**California Department of Education**

Tony Thurmond

State Superintendent of Public Instruction

# Notice of Proposed Rulemaking

## Amendment To California Code of Regulations, Title 5, Regarding Attendance Policies in the California State Preschool Program

Notice published June 20, 2025

**NOTICE IS HEREBY GIVEN** that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

The SSPI invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### Public Hearing

California Department of Education (CDE) staff, on behalf of the SSPI, will hold a virtual public hearing at 9:00 A.M. on August 6, 2025.

Any interested person may participate in the public hearing via a Zoom meeting by logging in per the following instructions:

* Click the following link or paste the link to the browser to join the webinar and enter the passcode:

<https://us02web.zoom.us/j/87875656214>

Passcode: 855845

* To connect with audio only and no video, call one of the following telephone numbers and enter the meeting ID and passcode:

 +1 669 219 2599 US (San Jose)

+1 669 900 6833 US (San Jose)

Meeting ID: 878 7565 6214

Passcode: 855845

For persons intending to attend the Zoom meeting, those persons may check their computers by:

* Clicking on the test link: <https://zoom.us/test>.
* For any issues regarding connecting with Zoom, go to <https://support.zoom.us/hc/en-us> for assistance.

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SSPI requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

### Reasonable Accommodation for any Individual with a Disability

Pursuant to the *Rehabilitation Act of 1973,* and the *Americans with Disabilities Act of 1990,* any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Essence Noel, Early Education Division, 1430 N Street, Suite 3410, Sacramento, CA, 95814, or by telephone at 916-322-1462, or by email at [EEDTitle5@cde.ca.gov](mailto:EEDTitle5@cde.ca.gov). It is recommended that assistance be requested at least two weeks prior to the hearing.

### Written Comment Period

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

Lorie Adame, Regulations Coordinator  
Administrative Support and Regulations Adoption Unit  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-322-2549 or by email to [regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov).

Comments must be received by the Regulations Coordinator prior to or on August 6, 2025. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

### Authority and Reference

Authority: Sections 8207 and 8231, Education Code.

References: Sections 8205, 8207, and 8231, Education Code

### Informative Digest/Policy Statement Overview

The California Department of Education (CDE) has administered subsidized early education services since the Child Care and Development Services Act (Act) was established in 1980, chapter 2 of part 6 of the Education Code (EC), starting at section 8200 et seq. The intent of the Act is that qualified subsidized early education services be provided to children and families meeting the eligibility criteria established under the Act. This Act eventually became known as the Early Education Act in 2021.

The Senate Bill (SB) 98, the education omnibus budget trailer bill of 2020, transferred the following childcare programs from the CDE to the California Department of Social Services (CDSS) beginning July 1, 2021: (1) Alternative payment programs (CAPP); (2) Migrant alternative payment programs (CMAP); (3) CalWORKs Stage 2 (C2AP); (4) CalWORKs Stage 3 (C3AP); (5) General child care and development programs (CCTR); (6) Migrant child care and development programs (CMIG); and (7) Childcare and development services for children with severe disabilities (CHAN). The effect of this transfer separated California State Preschool Program (CSPP) from all other childcare and early education programs leaving CDE to administer CSPP, a program which provides subsidized preschool services in centers and family childcare homes.

In 2021, the CDE promulgated new Title 5 regulations, starting at Section 17700. As part of these new regulations, CDE established a policy on “abandonment of care” to align with the federal requirements of the other childcare programs that CDE had administered until recently, despite the fact that the CSPP contains no federal dollars and is not required to follow federal requirements. However, when the CDE administered the CSPP and all other childcare programs, the regulations promulgated for CSPP would often be in alignment with the federal requirements for other childcare programs to ensure families could seamlessly transition from a federally-supported childcare program into the CSPP once they were age eligible and CDE wanted to continue such practice.

However, due to the COVID-19 pandemic, CSPP contracts have been fiscally held harmless for all program years that the abandonment of care policy has been in effect. This means that the regulations requiring children’s attendance in the program which impact reimbursement have not been applicable; therefore, there has not been a fiscal impact for contractors due to this abandonment of care policy as there normally would have been. While the regulations on abandonment of care met the federal requirements for childcare programs, they will create some negative fiscal consequences that will impact CSPP contractors beginning in the 2025-26 fiscal year. The CDE understands that the field is not happy about these negative fiscal consequences which will occur once attendance impacts a contractor’s reimbursement again. If the attendance policies are not corrected due to the ending of the fiscal hold harmless for CSPP contracts, contractors will face fiscal consequences. Therefore, CDE is promulgating new attendance policies which will encourage the attendance of children in CSPP while avoiding negative fiscal penalties for the contractors.

#### **Policy Statement Overview**

The objective of these proposed regulations is to ensure that CSPP contractors are not negatively affected fiscally by current regulations in Section 17819.5 and to set forth a new, cohesive, and common-sense statewide policy on attendance that will serve both families and contractors. This will ensure that contractors are not fiscally impacted by the children’s lack of attendance because they are required to keep them enrolled in the CSPP even if they are not regularly attending. These proposed regulations will also provide flexibility and clarification about attendance in CSPP for families.

#### **Anticipated Benefits of the Proposed Regulation**

The benefit of enacting these proposed regulations includes ensuring contractors are appropriately compensated for their work and providing appropriate clarity and statewide consistency on the attendance policies for children attending CSPP and ensuring more efficient administration of the CSPP.

#### **Evaluation of Inconsistency/Incompatibility with Existing State Regulations**

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code Section 11346.5(a)(3)(D). After conducting a review of any regulations that would relate to or affect this area of law, the SSPI has concluded that these are the only regulations that concern the Attendance Policies in the California State Preschool Program.

### Disclosures Regarding the Proposed Action/ Fiscal Impact

The SSPI has made the following initial determinations:

Other statutory requirements: There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

Mandate on local agencies and school districts: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Cost or savings to any state agency: None

Other non-discretionary costs or savings imposed on local agencies, including local educational agencies: None

Costs or savings in federal funding to the state: None

Effect on housing costs: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or business: The SSPI is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Report required: The proposed regulations do not require a report to be made.

Effect on small businesses: The proposed regulations would not have an effect on any small business because they are only relevant to California State Preschool Programs contracted through the CDE.

### Results of the Economic Impact Analysis/Assessment

**Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment – Gov. Code Section 11346.5(a)(10):**

The SSPI concludes that it is unlikely that these proposed regulations will: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Benefits of the Proposed Action: The proposed regulations will benefit children and families in California as they take advantage of high-quality early education programs guided by these proposed regulations. The proposed regulations are not expected to affect worker safety or the state’s environment.

### Consideration of Alternatives

In accordance with Government Code section 11346.5(a)(13), the SSPI must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the SSPI would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The SSPI invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### Contact Persons

Inquiries concerning the content of these proposed regulations should be directed to:

California Department of Education  
Early Education Division  
Guidance and Regulations Office  
Attn: Essence Noel  
1430 N Street, Suite 3410  
Sacramento, CA 95814  
Telephone: 916-322-4883  
Email: [EEDTitle5@cde.ca.gov](mailto:EEDTitle5@cde.ca.gov)

Inquiries concerning the regulatory process may be directed to Lorie Adame, Regulations Coordinator, or the backup contact person, Gerri White, Regulations Analyst. The Regulations Coordinator and the Regulations Analyst may be reached by email at [regulations@cde.ca.gov](mailto:regulations@cde.ca.gov) or by telephone at 916-319-0860.

### Availability of Initial Statement of Reasons, Text of Proposed Regulations and Information

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons (ISOR) and Fiscal and Economic Impact Statement (STD. 399). These documents upon which the proposed action is based may be obtained upon request from the Regulations Coordinator. In addition, this Notice, the text of the proposed regulations and the ISOR may also be viewed on CDE’s website at [http://www.cde.ca.gov/re/lr/rr/.](http://www.cde.ca.gov/re/lr/rr/)

### Availability of Changed or Modified Text

Following the public hearing and considering all timely and relevant comments received, the SSPI may adopt the proposed regulations substantially as described in this Notice

or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available to the public for at least 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposed regulations. The CDE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### Availability and Location of the Final Statement of Reasons and Rulemaking File

You may obtain a copy of the Final Statement of Reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

### Availability of Documents on the Internet

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, can be accessed via CDE’s website at [http://www.cde.ca.gov/re/lr/rr/.](http://www.cde.ca.gov/re/lr/rr/" \o "California Department of Education Regulations Web Page)

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