

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1285

Adopting Universal Preschool Now! Initiative Petition.

The Multnomah County Board of Commissioners Finds:

A. Public investment in universal preschool may be our single best investment to reduce racial, ethnic and income-based education and opportunity gaps. Children attending a quality preschool have higher high school graduation rates and earnings in adulthood and experience reduced rates of unemployment, substance abuse and involvement in the criminal justice system.

B. Public investment in preschool is a powerful economic development strategy, creating jobs and raising the skill levels of the labor force, particularly for historically disadvantaged groups.

C. Universal preschool, free to all residents, brings us together as a community, avoids reinforcing segregation based on economic status, creates greater support for children, and is more effective and cost efficient than income-based programs.

D. Quality preschool and childcare is expensive and hard to find in Multnomah County. In 2018, the average tuition for a preschooler enrolled in full-time, center-based, childcare was \$1,077.00 per month, and \$995.00 per month for home-based care.

E. The lack of affordable childcare or preschool is a serious burden on low-income and middle-income communities. The high cost of care prevents parents (disproportionately mothers) from being able to work as many hours as they need to, or from working at all. As a result, poverty rates for young children are higher than any other age group in Oregon.

F. Public preschool is currently available in Multnomah County through the Headstart/Oregon Prekindergarten programs to children in families at or below the federal poverty level, and through Preschool Promise to children with family incomes below 200% of the federal poverty line. However, these programs are inadequately funded and do not fill the needs of most families in Multnomah County. In 2017-18, these programs reached only 3,300 of Multnomah County's nearly 20,000 three and four-year old children.

G. Universal preschool programs that make publicly-funded preschool available to all preschool-aged children are more popular and better supported than programs only serving low-income families, which are chronically underfunded. Headstart/Oregon PreK reach only 30% of eligible children in Multnomah County. Universal programs are more efficient and effective in closing the opportunity gap and fueling economic development than income-based programs. All children benefit from developmentally appropriate preschool and children from low Income families gain more from mixed-income settings than income-targeted programs.

H. Current childcare providers, including family childcare providers and small centers can transition to providing quality preschool for eligible children with the assistance of professional development, mentoring and training.

I. The cost of providing universal preschool can be paid for by taxing certain high-income residents of Multnomah County - individuals and households earning more than \$200,000 and \$250,000 respectively - on income exceeding thresholds.

Multnomah County Ordains as Follows:

Section 1. Policy and Purpose

A. The policy and purpose of this Ordinance is to reduce the racial, ethnic and income-based educational and economic opportunity gaps in Multnomah County by making available to all children residing in Multnomah County two years of publicly-funded quality preschool prior to kindergarten eligibility, paid for by a Multnomah County personal income tax on individuals and households with annual gross incomes over approximately \$200,000 and \$225,000, respectively.

B. The Multnomah County Universal Preschool Program ("Universal Preschool" or "Program") created by this Ordinance shall seek to build on existing expertise and programs, including the Preschool Promise program, to make two years of year-round publicly-funded quality preschool available to all age-eligible children in Multnomah County by the 2027-2028 school year.

C. The first twelve (12) to eighteen (18) months after enactment of this Ordinance will be used for initial planning, surveying and further developing infrastructure to meet needed capacity, the establishment of support services for providers (such as shared benefits plans, a shared substitute pool and other technical assistance), development of quality standards, and building capacity through recruitment, training and workforce development. In addition, revenues will be put aside from initial and ongoing tax revenue to create a reserve fund.

D. Funding for the earliest Universal Preschool providers will begin at the start of the second school year after the enactment of this Ordinance (the 2022-2023 school year), with the aim of funding providers that meet the needs of all children whose parents or guardians wish to participate as soon as practicable, but not later than the 2027-2028 school year. Universal Preschool shall be rolled out in phases, beginning in geographical areas serving low-income communities and communities of color. All students in that geographical area will be entitled to attend a qualified preschool program, free of charge.

E. Under this Ordinance, publicly-funded quality Universal Preschool programs are those that:

1. Provide culturally inclusive or culturally specific year-round programs consistent with early education best practices which emphasize child-led, trauma informed, physically active, and developmentally appropriate learning experiences and de-emphasize academic skill building and testing;

2. Ensure adequate staffing, generally one adult for eight children;
3. Include parent involvement opportunities and connect families to additional community resources and services;
4. Are staffed with workers who are paid living wages and benefits and offered professional development; and
5. Do not charge private tuition to attend, above the amount provided through the Universal Preschool Program, except for the cost of before or after preschool childcare.

F. Quality Universal Preschool may be provided in schools, community centers (publicly or privately owned), multi-generational classrooms, licensed family childcare programs and cooperative settings that provide full-day (six hours) preschool on a 12-month basis, so long as they meet the other requirements of this Ordinance. The goal of this mixed delivery model is to support the establishment and retention of programs in each of these settings in order to provide parents with a variety of options from which to choose (such as location, hours of operation, days of operation, vacation/summer break schedules, size, language, and level of parental involvement).

G. The Multnomah County Universal Preschool Program created by this Ordinance shall be implemented in a manner that prioritizes job creation, training and support for historically disadvantaged groups in Multnomah County, including women, people of color, people with disabilities, immigrant communities and people from low-income backgrounds.

H. To ensure public accountability and community oversight, the Multnomah County Universal Preschool Program shall be subject to financial and performance audits, and oversight by the Multnomah County Universal Preschool Advisory Committee made up of early education practitioners and stakeholders.

I. Revenues raised through this new tax will be deposited into a separate fund, which shall be used to finance the Universal Preschool Program.

Section 2. Definitions

Unless otherwise defined in this section, terms that are defined in the Multnomah County Code or the Oregon Revised Statutes shall have the meanings provided therein.

A. **"Eligible children."** Children who will turn 3 or 4 years of age on or before September 1st of the enrolling year and are not yet eligible to be enrolled in kindergarten.

B. **"Preschool workers."** Employees of Universal Preschool providers including, but not limited to, teachers, assistant teachers, teachers' aides, family childcare providers, family childcare assistants I and 11, substitute teachers, coaches, administrators, and administrative staff.

C. **"Universal Preschool."** Quality preschool programs that are offered free of charge to children in Multnomah County (not based on income eligibility) by providers that meet

the criteria established by this Ordinance and the Multnomah County Universal Preschool Program.

D. **"Resident."** A taxpayer domiciled within Multnomah County for any portion of the taxable year. "Domicile" is that place where a person has a true, fixed and permanent home, and principal establishment, and to which whenever that person is absent, he or she has the intention of returning. Actual residence is not necessarily the domicile of a person. A person may have more than one residence but not more than one domicile. Among other factors indicating domicile may be where the person is registered to vote, receives mail, where their automobile is registered and where their children attend school. ORS 316.027 and OAR 150-316-0025 are hereby adopted and shall control when residency questions arise.

E. **"Taxable income."** Taxable income under Oregon law.

F. **"Administrator."** The Multnomah County Chief Financial Officer.

Section 3. Progressive Tax on Personal Income

A. **Tax:** Residents in Multnomah County shall pay a tax on their Oregon Taxable income as follows:

1. Individual Filers: 3.9% tax on all Oregon Taxable Income over \$165,000 a year;
2. Joint Filers: 3.9% tax on all Oregon Taxable Income over \$190,000 a year; and
3. Due Date: Payment of this tax is due on April 15th or the closest following business day.

B. **Revenues:** Net revenues (after deducting the costs of collection and enforcement) shall be deposited into a separate fund designated as the "Multnomah County Universal Preschool Fund" (hereinafter "Fund"). Monies in the Fund shall be dedicated to the creation, support and funding for the Universal Preschool Program as set forth in this Ordinance.

C. **Receipts:** The Administrator will receive the tax imposed by this ordinance from the taxpayers, keep accurate records, and report all monies received.

D. **Collection:** The Administrator will collect and enforce payment of all taxes owing to the county.

E. **Rulemaking:** The Administrator will adopt administrative rules to implement this tax. Rules adopted will be consistent with the rules of the Oregon Department of Revenue regarding personal income tax.

F. **Contracting:** The Administrator may contract with public or private agencies, as necessary, to implement this ordinance.

G. **Effective Date:** The tax will be imposed for all tax years beginning on or after January 1, 2021.

Section 4. Administration of Universal Preschool Program

A. The Universal Preschool Program shall initially be overseen by the Director of the Department of County Human Services (DCHS). The Board of County Commissioners ("County") may create a new administrative body within the county or contract with other partners to administer the program. Partners may include, but are not limited to Early Learning Multnomah, the Preschool Promise Hub and/or Multnomah Child Care Resource and Referral. In choosing an administrative structure, the County shall strive to build on existing expertise and programs.

B. The first twelve (12) to eighteen (18) months after this Ordinance is enacted shall be dedicated to planning and taking steps necessary to begin funding Universal Preschool for targeted geographical areas of the county beginning in the 2022-2023 school year. Initial planning shall include:

1. Developing a five-year plan for full implementation of Universal Preschool by the beginning of the 2027-2028 school year;
2. Identifying and funding capital improvement projects to create or renovate classroom and playground spaces, ideally in a manner that furthers the equity goals of this measure (for example, by entering into "Community Benefits Agreements" for projects);
3. Developing an outreach plan to build capacity and support existing childcare providers (home-based programs, cooperatives and small centers) in developing a quality preschool program;
4. Developing a plan that supports a mixed delivery model that provides parents with choices, including size, hours of operation, days of operation (e.g., classes on weekends), vacation/summer break schedules, language, and level of parental involvement;
5. Establishing quality framework for Universal Preschool providers that reflect best practices regarding staffing ratios (currently one adult for eight children under Preschool Promise) and curriculum;
6. Identifying opportunities for shared services for providers that would take advantage of economies of scale to reduce costs to preschool providers and to the Program. Possible shared services include access to group health insurance plans, professional development, contract administration, or a substitute pool;
7. Creating a workforce and professional development plan to recruit workers and encourage skill training and certification, as well as providing

a pathway to licensure under the Teacher Standards and Practices Commission;

8. Establishing a compensation matrix that (1) ensures that all early education workers receive a living wage of at least 145% of Portland's minimum wage; (2) adjusts wages based on worker education, certification, licensure, ORO Steps, special skills (such as language), and experience; and (3) moves toward parity for preschool and elementary school teachers and staff; and
9. Establishing a provider compensation scheme for contracted slots, that allows for weighted payments, and that takes into consideration the impact of this program on the infant/toddler care marketplace.

Section 5. Multnomah County Universal Preschool Program Advisory Committee

A. General/Purpose: The County shall establish a Multnomah County Universal Preschool Advisory Committee ("Advisory Committee" or "Committee") made up of experts and community members to (1) provide guidance concerning funding recommendations; (2) evaluate the effectiveness of the Fund in achieving the purposes of this measure, with reports delivered to the public; and (3) watch for emerging issues and advocate for course corrections, if need be.

B. Composition: The Committee shall be made up of 12 members who are residents of the County. To the extent possible, members shall be drawn from differing cities and/or neighborhoods and reflect the racial, ethnic, and economic diversity of children participating in the Universal Preschool program.

1. At least three members shall have expertise as educators and or administrators in the field of early education, ideally with experience in different settings;
2. At least three members shall have experience representing the interests of employees working in early education through a union, workforce development initiatives, and culturally specific advocacy organizations;
3. At least three members shall have experience advocating on behalf of families experiencing houselessness, foster parents, and families with insecure immigration status; and
4. At least three members shall represent the interests of the community at large, such as parents of pre-school age children and culturally specific organizations in Multnomah County.

C. Members shall be appointed by the County Chair for staggered four-year terms, with the exception of the first Committee, which will have six members appointed for four-year terms and six members appointed to two-year terms.

D. Duties: The Advisory Committee shall:

1. Meet as needed, on at least a quarterly basis;
2. Establish and maintain a public website that includes the Committee's members, meetings, agenda, meeting notes, governance standards, policy statements and recommendations, and audit reports;
3. Make recommendations to the County Commissioners and County Chair on changes to this law as necessary to achieve the policy goals set out in Section 1;
4. Advise the Universal Preschool program to ensure proper allocation of funds;
5. Advise the Universal Preschool Program to ensure that the interests of workers and the unions that may represent them are fully considered;
6. Advise the Universal Preschool Program on the impact of the program on the infant/toddler childcare marketplace;
7. Advise the Universal Preschool Program to ensure that it has developed and is following a workforce contractor equity plan with measurable goals for the training and hiring of historically disadvantaged groups, including women, people of color, people with disabilities, immigrant communities and people from low-income backgrounds; and
8. If additional funds are required, consider how to raise additional revenue to fulfill the promise of providing Universal Preschool, free of charge, to all preschool aged children in Multnomah County by 2027-2028 school year.

E. Support: Staff within the County's Department of County Human Services and/or the County's Office of Diversity and Equity shall assist the Committee as needed to initiate implementation of the provisions of this measure. Once the Committee is appointed and a framework for implementing this measure is in place, the Committee, in consultation with the County, may agree to a different staffing arrangement.

Section 6. Multnomah County Universal Preschool Fund

A. **Creation of Fund:** The County shall establish a dedicated fund to be known as the "Multnomah County Universal Preschool Fund" (hereinafter the "Fund"). Net proceeds from the new income tax shall be placed in the Fund and shall be used exclusively to support the Universal Preschool program established by this Ordinance.

B. **Sub-Accounts:** The County, in consultation with the Advisory Committee, shall establish and allocate revenue to the following sub-accounts:

1. **Operations Account.** Funds in this account shall be used for administrative expenses and to pay Universal Preschool providers using a

formula that takes into account the costs of providing a quality preschool program, including labor, rent, and other factors. The amount paid by the Universal Preschool Program per contracted slot will generally be the same. However, the amount paid per slot may be weighted to reflect additional costs or to incentivize certain programs, such as offering preschool on the weekend and programs serving emerging bilingual children;

2. **Reserve Account.** Funds in this account shall be sufficient to fund a minimum of twelve months of operating expenses;
3. **Planning and Capital investment Account.** Funds in this account shall be used to fund initial planning, outreach, program startup costs, and capital expenditures, as needed, to create or renovate classroom and playground spaces; and
4. **Professional Development and Training Account.** Funds in this account shall be used to help recruit, train and retain skilled workers who reflect the diversity of the children in the program and to provide owner-operators technical assistance on how to efficiently and effectively operate a quality preschool program.

C. Revenue in the Fund shall be distributed by the Board of County Commissioners, in consultation with the Advisory Committee, as necessary to provide all children living in Multnomah County with the opportunity to attend two years of preschool free of charge.

D. **Audit.** The Fund shall be subject to a financial audit by the County Auditor every year and a performance audit by the County Auditor every two years.

Section 7. Qualifying Universal Preschool Providers

To receive Universal Preschool funds, a provider must meet criteria established by the Program, in consultation with the Advisory Committee, to include the following:

A. **Licensure/Certification:** Providers must be approved to operate as a childcare facility, provider or school under one of the following:

1. A family childcare provider licensed pursuant to ORS 329A.280 or registered pursuant to ORS 329A.330;
2. A certified childcare facility as defined by ORS 329A.250(5) and certified pursuant to ORS 329A.280 with 501(c)(3) status;
3. A certified parent cooperative program as defined by ORS 329A.250(8) and licensed pursuant to ORS 329A.280 or equivalent standards; or

4. A facility operated by a public body, as authorized by ORS 329A.250(5)(d) (such as preschools in public schools or city or county run community centers).

B. **Exceptions:** The Program may grant temporary exceptions to providers who do not currently qualify under Section A of this section when insufficient slots are available to meet demand. Exceptions shall be approved by the Program, in consultation with the Committee, and shall remain in place for 3 calendar years, once approved. When granting exceptions based on enrollment need, preference shall be given to providers that further the mixed-delivery model and increase parent choices, are locally owned and operated, and are not structured to distribute profits to shareholders.

C. **Quality Programs:** Consistent with the standards developed by the Program, qualifying providers shall:

1. Provide culturally inclusive or culturally specific programs consistent with early education best practices which emphasize child-led, trauma informed, physically active, and developmentally appropriate learning experiences and de-emphasize academic skill building and testing;
2. Provide parents with the option of year-round programming at no additional cost; except that the Program may permit a provider to align its schedule with public school calendar, so long as adequate year round options remain available;
3. Ensure adequate staffing, generally one adult for eight children; and
4. Include parent involvement opportunities and connect families to additional community resources and services.

D. **Surcharge Tuition Prohibited:** Qualifying Universal Preschool providers may not assess any surcharge tuition for an eligible child in Multnomah County to attend Universal Preschool year-round. However, a program may charge for extended hours (those in excess of six hours per day) typically before and after preschool care.

E. **Wages and Benefits:** A qualifying provider shall pay wages and benefits for preschool workers, consistent with the compensation matrix developed by the Program. That matrix shall (1) require that all preschool workers receive a living wage of at least 145% of Portland's minimum wage; (2) adjust wages based on worker education, certification, licensure, ORO Steps, special skills (such as language), and experience; and (3) move towards parity of pay and benefits between preschool and elementary school teachers and staff.

F. **Professional Development:** Qualifying providers will provide and facilitate ongoing professional development of workers, with the financial support of the Universal Preschool Program. Professional Development funded pursuant to this Ordinance will include but is not limited to classes that meet the Oregon Department of Education, Early Learning Division, Oregon Registry program for qualified preschool workers; and onsite and ongoing mentorship, coaching, workshops and training in relevant methodologies and practices. In

addition, the Universal Preschool Program shall create and support a pathway to licensure by the Teachers Standards and Practices Commission.

G. ***Union Organizing Code of Conduct:*** Any employer accepting funds through this program shall adhere to a code of conduct as related to union organizing:

1. Upon request by an IRC 501(c)(5) labor organization, within 15 days of the request, the employer shall furnish a complete list of employees, including job titles and contact information for each individual;
2. The employer shall not engage in any negative campaign with regard to unionization of the workforce;
3. National Labor Relation Board ("NLRB") elections will be at mutually agreeable times (as agreed upon by the employer and union) but in no event in excess of 30 days from the date of filing for an election with the NLRB;
4. For a first contract, after entering negotiations, at the end of 1 year of bargaining, either party may submit any outstanding issues to the Federal Mediation and Conciliation Services, who shall assign a Mediator to the case. After 3 months of mediation, the Mediator shall have authority to dictate final contract terms;
5. If the employer fails to adhere to Section 7.G.a to 7.G.d of this Ordinance, it shall become ineligible to receive funds from Multnomah County tax assessments for a period of 1 year; and
6. Universal Preschool Program and Multnomah County administration shall remain neutral with respect to union organizing and representation for any family childcare provider participating or applying to participate in Universal Preschool Program, as authorized by ORS 329A.430.

H. ***Services for Children with Disabilities:*** Enrollment in a Universal Preschool Program will not affect a student's right to special education services, as applicable, as set forth by state and federal law, including but not limited to Part B of the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et. seq., and Chapter 343 of the Oregon Revised Statute. Nothing in this ordinance shall be read to preclude or limit the identification of students with disabilities in a Universal Preschool Program. Nothing in this ordinance shall be read to preclude or limit ability of a qualifying student attending a Universal Preschool Program to receive special education services, when applicable.

I. ***Expulsions:*** qualifying Universal Preschool providers will work to minimize expulsions, supported by additional professional development and coaching aimed at developing strategies for positive behavioral supports.

Section 8. Multnomah County Board of Commissioners to Take Necessary Action.

The Multnomah County Board of Commissioners shall take all action necessary to ensure that taxes imposed by this Ordinance are collected and are used to fulfill the policies and purposes of this Ordinance: to establish a Universal Preschool program that makes two years of publicly-funded quality preschool available to all children in Multnomah County.

Section 9. Severability Clause.

If any part, section or provision of this Ordinance or any tax against any Taxpayer imposed by this Ordinance is found unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity will affect only that part, section or provision of this Ordinance or tax or Taxpayer, and will not affect or impair any other part, section or provision of this Ordinance.

FIRST READING: August 27, 2020

SECOND READING: September 3, 2020



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Jenny M. Madkour*
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