



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

AGENDA ITEM #14B  
November 9, 2021  
**Introduction**

## 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

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**MEMORANDUM**

November 5, 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: Introduction – no Council votes 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 Council President Hucker and Councilmembers Riemer, Katz, Glass, Jawando, and Friedson, is scheduled to be introduced on November 9, 2021. A public hearing is tentatively scheduled for November 30, 2021 at 1:30 p.m.<sup>1</sup>

**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.

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<sup>1</sup>#EarlyCareEducation

Bill 42-21 would take effect on July 1, 2022.

This packet contains:

Expedited Bill 42-21

Legislative Request Report

ECE Rational Memo

Circle #

1

13

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Bill No. 42-21  
Concerning: Child Care – Early Care and  
Education Coordinating Entity -  
Established  
Revised: 10-19-21 Draft No. 5  
Introduced: November 9, 2021  
Expires: May 9, 2023  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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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

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**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

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*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.**

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

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

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

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

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

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

- 55           (2)   a Council staff member with expertise in Early Childhood
- 56                   Education;
- 57           (3)   a representative designated by the County Board of Education;
- 58           (4)   2 representatives designated by the Superintendent of
- 59                   Montgomery Public Schools;
- 60           (5)   4 representatives of the County Department of Health and Human
- 61                   Services;
- 62           (6)   a representative of the Office of Management and Budget;
- 63           (7)   a representative of Montgomery College;
- 64           (8)   a representative of the Universities at Shady Grove; and
- 65           (9)   the Montgomery County Kirwan Coordinator or the Coordinator’s
- 66                   designee.

67           The Executive should appoint the following voting members:

- 68           (1)   3 parents or guardians with children in childcare and/or pre-
- 69                   kindergarten programs;
- 70           (2)   2 center based early care and education providers;
- 71           (3)   2 family child care providers;
- 72           (4)   2 representatives of an employer who is not an early childhood
- 73                   education provider;
- 74           (5)   a representative of a philanthropic foundation; and
- 75           (6)   2 representatives of a nonprofit corporation focused on equity and
- 76                   inclusion, youth development, economic development, or
- 77                   workforce development.

78           The Board must permit the County Executive, the County Council’s Lead

79           for Early Care and Education, and the President of the Montgomery

80           County Board of Education, or a designee of each public official, to

81           attend and participate at each Board meeting without voting. The

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

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

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

92 (e) Term; Removal.

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

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

108 (f) Compensation for Board Members.



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

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

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

120       (g) Ethics.

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

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

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

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

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

- 136                   (E) a policy to protect whistleblowers.
- 137           (2) Notwithstanding any inconsistent provision of Code § 19A-21, a  
 138 member of the Board of Directors or a staff member of the Entity  
 139 who engages in legislative, administrative, or executive advocacy  
 140 as part of that person's duties is not required to register as a  
 141 lobbyist under Article V of Chapter 19A because of the advocacy.
- 142   (h) Status; Incorporation; Bylaws.
- 143           (1) To qualify as the County's Early Care and Education Coordinating  
 144 Entity, the Corporation's articles of incorporation must provide for  
 145 the appointment of the members of its Board of Directors as set  
 146 forth in this Section. The articles of incorporation must also  
 147 provide that the Entity is:
- 148                   (A) a Maryland nonprofit, non-stock corporation with the  
 149 purposes and activities limited to those that are permitted to  
 150 be performed by a corporation that is recognized as exempt  
 151 from Federal income tax under 26 U.S.C. § 501, as  
 152 amended;
- 153                   (B) not an instrumentality of the County;
- 154                   (C) incorporated for the purpose of serving as the County's  
 155 Early Care and Education Coordinating Entity responsible  
 156 for monitoring and supporting the early care and education  
 157 system in the County;
- 158                   (D) organized and operated under the laws of the State of  
 159 Maryland; and
- 160                   (E) headquartered in the County.
- 161           (2) The Entity's bylaws may contain any provision necessary to  
 162 govern and manage the Entity that does not conflict with this

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

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

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

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

179                   (2)   Convene and solicit input from all ECE stakeholders to identify  
 180                   unmet needs and barriers to accessing quality ECE services,  
 181                   develop common goals and priorities for system expansion and  
 182                   improvement, and identify opportunities for and barriers to  
 183                   collaboration and coordination among stakeholder groups. The  
 184                   Entity must seek advice from the members of the Early Childhood  
 185                   Coordinating Council while the Entity develops final  
 186                   recommendations for realigning existing County committees and  
 187                   advisory groups that provide input into the early care and  
 188                   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.

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

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

243 (l) Reports.

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

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

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

252 (i) the level of public and private investment;

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

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

260 (C) advocacy efforts.

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

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

268

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

*Approved:*

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Tom Hucker, President, County Council

Date

*Approved:*

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Marc Elrich, County Executive

Date

*This is a correct copy of Council action.*

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Selena Mendy Singleton, Esq., Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 42-21

*Child Care – Early Care and Education Coordinating Entity - Established*

<b>DESCRIPTION:</b>	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.
<b>PROBLEM:</b>	The lack of available affordable quality early care and education in the County adversely affects County residents.
<b>GOALS AND OBJECTIVES:</b>	To improve the availability of affordable quality early care and education in the County.
<b>COORDINATION:</b>	HHS
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be researched.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Robert H. Drummer, Senior Legislative Attorney (240) 777-7895
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Not applicable.
<b>PENALTIES:</b>	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.