element identifies the proposed general distribution of land for uses such as housing, business, industry, open space, natural resources, public facilities, and waste disposal sites. This element must include population and building density standards for all territory covered by the plan.
- Circulation: This element discusses the location and extent of, among others, present and future thoroughfares, transportation routes, terminals, and public utilities and facilities.
- Housing: The state legislature has given special priority to this element, requiring much more detail in what it must cover than is required for other elements. The housing element must analyze existing and projected housing needs, identify possible housing sites, and address the housing needs “of all economic segments of the community.” More specifically, this element must include “quantified objectives and policies relative to the maintenance, preservation, improvement, and development of housing,” as well as a schedule of actions the local jurisdiction will take to achieve the goals and objectives of the housing element. The housing element must be revised at least once every five years; other mandatory elements of the general plan need only be reviewed periodically and revised when warranted by changed circumstances.
- Conservation: This element addresses the use, development, and conservation of natural resources.

- Open-space: Local jurisdictions use this element to govern the preservation and conservation of open land.
- Noise: After identifying and appraising specific noise problems in the community, planners must develop land use patterns that will minimize residents' exposure to excessive noise.
- Safety: The safety element establishes policies and programs to protect the community from seismic, geologic, flood, and fire hazards.

Counties or cities may include additional elements that relate to the physical development of the community. All elements, whether mandatory or optional, carry equal legal status; by statute, all elements of any general plan must be “integrated, internally consistent and compatible.”

Child care can be, and in some localities is, one of these added elements. Once included, it carries weight equal to all other plan elements, compelling city planners to articulate their child care objectives at the outset and incorporate child care into the community's long-term growth strategy. For the city, it reflects a legally binding commitment to child care in all planning decisions. Because all subordinate land use actions must be consistent with the general plan, including a child care element ensures that the need for child care is reflected in each stage of the development process, including, for example, the granting of building and site permits and the approval of subdivisions plans. Furthermore, it provides a legal basis for zoning ordinances that favor the establishment of child care.

B. Adopting and Amending the General Plan

State law requires that the general plan be adopted or amended by resolution of a local legislative body, typically a County Board of Supervisors or a City Council. Several steps precede this action, however. The local planning commission will make recommendations concerning the plan after the plan and its proposed elements have gone through several levels of assessment and review.

Community involvement is especially important to the development and review process. The planning agency in charge of this process must provide “opportunities for the involvement of citizens, public agencies ... civic, education, and other community groups” A child care planning council or resource and referral agency can be considered such a community group, given the responsibility of these organizations to help plan for adequate and affordable child care. In addition, before a local planning commission recommends amendment or adoption of a general plan, it must hold at least one public hearing. Similarly, before voting on final adoption or amendment, the local legislative body must hold a public hearing. The planning entity that recommends approval of amendments to the general plan must establish means by which “any interested party [can] file a written request for a hearing by the legislative body . . . after the planning agency acts on the proposed amendment.”

Though state law does impose some limitations, a local jurisdiction has considerable discretion to decide how and whether to amend the general plan. To understand better how general plan

modification works in your community, contact the local planning department or legislative body.

C. Examining the General Plan for Child Care

As with any attempt to improve local policies regarding child care, advocates should review the general plan to see how child care is addressed. If a child care advocate – or any other member of the general public – wishes to obtain a copy of the local general plan, the city or county must make a copy available. General plans can be quite bulky, and certain elements – such as the conservation element – are not particularly relevant to child care. Identifying plan elements that specifically refer to child care and elements in which child care concerns might be best addressed can help advocates understand what child care considerations are absent from the plan and how to structure specific recommendations to address identified deficiencies.

Local jurisdictions take different approaches to organizing their general plans. Please keep in mind when reading examples of child care references in local general plans that they are not meant to be “model” plans, as each community will have different needs that need to be addressed in different ways. Instead, these plans are illustrative of how various communities have incorporated child care into their general plans.

For example, the Santa Cruz County general plan addresses each required element through a series of broadly worded objectives. It then explains each objective through several policy statements and program ideas for implementing the objective. Hence, when drafting a general plan amendment to address child care concerns in Santa Cruz County, advocates would want to clarify the intent of a broad child care objective through policy and program statements and through explanations of how the objective would be pursued within the jurisdiction.

In contrast to Santa Cruz, other jurisdictions have multiple objectives for each issue and consequently, the objectives are more specific. For example, in the San Diego County General Plan, there are three objectives listed under the child care section. For each objective, various policies and corresponding implementation measures are listed. Thus, an advocate in San Diego County would want to make sure that proposed objectives are narrow and that they are linked with effective policy goals and implementation measures. Finally, other jurisdictions, such as Orange County, provide a brief overview to the targeted problem or area of focus before providing goals, policies, and implementing programs.

D. Developing Recommendations for the Local General Plan

After garnering some support for the concept of child care development locally, learning how planning decisions are made, and evaluating local child care infrastructure needs, advocates must turn to the task of convincing the local legislative body to include child care considerations in the general plan. Many have found that proactively offering specific language for particular locations within the general plan reduces potential resistance to plan amendment. Other advocates have formed committees – comprised of representatives of provider associations, resource & referral agencies, Head Start programs, planning

departments, school districts, and labor groups– to help develop this type of specific language. This strategy has the added benefit of creating a group of individuals who understand both the general plan process and child care needs. As a result, they are able to give persuasive public testimony on the importance of including child care in the general plan.

1. Including Child Care in a General Plan

As mentioned above, any general plan must include each of the seven mandatory elements and may add others at the discretion of the local government. Child care can be included either as a subsection of an existing element or as a separate element. Due to the internal consistency requirement, as long as child care is placed somewhere in the general plan, all other elements must be compatible with the child care provisions. Having child care as a separate element suggests that it stands on an equal footing with other elements. On the other hand, including child care in existing elements explicitly demonstrates the connections between child care and other planning issues and increases the likelihood that staff assigned to implement policies within a particular element will embrace child care issues as well. Deciding where to include child care in the general plan will also depend on how the particular city or county’s general plan is structured, how each element is used, and a determination on the advocate’s part of which location is most logical. On balance, the location of the proposal is probably less important than the substance.

2. Drafting Language Pertaining to Child Care

When drafting language for the general plan, advocates should keep several guidelines in mind. For each provision, the proposal should identify, with as much specificity as possible, the particular action to be completed and the party responsible. Mandatory language such as “shall” is much better than discretionary language such as “may” or “might” for ensuring that planning items are actually carried out. Where possible, the general plan language should mandate completion of actions implementing its provisions by a particular date. When dealing with facility development specifically, recommended language should cover the standards, permit processes, approval body, and other relevant considerations. Depending on the jurisdiction, the above mentioned details may not be included within the general plan itself. Some cities develop a separate implementation plan with actions, timelines, and staff responsibilities to accompany a broadly-worded general plan provision.

E. Policy Options for Child Care in General Plans

California advocates have successfully included all of the policy options described above in local general plans. The specific requirements, language describing the policy and its position in the general plan will vary widely since the plans vary from city to city. What follows are examples of general plans that include child care priorities.

1. Require Planners to Consider Child Care in Reports, Surveys, and Studies

If an assessment of child care needs and resources does not exist or cannot be undertaken by advocates, a general plan provision that requires a local government agency to assess child care needs may be appropriate. For example, in general plan segments concerning land use, the local government might pass an amendment that states:

The planning department shall, by _____ (date) _____, conduct an assessment of child care needs and resources in this jurisdiction. Such assessment shall cover, but need not be limited to, the supply of licensed child care by neighborhood, current demand for child care (including preferences for various types of care) by residents and persons employed in this jurisdiction, availability and utilization of license-exempt child care programs, projected demand for child care in the coming years, current zoning limitations upon child care facilities development, any license fees or local business taxes upon child care providers, local employer support for child care, and resource needs of the child care community. Such assessment shall be coordinated with the local child care resource and referral agency and use available data from that agency. Planning department staff shall present the results of this assessment, along with staff’s recommendations for addressing any needs found to exist within the community, within 3 months after the assessment report is issued.

Some jurisdictions have made reporting on child care needs a continuing priority through their general plans. The City of West Sacramento general plan requires the city to “monitor child care supply and demand in West Sacramento on an ongoing basis and implement programs to address shortfalls as necessary.” The City of San Clemente developed an excellent general plan proposal for a child care needs study that provides:

Conduct a comprehensive study of the needs for child care, identifying public and private day care services and facilities that are currently operating and needed within the City, and ... propose the implementation of those policies and programs which are deemed to be appropriate and feasible.

Responsibility: City of San Clemente Beaches, Parks and Recreation Department and the Community Development Department
Funding Source: City of San Clemente General Fund and/or other available funds approved by the City.
Schedule: Within five (5) years of General Plan adoption or as funding permits.

Considering child care supply and demand in planning reports and surveys ensures that this important issue remains in the forefront of local policymakers’ minds, and that it will not be overlooked when major planning decisions are made.

2. Require that Local Land Use Ordinances and Planning Codes Reduce Barriers to Child Care

Local jurisdictions can also use general plan provisions to reduce zoning barriers for child care centers. The City of South San Francisco – located in San Mateo County, California – included a provision in its Land Use Element stating that efforts to promote the development of child care facilities “should include . . . [p]ermitting childcare centers in all districts.” The City of West Sacramento wrote a similar, but slightly more restrictive provision stating that “[c]hild care facilities shall not be precluded in any land use designation except the Open Space and Heavy Industrial designations.”

The City of West Sacramento general plan also requires city officials to “streamline processing and permit regulations to promote the development of child care facilities.” San Diego County agreed to “[c]ooperate with . . . the region’s cities to draft a model ordinance or procedure for the processing of permits for child care facilities” and to “[w]ork with the region’s cities to develop uniform zoning policies regarding location, parking and other requirements.”

3. Require Mitigation or Incentive Measures to Encourage Developers to Plan for Child Care Facilities

Cities throughout California have used both mitigations and incentives, or even a combination of the two, in their general plans. One example of a mitigation approach is in the City of Marina (Monterey County) General Plan. The plan lists specific local developments that were required to provide an adequate number of child care facilities. Under the Land Use Element, the Marina General Plan has a provision concerning “Childcare Facilities” that reads:

Provisions shall be made for childcare facilities with the development of major job centers in the MBEST Center and Marina Airport Business Park, the commercial and industrial center of Armstrong Ranch, the West University Village, and all other large-scale mixed-use projects. . . . [T]he facilities shall be adequate to serve the projected employee based of the respective areas.

Other jurisdictions, rather than requiring mitigation only in particular areas, have required it for a broad range of projects, providing they affect the child care supply. For example, Alameda County’s East County Area Plan states that the County “shall require mitigation if a significant impact [upon child care] is identified” through the environmental review process. It then identified a variety of actions a developer might take to mitigate the child care impact of a planned project. These included “providing on-site or off-site facilities; in-lieu fees to provide facilities and/or supplement child care provider training, salaries, or information and referral services; or other measures to address supply, affordability or quality of child care.”

The City of South San Francisco uses the incentive approach in its general plan. The plan requires that child care promotion efforts include development of “criteria for incentives for childcare facilities” as part of the bonus program for the jurisdiction’s Transportation Demand Management program. Depending on the local program, such incentives could mean that developers who plan to improve child care capacity are allowed to build more square footage, higher buildings, or provide fewer parking spaces.

San Diego County explored incorporating both approaches by adopting the following language in its general plan:

Implementation Measure 3.1.2: Investigate the feasibility of requiring applicants for projects for major residential, commercial, and industrial developments to use the developed formula to assess the demand for child care facilities created by the development, and to mitigate these needs.

Implementation Measure 3.1.3: Investigate a program to grant a bonus in density or intensity of use for commercial, industrial, and residential projects that provide child care facilities.

As developers build new spaces in the community, provisions in the general plan can help to encourage them to plan for and build new child care facilities. Whether the general plan provides measures that reward developers who proactively build suitable space or measures that require developers to mitigate adverse impacts on the child care supply, by involving developers in child care planning, more sites will likely be available in the future.

4. Provide for Governmental Assistance (Informational and Financial) in Child Care Development

The City of West Sacramento created an obligation to participate proactively in child care planning and development through several provisions in the general plan, including providing information about navigating the process, preparing a “start-up” guide and provide funding if available.

In its general plan, San Diego County pledged to “where feasible, make underutilized County properties or low-cost loans available to child care providers, particularly for those child care facility types of greatest need.”

5. Support the Inclusion of Child Care Facilities at Transportation Hubs

To promote the development of child care facilities at transportation hubs, general plan advocates can take several approaches. The most concrete would be a general plan mandate that transportation centers include child care facilities nearby. The South San Francisco General Plan requires that a key 8-acre transportation corridor, which encompasses a major street as well as a Bay Area Rapid Transit (“BART”) station, include certain development characteristics, one of which is child care facilities. Clearly identifying a particular area and specifically requiring that child care facilities be included there gives advocates an unmistakable policy to rely on when approaching development in that area.

Taking a less definitive approach, San Diego County simply directed staff to “[s]upport research on the feasibility of locating child care centers at ‘Park and Ride’ sites, transit centers or other locations accessible to public transportation.” This type of general plan provision may

be useful to jurisdictions that have less experience with developing child care facilities or that are concerned that local transit centers may be near toxic waste sites or have toxic emissions.

6. Coordinate with Local School Districts, Parks and Recreation Facilities to Maximize Child Care Opportunities

Recognizing such opportunities, the South San Francisco General Plan requires that local planners “[w]ork with the SSFUSD on appropriate land uses for school sites no longer needed for educational facilities [including to] [a]cquire closed school sites for . . . childcare purposes where appropriate.” Similarly, the County of San Diego’s General Plan directs county officials to “[c]oordinate the planning and siting of schools, recreational facilities, [and] child care centers” Moreover, the County requires that its officials “advocate [for] the inclusion of child care facilities in both the planning of new school facilities, and plans for the expansion or improvements of existing school facilities.”

Conclusion

As the above demonstrates, incorporating child care issues into a community’s long-term planning strategy will be a lengthy process. In addition, an advocate who successfully negotiates inclusion of child care issues in the general plan has much work yet to do. Advocates must monitor the implementation of general plan provisions to ensure that promises are carried out and implemented effectively. Fortunately, in the course of general plan advocacy, LINCC participants have discovered that local planners and other officials who adopt such policies often become invested in the issue of community support for child care. Hence, LINCC participants have created new advocates for child care – advocates who are eager to monitor the impacts of their general plan policies.