CALIFORNIA TONY THURMOND

DEPARTMENT OF EDUCATION STATE SUPERINTENDENT OF

 PUBLIC INSTRUCTION

December 15, 2021

# SECOND 15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED

**REGULATIONS REGARDING CALIFORNIA STATE PRESCHOOL PROGRAM**

Pursuant to the requirements of Government Code section 11346.8(c), and California Code of Regulations, title 1, section 44, the State Superintendent of Public Instruction (SSPI) is providing notice of changes made to the above-referenced proposed regulation text which was the subject of a regulatory hearing on February 1, 2021, and a 15-day public comment period starting on October 4, 2021 through October 19, 2021, inclusive.

**Changes to the text**:

General changes were made to the regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions. Additionally, references to the “Early Learning and Care Division” have been changed to “Early Education Division” due to a name change of the division at the California Department of Education (CDE). Similarly, references to the “State Department of Personnel Administration” have been updated to “California Department of Human Resources” to ensure CDE is citing the correct state department name.

**After the first 15-day comment period (October 4-19, 2021), the following changes were made to the proposed text of the regulations and sent out for a second 15-day comment period:**

## Section 17700. Definitions

**Section 17700(v)** is amended to incorporate by reference the specific Desired Results Developmental Profiles (DRDP) that may be used for children in the California state preschool program and provide the website where all versions (or views) of the DRDP are available to the public. Further, the language “issued by the department” has been removed as this document is now issued by the California Department of Social Services (CDSS) as a result of the transition of childcare programs to CDSS. This amendment is necessary to ensure contractors are clear which documents are acceptable to use to record the child’s developmental profile. Copies of these documents, which are incorporated by reference, are available for review by contacting the Regulations Coordinator (see contact information below).

**Section 17700(aa)** is amended to remove “‘early childhood programs’ as” to make the definition grammatically correct and remove the redundancy of the language.

**Section 17700(ac), formerly Section 17700(ad)** is amended to incorporate by reference the specific Early Childhood Environment Rating Scale document that is required to be used by CSPP contractors. This amendment is necessary to ensure contractors are clear which document is required for use. Copies of these documents, which are incorporated by reference, are available for review by contacting the Regulations Coordinator (see contact information below).

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**Section 17700(aj), formerly Section 17700(ak)** is amended to align the definition of “indirect cost” with the definition used in the Uniform Guidance as required by the Code of Federal Regulations, title 2. This amendment is necessary to ensure clarity in definitions for all funding sources is consistent for contractors.

## Section 17711. Environment Rating Scales

**Section 17711(a)** is amended to align the requirement with the instrument specified in the section 17700(ad). This is necessary to ensure consistency through the regulations and that contractors are clear on the required instrument.

**Section 17711(b)** is amended to align the scoring requirements with the California Code of Regulations, title 5, section 18281 that currently applies to CSPP contractors. This amendment is necessary to ensure contractors are clear on the required minimum average score required on the Environment Rating Scale.

## Section 17712. Quality Rating Improvement System

**Section 17712** is deleted because this funding is not guaranteed through the timeline in which this regulation is set to be effective. This deletion is necessary because the CDE cannot guarantee that CSPP contractors would be able to fully implement this requirement without an increase in state funding due to the delays in rating as a result of the COVID-19 pandemic.

## Section 17714. Commingling of Age Categories

**Section 17714(a)** is amended to add “and (e)” to clarify that the provisions in section 17714 do not apply to CSPPs that are operated through family childcare homes. This addition is necessary to ensure clarity for those providers operating family childcare homes as the allowances in section 17714 cannot be applied to family childcare homes due to their licensing requirements.

## Section 17731. Expulsion or Unenrollment of a Child due to Behavior

**Section 17731(b)(4)(B)** is amended to remove “Quality Counts California coaches for parents” due to public comments received during the first 15-day public comment period that Quality Counts California does not have coaches for parents. This change is necessary to ensure that the CDE is only referencing community resources that are available to families.

## Section 17749. Age Limitations

**Section 17749(c)** is amended to add, “Except as provided for in Education Code section 48000(l)” to clarify that some kindergarten age-eligible children may receive CSPP services if they meet the requirements of Education Code section 48000(l). This change is necessary to align with the change in law from Assembly Bill No. 167, Statutes of 2021, chapter 252, section 21, which was effective September 23, 2021.

## § 17828. Administrative Review of Changes in Contract Status.

**Section 17828(e)** is amended to remove“not make any changes to the” contract status and replace it with “reverse the proposed change in” contract status. This change is necessary to align this subsection (e) with section 17828, subsection (h), which more appropriately sets forth the actions that a review panel would reasonably make with respect to a proposed action, which would be to either uphold the action, modify the action or reverse the action altogether.

If you have any comments regarding the proposed changes that are the topic of this

second 15-Day Notice, the SSPI will accept written comments between December 15, 2021 and December 30, 2021, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-322-2549; email at regcomments@cde.ca.gov or mailed and received at the following address prior to or on December 30, 2021, and addressed to:

Lorie Adame, Regulations Coordinator

Legal, Audits and Compliance Branch

Administrative Supports and Regulations Adoption Unit

California Department of Education

1430 N Street, Suite 5319

Sacramento, CA 95814

All written comments received prior to or on December 30, 2021, which pertain to the indicated changes will be reviewed and responded to by CDE staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

**Please note:** Any written comments are to be restricted to the recent modifications as show in the enclosed language. The SSPI is not required to respond to comments received in response to this notice on other aspects of the proposed regulations.

12-02-2021 [California Department of Education]