



Committee: Joint
Committee Review: At a future date
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #EarlyCareEducation

AGENDA ITEM #9
November 30, 2021
Public Hearing

SUBJECT

Bill 42-21, Child Care – Early Care and Education Coordinating Entity - Established

Lead Sponsors: Council Vice-President Albornoz, Councilmember Navarro, Councilmember Rice

Co-Sponsors: Councilmember Riemer, Council President Hucker, Councilmembers Katz, Glass, Jawando, and Friedson.

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to establish a designated Early Care and Education Coordinating Entity.

DESCRIPTION/ISSUE

Would designating a non-profit corporation as the County's Early Care and Education Coordinating Entity improve the availability of affordable quality early care and education in the County?

SUMMARY OF KEY DISCUSSION POINTS

- What should be the requirements for membership of the Board of the designated entity?
- Would the designated entity duplicate the role assigned to the existing Early Childhood Coordinating Council?

This report contains:

Staff Report	Pages 1-2
Bill 42-21	© 1
LRR	© 13
ECE Entity Rational Memo	© 14
Economic Impact Statement	© 16

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M E M O R A N D U M

November 24, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 42-21, Child Care – Early Care and Education Coordinating Entity - Established

PURPOSE: Public Hearing – No Council vote required

Bill 42-21, Child Care – Early Care and Education Coordinating Entity - Established, with Lead Sponsors Council Vice-President Alborno and Councilmembers Navarro and Rice, and Co-sponsors Councilmember Riemer, Council President Hucker and Councilmembers Katz, Glass, Jawando, and Friedson, was introduced on November 9, 2021. A joint Health and Human Services Committee and Education & Culture Committee worksession will be scheduled for a future date.¹

Background

Bill 42-21 would require the Council to designate, by resolution approved by the Executive, a single nonprofit corporation as the County's Early Care and Education Coordinating Entity. The Entity must have 13 *ex-officio* government officials and 12 private sector members appointed by the Executive and confirmed by the Council. All Board members must be voting members. The Entity must be a Maryland nonprofit, non-stock corporation exempt from Federal income tax and headquartered in the County. The Entity must adopt bylaws that protect against conflicts of interest and must be subject to the Maryland Open Meetings Act and the Maryland Public Information Act.

The Entity must develop recommendations for increasing availability of and access to high quality early care and education programs with particular attention to underrepresented and special populations. The Entity must serve as a neutral convenor of all major stakeholders to develop a community consensus for the County's early childhood education sector. The Entity may also secure and administer private-sector funding to support the early care and education system and manage and administer public funding directly appropriated to the Entity. The Entity must also adopt and implement a racial equity and social justice policy consistent with the County's policy. The Entity must not provide direct services or deliver programs for early childhood education. Finally, the Entity must report annually by each October 1 to the Executive and the Council. Council Vice President Alborno, Councilmember Rice, and Councilmember Navarro explained their rationale for Bill 42-21 at ©14.

¹#EarlyCareEducation

OLO concluded that Bill 42-21 would not directly impact economic conditions in the County (©16). Bill 42-21 would take effect on July 1, 2022.

This packet contains:

Expedited Bill 42-21

Legislative Request Report

ECE Rational Memo

Economic Impact Statement

Circle #

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14

16

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Bill No. 42-21
Concerning: Child Care – Early Care and
Education Coordinating Entity -
Established
Revised: 10-19-21 Draft No. 6
Introduced: November 22, 2021
Expires: May 9, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Council Vice-President Alborno, Councilmember Navarro, and Councilmember Rice

Co-Sponsors: Councilmember Riemer, Council President Hucker, and Councilmembers Katz, Glass, Jawando, and Friedson

AN ACT to:

- (1) establish an Early Care and Education Coordinating Entity;
- (2) require the Council to designate a non-profit corporation to serve as the County's Early Care and Education Coordinating Entity;
- (3) establish guidelines for the designation of the County's Early Care and Education Coordinating Entity;
- (4) establish the duties of the County's Early Care and Education Coordinating Entity; and
- (5) generally amend the laws governing early child care and education in the County.

By adding

Montgomery County Code
Chapter 10A, Child Care
Article 6, Section 10A-12

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Article 6, Section 10A-12 is added as follows:**

2 **ARTICLE 6. EARLY CARE AND EDUCATION COORDINATING ENTITY.**
3 **10A-12.**

4 (a) Findings.

5 (1) Early care and education (ECE) is an essential service and
6 economic imperative for the well-being of children, families,
7 employers, and the greater community.

8 (2) High quality ECE services prepare young children to enter school
9 ready to learn and start on a pathway of success in life.

10 (3) Accessible ECE programs are economic drivers that allow parents
11 to participate in the workforce and support the local economy.
12 ECE programs play a key role in workforce development by
13 attracting and retaining a talented workforce through support to
14 families with young children, and by addressing the opportunity
15 gap to ensure a future skilled workforce by addressing the
16 opportunity gap.

17 (4) A strong system of high quality, accessible, sustainable ECE is
18 needed to support the well-being of children and families in the
19 County and eliminate systemic racism and structures that have
20 been barriers for vulnerable, racially and ethnically diverse
21 populations.

22 (5) Designating an independent nonprofit entity with parents,
23 employers and providers as key stakeholders will ensure
24 community priorities are reflected in building a robust system that
25 supports all residents having access to high quality, affordable
26 early care and education.

27 (b) Designation.

(1) The Council must designate, by resolution approved by the Executive, a single nonprofit corporation which complies with all requirements and criteria of this Section as the County's Early Care and Education Coordinating Entity. If the Executive disapproves the resolution within 10 days after receiving it, the Council may readopt the resolution with at least 6 affirmative votes.

(2) To continue to qualify as the County's Early Care and Education Coordinating Entity, the Entity's articles of incorporation and bylaws must comply with all requirements of this Section.

(3) Any designation under this Section expires 3 years after the resolution is adopted unless the Council extends the designation by adopting another resolution under this Section.

(4) The Council at any time may suspend or revoke the designation of a corporation as the County's Early Care and Education Coordinating Entity by resolution, adopted after at least 15 days public notice that is approved by the Executive, or, if the Executive disapproves the resolution within 10 days after receiving it, readopted by a vote of at least 6 Councilmembers.

(c) Board of Directors. To qualify as the County's Early Care and Education Coordinating Entity, the Corporation's Board of Directors must have no more than 13 *ex-officio* voting members and 12 other voting members appointed by the County Executive and confirmed by the County Council. Each member must reside or work in the County. The Executive should appoint the following *ex officio* voting members:

(1) the Executive's early Childhood Education Officer or the Officer's designee;

- (2) a Council staff member with expertise in early childhood education;
- (3) a representative designated by the County Board of Education;
- (4) 2 representatives designated by the Superintendent of Montgomery Public Schools;
- (5) 4 representatives of the County Department of Health and Human Services;
- (6) a representative of the Office of Management and Budget;
- (7) a representative of Montgomery College;
- (8) a representative of the Universities at Shady Grove; and
- (9) the Montgomery County Kirwan Coordinator or the Coordinator's designee.

The Executive should appoint the following voting members:

- (1) 3 parents or guardians with children in childcare and/or pre-kindergarten programs;
- (2) 2 center based early care and education providers;
- (3) 2 family child care providers;
- (4) 2 representatives of an employer who is not an early childhood education provider;
- (5) a representative of a philanthropic foundation; and
- (6) 2 representatives of a nonprofit corporation focused on equity and inclusion, youth development, economic development, or workforce development.

The Board must permit the County Executive, the County Council's Lead for Early Care and Education, and the President of the Montgomery County Board of Education, or a designee of each public official, to attend and participate at each Board meeting without voting. The

Executive must not appoint a member of a governing board or employee of an organization that receives County or State funds directed through the Early Care and Education Coordinating Entity. The Executive must strive to achieve Board representation from diverse geographic areas, socio-economic groups, and ethnic groups.

(d) Leadership. The Board must elect 3 co-chairs from the following members of the Board:

- (1) a public sector member;
- (2) a private sector member; and
- (3) a parent or guardian.

(e) Term; Removal.

(1) Board members serve for three years. The individual terms of the voting members must be staggered. Of the voting members first appointed, approximately one-third must be appointed for a 1-year term, approximately one-third must be appointed for a 2-year term, and approximately one-third must be appointed for a 3-year term. A voting member appointed to fill a vacancy serves the rest of the unexpired term. The Executive may reappoint a member, but a member who is not a government official or a designee of a government official must not serve more than 2 consecutive full terms, not including any portion of an unexpired term. A voting member continues in office until his or her successor is appointed and confirmed.

(2) The Executive may remove a member for violation of law or other good cause specific in the bylaws of the corporation, after giving the Council at least 15 days' notice of the proposed removal.

(f) Compensation for Board Members.

(1) Except as provided in paragraph (2), a member of the Board must serve without compensation. The corporation may reimburse a member who is not a government official or a designee of a government official for expenses incurred in attending meetings or carrying out other duties, including travel and dependent care costs at rates established by the County.

(2) The Entity may adopt guidelines based on need to provide stipends to members appointed as a parent of a child enrolled in an early child care or early education program.

(3) A member is not eligible to receive benefits under any County retirement system for serving as a Board Member.

(g) Ethics.

(1) A member is not subject to Chapter 19A because of serving on the Board. The Entity's bylaws must protect against any conflict of interest or similar impropriety by members of the Board of Directors or the Executive Director or any other employees. The bylaws must include:

(A) a prohibition against self-dealing and collusive practices;

(B) a provision for the disclosure of a financial or similar interest of any person in any matter before the Entity that may create a conflict of interest;

(C) a provision establishing conditions under which a person is disqualified from participating in decisions or other actions in which there is a conflict between the person's official duties and private interests;

(D) appropriate remedies for a violation of the bylaws, including removal or termination; and

(E) a policy to protect whistleblowers.

(2) Notwithstanding any inconsistent provision of Code § 19A-21, a member of the Board of Directors or a staff member of the Entity who engages in legislative, administrative, or executive advocacy as part of that person's duties is not required to register as a lobbyist under Article V of Chapter 19A because of the advocacy.

(h) Status; Incorporation; Bylaws.

(1) To qualify as the County's Early Care and Education Coordinating Entity, the Corporation's articles of incorporation must provide for the appointment of the members of its Board of Directors as set forth in this Section. The articles of incorporation must also provide that the Entity is:

(A) a Maryland nonprofit, non-stock corporation with the purposes and activities limited to those that are permitted to be performed by a corporation that is recognized as exempt from Federal income tax under 26 U.S.C. § 501, as amended;

(B) not an instrumentality of the County;

(C) incorporated for the purpose of serving as the County's Early Care and Education Coordinating Entity responsible for monitoring and supporting the early care and education system in the County;

(D) organized and operated under the laws of the State of Maryland; and

(E) headquartered in the County.

(2) The Entity's bylaws may contain any provision necessary to govern and manage the Entity that does not conflict with this

Section. The Corporation may exercise all powers and is subject to all requirements which apply to non-stock corporations under the Corporations and Associations Article of the Maryland Code.

(3) The bylaws must require the Entity to comply with the Maryland Open Meetings law and the Maryland Public Information Act.

(i) Duties. In developing an equitable system of high quality, accessible, sustainable of early care and education and eliminating systemic racism and structures that created access barriers for vulnerable, racially and ethnically diverse populations, the Early Care and Education Coordinating Entity must:

(1) develop recommendations for increasing availability of and access to high quality early care and education programs, with particular attention to underrepresented and special populations, including low-income children, families of children with special needs, and English language learners and with a focus on children from birth to 5 years old;

(2) convene and solicit input from all ECE stakeholders to identify unmet needs and barriers to accessing quality ECE services, develop common goals and priorities for system expansion and improvement, and identify opportunities for and barriers to collaboration and coordination among stakeholder groups. The Entity must seek advice from the members of the Early Childhood Coordinating Council while the Entity develops final recommendations for realigning existing County committees and advisory groups that provide input into the early care and education system;

- 189 (3) solicit board members through a community-based process
 190 involving parent groups and other advisory bodies. Create and/or
 191 maintain existing advisory bodies to ensure continuing direct input
 192 from a wide range of community perspectives;
- 193 (4) engage and educate families and the wider community about the
 194 importance of high-quality early care and education programs and
 195 advocate at the Federal, State, and local level for greater public and
 196 private investment in and improvements to the early care and
 197 education system;
- 198 (4) research and facilitate innovative service models and strategies to
 199 improve the early care and education system and identify
 200 community needs through periodic mapping of early care and
 201 education services and resources and County-wide needs
 202 assessments;
- 203 (5) secure and administer private-sector funding to support the early
 204 care and education system and manage and administer public
 205 funding that is directly appropriated to the Entity;
- 206 (6) measure and report on the efforts to improve and expand the early
 207 care and education system with a focus on achieving tangible
 208 results that improve access to high-quality ECE across the County;
- 209 (7) address current inequities imposing barriers to accessible high
 210 quality, affordable care for all communities; and
- 211 (8) create, as a neutral convener, a common early childhood education
 212 agenda based on community consensus that all major stakeholders
 213 commit to, and maintain a 360 degree view of all aspects of the
 214 County's early childhood education sector.

- (j) Racial Equity and Social Justice. To effectively address the complex needs of the County's racially and economically diverse children and their families and strategically expand access to critical early care and education services to underrepresented populations, the Entity must adopt and implement a racial equity and social justice policy that applies a racial equity and social justice lens into all aspects of the Entity's operations in alignment with the County's racial equity and social justice strategic plan. The racial equity and social justice policy must include:
- (1) a statement of commitment to racial equity and social justice as part of the organization's core values;
 - (2) active recruitment of potential Board members from diverse backgrounds and outreach to communities of color for consideration by the County Executive and County Council;
 - (3) a formal process to assess Board culture and identify barriers to inclusion in Board participation and leadership;
 - (4) communications and business practices that are tailored to the needs of communities of color and other marginalized communities;
 - (5) a process to identify and address discriminatory or non-inclusive behaviors;
 - (6) organizational policies and procedures that address diversity and inclusion; and
 - (7) a clear, realistic, actionable, and measurable commitment to addressing racial equity that is woven into the governance, culture, and membership of the entity that includes representatives of an inclusive group of community stakeholders.

(k) Direct Services. The Entity must not provide direct services or deliver programs for early childhood education.

(l) Reports.

(1) The Board of Directors must report annually on the activities and finances of the Entity and provide an audited financial statement of the Entity to the Executive and Council by October 1 of each year. The report must include:

(A) the Entity's plan to solicit and receive additional public and private funding for its operations;

(B) outcomes data that measures the progress of early care and education system improvements, including changes in:

(i) the level of public and private investment;

(ii) the availability and use of early care and education seats in the County as a whole and for isolated and vulnerable populations; and

(iii) school readiness (including academic, physical and social emotional competencies) rates broken out by total population, race/ethnicity, income categories, and special education status; and

(C) advocacy efforts.

(2) The Entity must make public data sets available on the internet to improve public knowledge of the Entity and its operations, further its mission, or increase its accountability and responsiveness.

(3) The Entity must provide the Executive and Council, upon request, all non-confidential data produced and received by the Entity, including research, data related to the delivery of early care and education services, and minutes of Board meetings.

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Sec 2. Effective date. This Act must take effect on July 1, 2022.

Approved:

Tom Hucker, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 42-21

Child Care – Early Care and Education Coordinating Entity - Established

DESCRIPTION:	Bill xx-21 would require the Council to designate, by resolution approved by the Executive, a single nonprofit corporation as the County's Early Care and Education Coordinating Entity. The Entity must have 13 ex-officio government officials and 12 private sector members appointed by the Executive and confirmed by the Council. All Board members must be voting members. The Entity must be a Maryland nonprofit, non-stock corporation exempt from Federal income tax and headquartered in the County. The Entity must adopt bylaws that protect against conflicts of interest and must be subject to the Maryland Open Meetings Act and the Maryland Public Information Act.
PROBLEM:	The lack of available affordable quality early care and education in the County adversely affects County residents.
GOALS AND OBJECTIVES:	To improve the availability of affordable quality early care and education in the County.
COORDINATION:	HHS
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be researched.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney (240) 777-7895
APPLICATION WITHIN MUNICIPALITIES:	Not applicable.
PENALTIES:	Not applicable.



MONTGOMERY COUNTY COUNCIL

Memorandum for: Councilmembers

From: Councilmember Gabe Albornoz, HHS Chair
Councilmember Nancy Navarro, GO Chair
Councilmember Craig Rice, E&C Chair

Date: November 2, 2021

Subject: Proposed Bill: Early Care and Education Coordinating Entity

We are cosponsoring legislation which creates an independent Early Care and Education Coordinating Entity to focus solely and comprehensively on ECE programs, services, and funding sources.

Early Care and Education (ECE) which comprises the range of supports provided to families with young children, is key to economic development and recovery following the pandemic, as well as essential to a thriving community built on equity and inclusion. In Montgomery County, nearly half of all children in our community are not ready for kindergarten. Such opportunity gaps limit promising futures and lead to skill gaps in the county's workforce. Quality, affordable Early Care and Education that promotes healthy social and emotional development and breaks down barriers to success will be key to building the workforce of tomorrow and enabling today's parents to fuel the economy as productive members of the workforce.

The County has made considerable progress in expanding access to and developing a strong Early Care and Education sector, but more work remains. It is still necessary to work towards a true system of care and education—to design and implement systemic coordination, collaboration, and cooperation to build back the sector and advance access. Based on the Early Care and Education Framework, and the Racial Equity and Social Justice law, both authored and spearheaded by Councilmember Nancy Navarro, several years of stakeholder engagement by Montgomery Moving Forward (MMF) and, in part, on the proposal MMF provided to the joint HHS/E&C Committee in January 2021, this legislation achieves an equitable approach that will benefit our children, families, childcare providers, and employers with their shared voice being integral to building a high quality, affordable, robust ECE system with accountability measures in place.

An independent public-private coordinating entity will build the system and facilitate a sustainable economic recovery and future growth by helping to identify needs and coordinate resources across the entire Early Care and Education system, incorporating health providers, social service agencies, and other supports to families as well as child care providers.

Because the entity will have a broad view of available services and community needs, it will ensure equity in the system so that all residents have access to high quality, affordable Early Care and Education. A high functioning system will also offer a critical differentiating element for Montgomery County's economic development efforts with businesses seeking to recruit and retain skilled workers. Having many options for quality child care makes Montgomery County more attractive for the skilled workforce the County seeks to attract.

For such an entity to be successful, the following characteristics are essential:

- **Inclusion:** The Entity will develop clear, realistic, actionable, and measurable inclusion and racial equity goals. Parents and providers must have an authentic voice and authority on the governing board and real community engagement strategies must be employed to ensure community priorities are reflected in the common agenda.
- **Independence:** The Entity must have the independence necessary to leverage cross sector participation, act as a neutral convener, and guided by community engagement, with a 360 view of the Early Care and Education system.
- **Cross sector representation:** The Entity must have a public private board whose members spans the system including employers, philanthropy, government, providers, and parents.
- **Accountable:** The Entity will focus on the systems level and will not deliver programs or services. It will work to break down silos and create accountability tools to measure the overall success of the shared agenda and progress towards shared goals.
- **Guardian:** The entity will provide accounting and transparency to meet all fiduciary responsibilities in service of a common agenda. The Entity must establish a robust process for tracking, managing, and reporting on all funds. It will report on the management and allocation of funds directly to the County Council and at public board meetings.

Economic Impact Statement

Office of Legislative Oversight

Bill 42-21

Child Care – Early Care and Education Coordinating Entity – Established

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 42-21 would not directly impact economic conditions in the County.

BACKGROUND

If enacted, Bill 42-21 would make the following changes to County law:

- “(1) establish an Early Care and Education Coordinating Entity;
- (2) require the Council to designate a non-profit corporation to serve as the County’s Early Care and Education Coordinating Entity;
- (3) establish guidelines for the designation of the County’s Early Care and Education Coordinating Entity;
- (4) establish the duties of the County’s Early Care and Education Coordinating Entity; and
- (5) generally amend the laws governing early child care and education in the County.”¹

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Enacting Bill 42-21 would establish an Early Care and Education Coordinating Entity. The Entity would “develop recommendations for increasing availability of and access to high quality early care and education programs with particular attention to underrepresented and special populations.”² If implemented, these recommendations may affect economic conditions in terms of the Council’s priority indicators.³ However, anticipating these potential indirect effects is beyond the scope of this analysis.

¹ Montgomery County Council, [Bill 42-21, Child Care – Early Care and Education Coordinating Entity - Established](#), Introduced on November 9, 2021.

² Robert H. Drummer to County Council, [Memorandum](#), November 5, 2021.

³ Montgomery County Code, [Sec. 2-81B, Economic Impact Statements](#).

Economic Impact Statement

Office of Legislative Oversight

VARIABLES

Not applicable

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪
ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

Not applicable

Residents

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements.](#)

Montgomery County Council. [Bill 42-21, Child Care – Early Care and Education Coordinating Entity – Established.](#)

Introduced on November 9, 2021.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration

Economic Impact Statement

Office of Legislative Oversight

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.