# INITIAL STATEMENT OF REASONS

California State Preschool Program

## INTRODUCTION

The California Department of Education (CDE) has administered subsidized early learning and care services for children from infancy to 13 years of age and their parents 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 learning and care services be provided to children and families meeting the eligibility criteria established under the Act.

The California State Preschool Program (CSPP) as established by EC section 8235, provides three- and four-year-old children with a developmentally appropriate program designed to facilitate their transition to kindergarten. This program includes education, development, health services, social service, nutritional service, parent education and participation, evaluation, and staff development.

Eligibility criteria for full-day CSPP are set forth in ECsection 8263 and, until 2019, required a family to meet both “eligibility” and “need” criteria pursuant to ECsections 8263(a)(1)(A) and (B). The Budget Act of 2019, Senate Bill (SB) 75, amended EC section 8263 to allow full-day CSPP contractors to now enroll three- and four-year-old children whose families do not meet a “need” criteria pursuant to EC section 8263(a)(1)(B) after all other CSPP-eligible families have been enrolled.

SB 75 also added ECsection 8236.3, which made the following changes to eligibility and enrollment priorities for CSPP programs effective January 1, 2020:

* Allows for the CSPP-contracted sites operating within the attendance boundary of a public elementary school, except charter and magnet schools, where at least 80 percent of enrolled students are eligible for free and reduced price meals (FRPM) to enroll CSPP four-year-old children whose families reside within the school boundaries of a qualified FRPM school.
* Sets CSPP eligibility and enrollment priorities for families residing within the school boundaries of a qualified FRPM school.

SB 75 authorized the State Superintendent of Public Instruction (SSPI) to provide guidance and instruction to implement EC section 8236.3 through a Management Bulletin (MB) on or before December 1, 2019 pending initiation of the regulatory process, which must occur no later than December 31, 2020. The CDE released FRPM-related guidance in MB 20-01. In addition to having to initiate the regulatory process, SB 75 required that the SSPI must convene a workgroup of specified stakeholders to develop recommendations regarding the implementation of the provisions.

SB 98, the education omnibus budget trailer bill of 2020, amended part 1.7 of the Welfare and Institutions Code, effectively transferring the following early learning and care 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). This transfer will separate CSPP from all other contracted early learning and care programs that are currently administered by the CDE.

## PROBLEM AGENCY INTENDS TO ADDRESS

These proposed regulations fulfill the Legislature’s directive in SB 75 described above to implement the FRPM provisions in EC section 8236.3. In addition, the CDE has taken the opportunity to ensure alignment and transparency of all program requirements for full-day and part-day CSPP. Finally, these regulations will separate the requirements for the CSPP from all other early learning and care programs administered by the CDE that will be transferred to the CDSS, including eligibility and need requirements, which are currently the subject of a separate rulemaking package being promulgated by CDE for the non-CSPP early learning and care programs.

Currently, the CSPP regulations are found in California Code Regulations (CCR), title 5, chapter 19, subchapter 4. The proposed rulemaking will move these existing regulations into the proposed chapter 18.5; thus, the proposed chapter 18.5 will exclusively contain all regulations related to the CSPP. These regulations will achieve clarity, consistency, and an efficient administration of the CSPP for early learning and care contractors.

## BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed regulations will have specific benefits, including aligning the regulations with current law, providing appropriate clarity and consistency, and ensuring more efficient administration of the CSPP.

## SPECIFIC PURPOSE OF EACH SECTION – GOV. CODE SECTION 11346.2(b)(1)

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose of which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is as follows:

## PROPOSED CHAPTER 18.1. CALIFORNIA STATE PRESCHOOL PROGRAMS

## Proposed Subchapter 1. Definitions

### Proposed Section 17700. Definitions

**Proposed Section 17700(a)** is added to include the definition for “actual and allowable net costs” to clarify which costs may be reimbursed under the early learning and care contract. This addition is necessary to ensure fiscal integrity so that disallowed costs and restricted income are not included in the calculation.

**Proposed Section 17700(b)** is added to include the definition for “additional funds,” which explains what are additional funds, and what types of funds are not included as additional funds. This addition is necessary so there is clarity and consistency in the interpretation and application of this term as distinctions are made in the regulations with respect to the awarding of additional funds.

**Proposed Section 17700(c)** is added to include the definition of “adjusted child days of enrollment.” This addition is necessary so there is clarity and consistency in the use of this term, as reimbursement is determined, in part, by the adjusted child days of enrollment.

**Proposed Section 17700(d)** is added to include the definition of “adjusted monthly income,” and lists what types of income are included in adjusted monthly income for purposes of determining income eligibility and fees, and which types of income from total countable income, defined below, are not included for purposes of determining income eligibility and family fees. This addition is necessary so there is clarity and consistency as eligibility on the basis of income is determined by a family’s adjusted monthly income.

**Proposed Section 17700(e)** is added to provide a definition for “administrative costs.” This addition is necessary so there is clarity and consistency in the interpretation and application of this term as contractors are limited in some instances to the amount of administrative costs that can be reimbursed with CSPP funds.

**Proposed Section 17700(f)** is added to include a definition for “adult.” This addition is necessary so there is clarity and consistency in the interpretation and application of the term is used in the CSPP regulations.

**Proposed Section 17700(g)** is added to include a definition for “applicants headquartered in.” This addition is necessary so there is clarity and consistency in the interpretation and application of the term as it is used to determine eligibility and preferences when applying for funding.

**Proposed Section 17700(h)** is added to include a definition for “authorized representative.” This addition is necessary so there is clarity and consistency as both the contractor and parent may have authorized representatives act on their behalf.

**Proposed Section 17700(i)** is added to include a definition for “benefit to the state.” This addition is necessary so there is clarity and consistency when determining whether out of state travel may be approved.

**Proposed Section 17700(j)** is added to include a definition for “California State Preschool Program eligible four-year-olds.” This addition is necessary to clarify that a CSPP four-year-old is the same as “four-year-old” as defined in EC section 8208.

**Proposed Section 17700(k)** is added to include a definition for “California State Preschool Program eligible three-year-olds.” This addition is necessary to clarify that a CSPP three-year-old is the same as “three-year-old” as defined in EC section 8208.

**Proposed Section 17700(l)** is added to include a definition for “California State Preschool Program.” This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17700(m)** is added to include a definition for “ceases operation.” This addition is necessary as a contractor who ceases operation may not meet the minimum days of operation and triggers other responsibilities.

**Proposed Section 17700(n)** is added to provide a definition for “certified schedule” because this term was not previously defined in chapter 19 in title 5 of the CCR. This change is necessary as the term is commonly used in lieu of the term “child care schedule.” Adding a definition and clarifying that the terms are interchangeable ensures clarity and consistency across the state.

**Proposed Section 17700(o)** is added to include a definition for “child protective services.” This addition is necessary as a family that receives child protective services is eligible for early learning and care services.

**Proposed Section 17700(p)** is added to include a definition for “child with disabilities.” This addition is necessary to clarify that a child with disabilities is the same as a “child with exceptional needs” as defined in EC section 8208.

**Proposed Section 17700(q)** is added to include a definition for “commingled early learning and care services.” This addition is necessary as many early learning and care programs include nonsubsidized children, creating specific responsibilities on the part of the contractor to track costs and perform other responsibilities.

**Proposed Section 17700(r)** is added to include a definition for “contract period.” This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17700(s)** is added to include a definition for “CSPP free and reduced price meal (FRPM) sites.” This addition is necessary in order to implement the new provision for eligibility and priorities established in EC section 8236.3.

**Proposed Section 17700(t)** is added to include a definition for “declaration.” This addition is necessary so there is clarity and consistency in the use of this term as parents are often asked to provide evidence in the form of a declaration.

**Proposed Section 17700(u)** is added to include a definition for “developmental profile.” This definition further clarifies that the purpose of the developmental profile is to inform teachers and parents of the child’s progress in reaching expected child outcomes. This addition is necessary to ensure that there is a record that can be used to track a child’s development, which is determined to be necessary to ensure the physical, cognitive, social and emotional development of the child.

**Proposed Section 17700(v)** is added to include a definition for “desired results developmental profile.” This addition is necessary to specify the type of developmental profile the department issues for contractors to use.

**Proposed Section 17700(w)** is added to include a definition for “desired results system.” This is necessary to clarify that the requirements for a developmental profile, environment rating scale, and a parent survey are part of a specific system, and with the proper use together, they are used to measure the desired results for children and families in the CSPP.

**Proposed Section 17700(x)** is added to include a definition for “depreciation.” This addition is necessary as contractors may be reimbursed for such costs under specific circumstances so there is a need for clarity and consistency.

**Proposed Section 17700(y)** is added to include a definition for “disallowed costs.” This addition is necessary so there is clarity and consistency in what costs may not be reimbursed with CSPP funding.

**Proposed Section 17700(z)** is added to include a definition for “displace families.” This addition is necessary so there is clarity and consistency in the event a contractor believes it is necessary to disenroll families.

Proposed Section 17700**(aa)** is added to include a definition to be used for “early learning and care programs” as set forth in EC section 8208(i). This change is necessary as the term early learning and care has been used in recent years to replace the term formerly used in EC, which was child care and development. This change ensures there will be no confusion and ensures consistent terminology is used throughout the state and these regulations.

Proposed Section 17700**(ab)** is added to include a definition to be used for “early learning and care services” as set forth in EC section 8208(j). This change is necessary as the term early learning and care has been used in recent years to replace the term formerly used in EC, which was child care and development. This change ensures there will be no confusion and ensures consistent terminology is used throughout the state and these regulations.

**Proposed Section 17700(ac)** is added to include a definition for “education program.” This addition is necessary to specify that the education program includes the environment, activities and services provided to the children.

**Proposed Section 17700(ad)** is added to include a definition for “environment rating scale.” This addition is necessary so contractors are aware of the various components being measured by the instrument.

**Proposed Section 17700(ae)** is added to include a definition for “family.” This addition is necessary so there is clarity and consistency in the interpretation and application of this term and to specify that when a child and the child’s siblings live with a non-biological or adoptive parent(s), their family only includes the child and the siblings, if any.

**Proposed Section 17700(af)** is added to include a definition for “family engagement and strengthening.” This addition is necessary so contractors better understand the obligations expected of them.

**Proposed Section 17700(ag)** is added to include a definition for “family experiencing homelessness” to align the definition with the definition of “homeless children and youth” contained in EC section 8263(ak), as amended by Assembly Bill 99, Budget Act of 2017, which requires the use of the federal definition. This addition is necessary to conform with EC and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17700(ah)** is added to include a definition for “family fee schedule.” This addition is necessary to ensure consistency with how the term is defined in the EC.

**Proposed Section 17700(ai)** is added to include a definition for “income eligibility.” This addition is necessary to ensure there is alignment with the EC in the event EC is changed.

**Proposed Section 17700(aj)** is added to include a definition for “income fluctuation” to clarify that inconsistent patterns of income, occasional, sporadic or infrequent earning or income, as well as overtime, are considered income that fluctuates. This addition is necessary to recognize that some families do not have consistent income and so there is clarity and consistency when contractors are determining income eligibility.

**Proposed Section 17700(ak)** is added to include a definition for “indirect cost.” This addition is necessary so there is clarity and consistency in the interpretation and application of the term as indirect costs, within limitations, can be reimbursed with CSPP funding.

**Proposed Section 17700(al)** is added to include a definition for “indirect cost allocation plan.” This addition is necessary so there is clarity and consistency when contractors are seeking reimbursement for indirect costs.

**Proposed Section 17700(am)** is added to include a definition for “initial certification.” This is necessary to differentiate the process of initially certifying a family from recertifying a family. This definition is further necessary to clarify that the date the contractor signs the application for services certifying that the family meets the criteria to receive early learning and care services begins the eligibility period.

**Proposed Section 17700(an)** is added to include a definition for “legally qualified professional.” This addition is necessary so there is clarity and consistency when families are asked to submit documentation from a legally qualified professional.

**Proposed Section 17700(ao)** is added to include a definition for “magnet school.” This addition is necessary in order to implement the new provision for eligibility and priorities established in Education Code section 8236.3.

**Proposed Section 17700(ap)** is added to include a definition for “maximum reimbursable amount.” This addition is necessary so there is clarity and consistency as reimbursement is limited by the maximum reimbursable amount set forth in a contract.

**Proposed Section 17700(aq)** is added to include a definition for “net reimbursable program costs”. This addition is necessary to ensure fiscal integrity and so there is clarity and consistency in how contractors may be reimbursed.

**Proposed Section 17700(ar)** is added to include a definition for “new contract.” This addition is necessary as awards of new contracts are treated differently in the regulations.

**Proposed Section 17700(as)** is added to include a definition for “parent.” This addition is necessary so there is clarity and consistency in the interpretation and application of this term, as it includes a wide scope, including adults that have responsibility for the care and welfare of a child.

**Proposed Section 17700(at)** is added to include a definition for “parental incapacity.” This addition is necessary as parental incapacity is a separate basis for needing early learning and care services.

**Proposed Section 17700(au)** is added to include a definition for “parent survey.” This addition is necessary as the parent survey is a specific tool to be used for purposes of parent engagement and education, which is required by the EC.

**Proposed Section 17700(av)** is added to include a definition for “program self-evaluation process.” This addition is necessary so there is clarity and consistency in how contractors conduct a self-evaluation to determine quality of their program.

**Proposed Section 17700(aw)** is added to include a definition for “private contractor.” This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations as they often delineate obligations based on whether a contractor is private or public.

**Proposed Section 17700(ax)** is added to include a definition for “public contractor.” This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations as they often delineate obligations based on whether a contractor is private or public.

**Proposed Section 17700(ay)** is added to include a definition for “qualified FRPM school,” which clarifies that in order to implement the provision in EC section 8236.3 the public school that has at least 80 percent of the enrolled students eligible for FRPM must be an elementary school. This addition is necessary to implement the new provision for eligibility and priorities established in EC section 8236.3.

**Proposed Section 17700(az)** is added to include a definition for “reasonable and necessary costs.” This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations and to align with federal funding cost requirements contained in the federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (UG) title 2 Code of Federal Regulations (CFR) starting at Section 200.

**Proposed Section 17700(ba)** is added to include a definition for “recertification.” This is necessary to differentiate the recertification process from initially certifying a family and that recertification only applies for families receiving full-day services. This definition is also necessary to further clarify that the date the contractor signs the application for services recertifying that the family meets the criteria to receive early learning and care services begins the eligibility period.

**Proposed Section 17700(bb)** is added to include a definition for “recipients of service.” This addition is necessary so there is a consistent understanding of this term as used in these regulations.

**Proposed Section 17700(bc)** is added to include a definition for “restricted income.” This addition is necessary so there is clarity and consistency in the interpretation and application of this term as there are limits on how and when restricted income can be used.

**Proposed Section 17700(bd)** is added to include a definition for “request for applications (RFA)” and to specify what the RFA must, at a minimum, include. This addition is necessary so there is clarity and consistency in how funding announcements are made and to ensure the RFA will provide sufficient information for potential applicants to determine whether to apply for funding.

**Proposed Section 17700(be)** is added to include a definition for “service delivery area”. This addition is necessary as that term is used in RFAs to determine funding awards.

**Proposed Section 17700(bf)** is added to include a definition for “self-certification of income” to clarify exactly what information is necessary for the contractor to have in order to verify a parent’s income This addition is necessary so there is clarity and consistency in the interpretation and application of the term as this tool is used to determine whether a family is income eligible and/or what the family fees would be.

**Proposed Section 17700(bg)** is added to include a definition for “staff professional development program.” This is necessary to clarify that activities offered to staff are intended to support the staff member’s professional growth.

**Proposed Section 17700(bh)** is added to include a definition for “subcontract” to clarify that it is a written agreement for any entity to perform services for the contractor. This addition is necessary as the regulations set forth specific requirements that apply to subcontracts.

**Proposed Section 17700(bi)** is added to include a definition for “total countable income.” This addition is necessary so there is clarity and consistency in the types of income that must be included initially, before backing out those items that may be excluded to determine adjusted monthly income, which determines income eligibility.

**Proposed Section 17700(bj)** is added to include a definition for “total expenditures.” This addition is necessary so there is clarity and consistency in determining a contractor’s actual and allowable net costs, which are determined by subtracting disallowed costs and restricted income from total expenditures.

**Proposed Section 17700(bk)** is added to include a definition for “unnecessarily increase the value.” This addition is necessary so there is clarity and consistency in determining whether a cost to improve a site or adjacent grounds to meet CCR, title 22 licensing standards is reimbursable as only costs that do not unnecessarily increase the value may be reimbursed.

**Proposed Section 17700(bl)** is added to include a definition for “unrestricted income.” This addition is necessary so there is clarity and consistency in how information is submitted to the CDE in attendance and expenditure reports required pursuant to section 117821.

**Proposed Section 17700(bm)** is added to include a definition for “use allowance.” This addition is necessary so there is clarity and consistency in how and when costs may be reimbursed pursuant to section 17805 when related to buildings and improvements.

**Proposed Section 17700(bn)** is added to include a definition for “vocational training.” This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations as vocational training is a category of need pursuant to EC section 8263.

## Proposed Subchapter 2. Program Quality

### Proposed Article 1. General Provisions

### Proposed Section 17701. Program Philosophy, Goals and Objectives.

**Proposed Section 17701(a)** is added to require the contractor to have written goals and objectives and a program philosophy that is approved by the contractor’s governing body. This addition is necessary to ensure implementation of quality programs that meet the standards required by EC section 8203 and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17701(b)** is added to specify that the goals and objectives must address required program quality standards in this article. This is necessary to ensure contractors can meet necessary program requirements and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17701(c)** is added to include that the goals and objectives must be culturally and linguistically characteristic of the families served by the contractor. This addition is necessary to ensure that program activities and services meet the cultural and linguistic needs of children and families as required by EC section 8203 and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17701(d)** is added to require that the goals and objectives must meet the needs of all children and families in the program, including children with disabilities and dual language learners. This addition is necessary to ensure that program activities and services meet the needs of children with disabilities and dual language learners as required by EC section 8203 and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17702. Developmental Profile.

This section is added to outline the standards for the developmental profile component of the CSPP contract. This section is necessary to ensure children receive a quality program which supports the developmental needs of each child and so there is clarity and consistency in the interpretation and application of the program quality requirements in EC section 8203.5 for the CSPP.

**Proposed Section 17702(a)** is added to specify that contractors are required to do a Desired Results Developmental Profile (DRDP) for each child that is enrolled more than 10 hours per week. This provision further clarifies that the contractor is required to submit the DRDP for each child in the manner directed by the CDE. This addition is necessary to ensure that the development of children can be tracked and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17702(b)** is added to clarify that the DRDP must be completed for each child no earlier than 60 calendar days, and no later than 90 calendar days of the child’s first day of attendance, and at least once every six months thereafter. This addition is necessary to incorporate stakeholder feedback to extend the timeline in which the DRDP must be completed and to clarify which day the contractor must begin the 60-90-day countdown and how often it must be completed.

**Proposed Section 17702(c)** is added to clarify that the contractor must use data collected from the DRDP to plan for developmentally appropriate activities in order to meet the requirements of the education program. This addition is necessary to ensure that the program meets the developmental needs of the children and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17702(d)** is added to clarify that contractors are required to do a DRDP for all children that have a disability regardless of the hours the child is enrolled per week. This provision further clarifies that the contractor is required to submit the DRDP for each child in the manner directed by the CDE. This addition is necessary to ensure that the program services and activities meet the needs of children with disabilities and so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17703. Education Program.

This section is added to outline the standards for the education program component of the CSPP contract. This section is necessary so there is clarity and consistency in the interpretation and application of the program quality requirements in EC section 8203 for the CSPP.

**Proposed Section 17703(a)** is added to require the program approach to be developmentally, linguistically, and culturally appropriate. This addition is necessary to ensure that the program meets the specific needs of the children being served.

**Proposed Section 17703(b)** is added to require the program to be inclusive of children with disabilities. This addition is necessary to ensure that children with disabilities are served in CSPP and have their unique needs met through the program activities and services.

**Proposed Section 17703(c)** is added to require the program to encourage respect for the feelings and rights of others. This addition is necessary to ensure a quality program environment that is conducive to learning.

**Proposed Section 17703(d)** is added to require the program to use data collected in the DRDP to support the goals of each individual child, the goals of the classroom, and the goals of the program. This addition is necessary to ensure that the program services and activities meet the developmental needs of the children served.

**Proposed Section 17703(e)** is added to require the program to support children’s social emotional development by building trust, having consistent routines and transitions, and helping children build social relationships. This addition is necessary to clarify the specific social and emotional competencies that support children in their transition to kindergarten.

**Proposed Section 17703(f)** is added to require the program to support each child in their cognitive and linguistic development and specifies activities and strategies that contribute to the development of those skills. This addition is necessary so there is clarity and consistency in the interpretation and application of current research about child development and language skills.

**Proposed Section 17703(g)** is added to require the programs to promote children’s physical development. This addition is necessary to ensure the program concentrates on children’s motor and physical development.

**Proposed Section 17703(h)** is added to require the program to sustain healthy and safe practices for children in the program. This addition is necessary to ensure the safety of children in the CSPP.

**Proposed Section 17703(i)** is added to require the program use data from the child’s DRDP to support their participation in the program. This addition is necessary to ensure that the observations of the child’s development can be used for beneficial purposes.

### Proposed Section 17704. Staff Professional Development Program.

This section is added to clarify the requirements that the contractor have a program in place to support the professional development of all staff. This section is necessary so there is clarity and consistency in the interpretation and application of the staff program requirements for the CSPP to ensure a quality educational program.

**Proposed Section 17704(a)** is added to require the professional development program to identify training needs of staff or providers so that it improves the quality, diversity, stability and the retention of staff. This addition is necessary as without quality, diverse and stable staff, there cannot be a quality educational program that meets the needs of a diverse population.

**Proposed Section 17704(b)** is added to require the professional development program to contain written job descriptions. This addition is necessary so that staff are apprised as to what their job duties are so they can better meet the expectations that are required.

**Proposed Section 17704(c)** is added to require the professional development program to have an orientation plan for new employees. This addition is necessary so that staff are better prepared to take on their roles, ensuring a quality educational program.

**Proposed Section 17704(d)** is added to require the professional development program to have a written performance evaluation procedure and to specify the timelines for the evaluation. This addition is necessary to ensure that staff are provided with feedback on a regular basis so they can be better prepared for their job duties, further enhancing the quality of the program.

**Proposed Section 17704(e)** is added to require that the professional development program provides opportunities for staff based on their job descriptions and to link all staff development topics to the desired results system. This addition is necessary to ensure a quality program that meets the developmental needs of children and that staff that are well trained to implement the program.

**Proposed Section 17704(f)** is added to require that the professional development program have an internal communication system that supports staff to carry out their job duties. This addition is necessary to ensure that staff have all of the information necessary to perform their jobs in a successful manner.

### Proposed Section 17705. Family Engagement and Strengthening

This section is added to clarify the requirements of the family engagement and strengthening component of the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the program quality requirements in Education Code section 8203 for the CSPP.

**Proposed Section 17705(a)** is added to require that the contractor have a family engagement and strengthening component of the program. This addition is necessary to meet the quality program requirements set forth in EC section 8203.

**Proposed Section 17705(b)** is added to specify that the family engagement and strengthening component must include an orientation for parents, at least two parent conferences, parent meetings, opportunities for parents to participate in the program, a parent advisory committee and requisite sharing of information between staff and parents. This addition is necessary to provide specificity of expectations and so there is clarity and consistency in the interpretation and application of the above requirement.

### Proposed Section 17706. Health and Social Services.

This section is added to clarify the requirements of the health and social services component of the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the program quality requirements in Education Code section 8203 for the CSPP.

**Proposed Section 17706(a)** is added to require the contractor to identify the health and social services needs of the family and child. This addition is necessary to meet the requirements in EC section 8203 and ensure clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17706(b)** is added to require the contractor to refer the child/family to necessary health and/or social services agencies. This addition is necessary to meet the requirements in EC sections 8203 and 8208(q) and ensure clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17706(c)** is added to require the contractor to follow-up on the health and social services needs of the family and child. This addition is necessary to meet the requirements in EC sections 8203 and 8208(q) and ensure clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17707. Community Involvement.

This section is added to clarify the requirements of the community involvement component of the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the program quality requirements EC section 8203 for the CSPP.

**Proposed Section 17707(a)** is added to include the requirement for the contractor to facilitate relationships between the referral agency and the family. This addition is necessary to ensure that families receive support needed to navigate the referral process when the family has, or suspects they have, a child with a disability.

**Proposed Section 17707(b)** is added to include the requirement for the contractor to solicit support from the community. This addition is necessary as community involvement should necessarily include seeking donated goods and services from the community to make the program as successful as possible.

**Proposed Section 17707(c)** is added to include the requirement for the contractor to provide information to the community about the services they offer. This addition is necessary to ensure that families in the community are aware of the program.

**Proposed Section 17707(d)** is added to include the requirement for the contractor to collaborate with the local resource and referral agency. This addition is necessary as the local resource and referral agencies are where most parents look to for assistance in finding information on preschools and child care and to ensure there is collaboration between the contractor and the resource and referral agency to help families get all the support services they may need.

### Proposed Section 17708. Nutrition.

This section is added to clarify the requirements of the nutrition component of the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the requirements EC section 8204 for the CSPP.

**Proposed Section 17708(a)** is added to include the requirement for the contractor to ensure that children have nutritious foods while in the early learning and care program. This addition is necessary to ensure that the requirements of EC section 8204 are met.

**Proposed Section 17708(b)** is added to include the requirement for the meals to be culturally and developmentally appropriate and meet the nutritional requirements of the federal Child Care Food or the National School Lunch program. This addition is necessary to ensure that the nutritional needs of children are met as required by EC section 8204 and that the children’s developmental and cultural needs are met as required by EC section 8203.

### Proposed Section 17709. Program Self-Evaluation Process.

This section is added to clarify the process for the program self-evaluation component of the CSPP. This section is necessary to ensure that contractors maintain a quality educational program and ensure there is clarity and consistency in the interpretation and application of the program quality requirements in Education Code section 8203 for the CSPP.

**Proposed Section 17709(a)** is added to require the contractor to have an annual plan for the program self-evaluation process. This addition is necessary so contractors are continuing to evaluate themselves regularly, which helps to ensure that quality standards are reached and maintained.

**Proposed Section 17709(b)** is added to specify what the annual plan must include. This addition is necessary so that contractors perform a robust self-evaluation that incorporates all of the relevant information CDE believes are necessary to evaluate the quality of the CSPP.

**Proposed Section 17709(c)** is added to require the contractor to submit a summary of findings each year from the program self-evaluation by a date certain. Additionally, this provision reduces the burden on contractors by allowing contractors to use self-evaluation reports produced for other federal, state, or local agencies. This addition is necessary to ensure that CDE has the information it needs to readily evaluate programs without placing an inordinate burden on contractors when they have to provide similar reports to other agencies.

**Proposed Section 17709(d)** is added to require the contractor to modify any portion of their program to address areas that need improvement. This addition is necessary to ensure that programs are continually updating their programs to ensure that it meets high quality standards.

### Proposed Section 17710. Parent Survey.

This section is added to clarify the requirements of the parent survey component of the CSPP. This section is necessary to ensure there is parent participation as required in EC section 8235 and also to ensure that there is feedback from the parent to help the program meet program quality requirements in EC section 8203 for the CSPP.

**Proposed Section 17710(a)** is added to require the contractor to distribute, collect, and analyze the results of the parent survey each year. This addition is necessary so there is clarity and consistency in the manner in which contractors should obtain parent participation and feedback.

**Proposed Section 17710(b)** is added to specify how the contractor will use the parent survey results. This addition is necessary to ensure that the tool is used in a manner that can help the contractor meet quality program requirements.

**Proposed Section 17710(c)** is added to require the contractor to use the results of the parent survey in the annual self-evaluation process. This addition is necessary to ensure that the program self-evaluation is well-rounded and includes the perspective of the parents, in addition to the perspective of the staff.

### Proposed Section 17711. Environment Rating Scales.

This section is added to clarify the requirements of the environment rating scale component of the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the program quality requirements in EC section 8203 for the CSPP.

**Proposed Section 17711(a)** is added to specify that the specific tool that contractors will use to measure program quality will be listed in the annual program requirements that are agreed to by all contractors in their annual contracts. Further, this provision outlines how and when the environment rating scale will be completed by contractors. This addition is necessary to ensure that contractors will be informed each year of the tool they must use and to allow for flexibility each year as scientific educational research develops improved analytical tools to measure program quality.

**Proposed Section 17711(b)** is added to specify that the specific score needed to meet the requirements of the environment rating scale requirement will be listed in the annual program requirements. This addition is necessary to ensure flexibility in the use of the tool in the event it is changed or there is a change in the scoring rubric and to ensure all contractors are held to the same standards.

### Proposed Section 17712. Quality Rating Improvement System

This section is added to require contractors to have their program rated on the quality continuum framework through the local Quality Counts California Consortia. This section ensures that contractors’ programs are rated for quality to ensure they have quality programs as required by EC section 8203. This information is necessary for the CDE to determine where additional training and technical assistance can be provided to contractors.

**Proposed Section 17712(a)** is added to require that all programs are rated for program quality components by July 1, 2024. This is necessary so the CDE can initially gather data on the quality of state funded programs.

**Proposed Section 17712(a)** is added to require that all programs are continuously rated for program quality. This is necessary so the CDE can continue to gather data on the quality of state funded programs.

### Proposed Article 2. Staffing Ratios

### Proposed Section 17713. Staffing Ratios for Early Learning and Care Programs.

This section is added to clarify the staffing ratio requirements. This section is necessary so there is clarity and consistency in the interpretation and application of the staffing ratio requirements in EC sections 8264.7 and 8264.8.

**Proposed Section 17713(a)** is added to require that contractors not otherwise included in subdivisions (c), (d) and (e) shall meet the adult:child and teacher:child staffing ratios listed, which implement the requirements in EC section 8264.8. This addition is necessary so that all of the staffing ratios that may be applicable to CSPP are in one place.

**Proposed Section 17713(b)** is added to specify that contractors must determine the needed adults or teachers to meet staffing ratios based on the number of children that are in attendance on any given day. This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations related to staffing ratios.

**Proposed Section 17713(c)** is added to allow contractors that are also a Head Start Grantee to follow Head Start ratios and group sizes. This addition is necessary to reduce the burden on contractors who are required to meet Head Start and CSPP requirements.

**Proposed Section 17713(d)** is added to require contractors that commingle transitional kindergarten (TK) children and CSPP children to meet adult:child staffing ratios. This addition is necessary so there is clarity and consistency in the interpretation and application of the requirements in EC section 48000(h).

**Proposed Section 17713(e)** is added to clarify that contractors operating through Family Child Care Home Education Networks must follow adult-child ratios for family child care homes as required by CCR, title 22. This addition is necessary to ensure these regulations are in alignment with EC section 8264.7.

### Proposed Section 17714. Commingling of Age Categories.

This section is added pursuant to EC section 8264.7 to clarify the staffing ratio requirements when children of different age categories are commingled in the same classroom and has been modified from CCR, title 5, section 18291 for specific CSPP requirements. This section is necessary so there is clarity and consistency in the interpretation and application of the staffing ratio requirements.

**Proposed Section 17714(a)** is added to clarify the ratios for commingled classrooms except when CSPP age eligible children are commingled with TK-age children. This addition is necessary to clarify that contractors must follow the staffing ratio requirements in section 17713 when comingling CSPP and TK children, but when commingling with any other age groups, they must follow the requirement in this subsection.

**Proposed Section 17714(a)** is added to clarify how the ratios should be calculated when the younger age group does not exceed 50 percent of the total children in attendance. This addition is necessary so there is clarity and consistency in the interpretation and application of the regulations.

### Proposed Section 17715. Staffing Ratio Variance for Full-Day CSPP.

This section is added to specify when staffing ratios for full-day CSPP may vary throughout the program day and has been modified from CCR, title 5 section 18292 for specific CSPP requirements. This section is necessary so there is clarity and consistency in the interpretation and application of the staffing ratio requirements.

**Proposed Section 17715(a)** is added to clarify that only full-day contractors may exceed the adult-child ratio for up to 120 minutes in a day, and the language “of the total number of children in attendance” is added to clarify that the variance applies to the number of children present, not to the program hours or number of children enrolled. This addition is necessary to give full-day programs more flexibility to schedule staff breaks and so there is clarity and consistency in the interpretation and application of the CSPP regulations.

**Proposed Section 17715(b)** is added to allow a less stringent staffing ratio for CSPP classrooms when children are napping. Requiring substitutes be present in the room when staff take a break during children’s napping period is a cost driver for agencies and relaxing such ratios during this discrete period aligns with CCR, title 22 requirements. This change is necessary to address concerns of stakeholders and ensure efficient and consistent administration of early learning and care programs statewide.

**Proposed Section 17715(c)** is added to clarify that all children must be on their cot or mat for the staffing ratio variance to apply and staff must be called immediately when one child gets up. This addition is necessary to ensure there is sufficient staff present when necessary.

### Proposed Section 17716. Volunteers for Part-day CSPP.

This section is added to clarify how adult volunteers may participate in the part-day CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the staffing ratio requirements. Section 17716 incorporates, with amendments, the current CCR, title 5, section 18135, which is proposed to be deleted.

**Proposed Section 17716(a)** is added to require all volunteers in the CSPP classroom to obtain a criminal record clearance or be exempted from the requirements in CCR, title 22 regulations. This is addition is necessary to ensure contractors are meeting the licensing requirements of CCR, title 22 and that all volunteers that are not exempt from obtaining a criminal record clearance are required to do so before participating in the CSPP.

**Proposed Section 17716(b)** is added to specify that one of the adult volunteers may be used to meet the adult-child ratios and clarifies the requirements for the volunteer to participate if they will be used to meet the adult-child ratio, which include a criminal record clearance and meeting certain CCR, title 22 personnel requirements. This addition is necessary to ensure the health and safety of the children in the program.

**Proposed Section 17716(c)** is added to require that contractors meet adult-child ratios at all times while the program is operating. This addition is necessary to ensure the health and safety of children and also to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17716(d)** is added to require the contractor to have a written plan to meet adult-child ratios if the adult volunteer that is scheduled to participate is not able to. This addition is necessary to ensure that contractors have a back-up plan to meet the adult-child ratios at all times so the contractor does not have to limit attendance or close the program due to an inability to meet adult-child ratios.

### Proposed Article 3. Staff Qualifications

### Proposed Section 17717. Teacher Qualifications.

This section is added to clarify the teacher requirements for the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the staff qualification requirements in EC section 8360.

**Proposed Section 17717(a)** is added to clarify which permits issued by the Commission on Teacher Credentialing authorize staff to be considered a teacher for purposes of CSPP. This addition is necessary so there is clarity and consistency in the interpretation and application of EC section 8360.

**Proposed Section 17717(b)** is added to include the alternative option to obtaining a permit to be considered a teacher as permitted by EC section 8360. This addition is necessary so all of the teacher qualifications are listed in the CSPP regulations in chapter 18.5

### Proposed Section 17718. Site Supervisor Qualifications.

This section is added to clarify the site supervisor requirements for the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the site supervisor qualifications in EC section 8208(aa).

**Proposed Section 17718(a)** is added to clarify which permits issued by the California Commission on Teacher Credentialing authorize staff to be considered a site supervisor. This addition is necessary so there is clarity and consistency in the interpretation and application of the site supervisor qualification requirements. .

**Proposed Section 17718(b)** is added to provide an alternative option to obtaining a permit as required in 17718(a), by authorizing teachers with special training and education to be considered a site supervisor. This addition is necessary to align with the intent of EC section 8360, which allows an alternative route to being a teacher besides holding a permit by incorporating the requirements of the California Commission on Teacher Credentialing.

**Proposed Section 17718(c)** is added to provide a second alternative option that authorizes staff to be considered a site supervisor when they hold an administrative services credential that includes a preschool authorization. This addition is necessary as a person holding such credentials is entitled to be a Program Director, which requires additional qualifications beyond that of site supervisor.

### Proposed Section 17719. Waiver of Qualifications for Site Supervisor; Conditions.

This section is added to clarify the conditions under which the site supervisor requirement can be waived pursuant to EC section 8208(aa), which allows the SSPI to waive the requirement if it is determined that the existence of compelling need is appropriately documented.

**Proposed Section 17719(a)** is added to specify “compelling needs” that CDE’s Early Learning and Care Division (ELCD) may consider in determining whether to waive the qualifications for site supervisor. This addition is necessary to inform contractors of potential factors that the ELCD may consider as a compelling need, while not limiting the ELCD to consider only these factors.

**Proposed Section 17719(b)** is added to clarify that the ELCD will specify the length of time the waiver is in effect. This addition is necessary so contractors will be clear as to how long a site supervisor may be in place without holding the appropriate qualifications.

**Proposed Section 17719(c)** is added to clarify that staff that do not meet the minimum qualification set forth in CCR, title 22 will not be able to obtain a waiver of the site supervisor qualifications. This addition is necessary to establish a minimum standard to ensure program quality.

### Proposed Section 17720. Program Director Qualifications.

This section is added to clarify the program director qualifications for the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the program director qualifications stated in EC section 8360.1.

**Proposed Section 17720(a)** is added to clarify which permits issued by the California Commission on Teacher Credentialing authorize staff to be considered a program director. This addition is necessary so there is clarity and consistency in the interpretation and application of the program director requirements.

**Proposed Section 17720(b)** is added to provide an alternative option to obtaining a permit as required in subsection (a) when they meet certain requirements set forth in EC section 8360.1. This addition is necessary to align with EC and requirements from the California Commission on Teacher Credentialing.

**Proposed Section 17720(c)** is added to specify a second alternative option to allow a staff member to be a program director when they hold an administrative services credential that includes a preschool authorization. This addition is necessary to align with the requirements of the California Commission on Teacher Credentialing.

### Proposed Section 17721. Waiver of Qualifications for Program Director; Conditions.

This section is added to clarify the program director waiver conditions for the CSPP. This section is necessary so there is clarity and consistency in the interpretation and application of the waiver for program director qualifications in EC section 8244.

**Proposed Section 17721(a)** is added to include the circumstances in which the ELCD may waive the qualifications for a program director, which are only those circumstances provided for in EC section 8244. This section is necessary to clarify there are no additional grounds by which the requirements for program director can be waived.

**Proposed Section 17721(b)** is added to clarify that the ELCD will specify the length of time the waiver is in effect. This addition is necessary so that the contractor knows when the staff member must meet the program director qualifications.

## Proposed Subchapter 3. Award of Funding

### Proposed Article 1. General Provisions

### Proposed Section 17722. Eligibility for Funding.

This section is added to clarify who is eligible to apply for funding to operate a CSPP. This section is necessary to implement the requirement to develop regulations for funding early learning programs pursuant to EC section 8269.

**Proposed Section 17722(a)** is added to specify the conditions under which a current contractor is not eligible to apply for new or additional funds and to allow additional conditions to be placed in an RFA where appropriate. These additions are necessary to ensure the CDE is a good steward of public money by not distributing additional funds to contractors who: 1) owe us money; 2) are not meeting their current contract requirements; 3) are not yet able to demonstrate their ability to operate a program with additional funding already awarded; or 4) put a large amount of funds at risk by employing someone in a position of financial responsibility that has been convicted of misusing funds.

**Proposed Section 17722(b)** is added to specify the conditions under which an applicant, that is not a current contractor, is not eligible to apply for funding. These additions are necessary to ensure the CDE is a good steward of public money by not distributing state funds to applicants that 1) were not previously able to meet their contract requirements including having delinquent audits or an outstanding accounts receivable balance; 2) are debarred from receiving federal or state money; or 3) put a large amount of state funds at risk by employing someone in a position of financial responsibility that has been convicted of misusing funds.

**Proposed Section 17722(c)** is added to allow the CDE to set forth more stringent parameters for eligibility within the RFA. This addition is necessary to ensure that the CDE can implement any limitations set by the Legislature for a specific funding source.

### Proposed Article 2. Selection of Contractors

### Proposed Section 17723. Application Review.

This section is added to clarify the application review process. This section is necessary to implement the requirement to develop funding regulations pursuant to EC section 8269.

**Proposed Section 17723(a)** is added to require every applicant to submit a complete application in accordance with the instructions and timelines as required by the RFA. This addition is necessary to ensure that RFAs can be tailored to legal requirements associated with that funding and all applicants submit a complete application in conformance with those requirements in order to be considered for funding.

**Proposed Section 17723(b)** is added to require that all changes are posted to the CDE funding web page. This addition is necessary to ensure that all updated information for the RFA is available to the public and all potential applicants can easily access it.

**Proposed Section 17723(c)** is added to require submitted applications to be evaluated as set forth in the RFA and further provides for specific instructions for evaluating the RFAs depending upon whether the application includes more than one service delivery area and how applicants may receive a preference related to the service delivery area. This addition is necessary to ensure that all potential applicants are aware of how their applications will be evaluated and that the applicant’s service delivery area may impact the prioritization of funding.

### Proposed Section 17724. Appeals for Request for Applications.

This section is added to specify that the scored application, criteria used to score the application, and any comments on the application will be available for the applicant to review. This section further outlines the process for appealing the applicant’s score and to clarify the application review process. This section is necessary to implement the requirement to develop regulations pursuant to EC section 8269.

**Proposed Section 17724(a)** is added to clarify that the appeal timeline is set forth in the RFA. This is addition is necessary to tailor the appeal process to the specific RFA, effectively allowing the appeal process to be extended or reduced depending on what the specific RFA purpose necessitates.

**Proposed Section 17724(b)** is added to limit appeals to the application of the scoring criteria. This addition is necessary to ensure the appeal process is fair, concise and timely.

**Proposed Section 17724(c)** is added to require the CDE to issue the appeal decision to the applicant in writing. This addition is necessary to ensure that applicants are notified of the final appeal decision.

### Proposed Section 17725. Award of Contract.

This section is added to clarify how applicants will be awarded early learning and care contracts. This section is necessary to implement the requirement to develop regulations pursuant to EC section 8269.

**Proposed Section 17725(a)** is added to require the CDE to verify funding eligibility and that all appeals have been settled prior to announcing funding awards. This is necessary to ensure that all applicants that receive a contract are eligible to receive funding and that any applicant that has a successful appeal is considered in the final award amounts.

**Proposed Section 17725(b)** is added to clarify that contract funds will be awarded based on applicable laws and the criteria in the RFA. This addition is necessary to provide flexibility on how funding awards are determined based on specific requirements set forth by the Legislature.

### Proposed Article 3. Continued Funding

### Proposed Section 17726. Continued Funding.

This section is added to clarify which contractors are eligible for continued funding. This section is necessary to implement the requirement to develop regulations for funding early learning programs pursuant to EC section 8269.

**Proposed Section 17726(a)** is added to clarify that contractors are not guaranteed a contract every year. This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17726(b)** is added to clarify that contractors not already on conditional status will receive an administrative review to determine whether to continue their funding if there is evidence of programmatic or fiscal noncompliance. This addition is necessary to ensure that only qualified and responsible contractors be offered continued funding.

**Proposed Section 17726(c)** is added to specify the timeline in which the ELCD will notify contractors with a contract on conditional status that will not be offered continued funding. This addition is necessary to ensure contractors are notified that they will not receive continued funding within a reasonable amount of time.

**Proposed Section 17726(d)** is added to clarify that the timeline for responding to an offer to receive continued funding will be included in the continued funding application request and that contractors who want continued funding must comply with the instructions in the application. This addition is necessary to ensure that contractors are aware of where to find the timeline associated with accepting continued funding and aware that they must comply with instructions to receive the funding.

**Proposed Section 17726(e)** is added to clarify that if a contractor does not respond to the continued funding application request by the timeline specified then the ELCD will consider the lack of a response notification to discontinue services. This addition is necessary to ensure contractors understand the consequences of not responding in a timely manner.

## Proposed Subchapter 4. Programmatic Requirements

### Proposed Article 1. Operational Requirements

### Proposed Section 17727. Minimum Hours and Days of Operation for Part-Day CSPP.

This section is added to specify the minimum days and hours of operation for part-day programs. This addition is necessary to clarify the differences in the minimum days and hours of operation for part-day and full-day CSPPs. Section 177127 incorporates, with amendments, the current CCR, title 5, section 18136, which is proposed to be deleted.

### Proposed Section 17728. Minimum Hours and Days of Operation for Full-Day CSPP.

This section is added to specify the minimum days and hours of operation for full-day programs. This addition is necessary to clarify the differences in the minimum days and hours of operation for part-day and full-day CSPPs.

### Proposed Section 17729. Verification of CSPP Contractor Site(s) within Qualified FRPM Elementary School Attendance Boundary.

This section is added to specify that contractors that choose to enroll families under the FRPM eligibility provision in EC section 8236.3 must get prior written approval from the CDE. This addition is necessary to ensure that sites operated by the contractor are within the attendance boundaries of a qualified FRPM school to meet the requirements in EC section 8236.3.

### Proposed Section 17730. Family Child Care Home Education Networks.

This section is added to specify that contractors operating a CSPP through a family child care home education network must meet all applicable requirements in chapter 18.5. This addition is necessary to clarify the requirements for child care home education networks, that operate a CSPP contract as they do not operate in the same format as center-based contractors, therefore, this addition will reduce confusion about the operational requirements.

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

This section is added to incorporate the requirements from EC section 8239.1 into regulations. This is necessary to ensure all requirements of the CSPP are in one place for contractors to easily access and implement.

**Proposed Section 17731(a)** is added to reflect the law that children cannot be unenrolled due to challenging behaviors except when contractors meet certain requirements. This addition is necessary to ensure contractors are aware that children are not unenrolled from the CSPP without meeting the requirements in section 17731(b).

**Proposed Section 17731(b)** is added to reflect the law that contractors must complete and document the requirements in subsections (b)(1) -(b)(4). This addition is necessary to ensure that contractors are aware of the law and making the efforts to support the child’s successful and safe participation in the CSPP.

**Proposed Section 17731(c)** is added to reflect the law regarding the responsibility of the contractor if the child is unable to maintain safe participation in the program after all steps in section 17731(b) are taken. This addition is necessary to ensure that, if unenrollment is necessary, contractors help the family facilitate the transition out of the CSPP and find another appropriate placement for the child.

**Proposed Section 17731(d)** is added to reflect the law that within 180 days contractors must complete and document the requirements in subsections (a) –(c). This addition is necessary to ensure that contractors are aware of the law and the timeline associated with these requirements.

### Proposed Section 17732. Confidentiality of Records.

This section is added to specify the use or disclosure requirements pertaining to personally identifiable family information in the contractor’s records. This section is necessary to ensure contractors are aware of their responsibilities to maintain the confidentiality of family information.

**Proposed Section 17732(a)** is added to clarify that documentation that contains information about the family is not to be shared unless it is required for the administration of the program or permitted by law. This addition is necessary to ensure that confidential family information remains confidential and is only shared in very limited circumstances as permitted by law or for purposes of implementing the early learning contract.

**Proposed Section 17732(b)** is added to require the contractor to allow parents or their authorized representatives to view the family data file, in a time and manner when reasonably requested. This addition is necessary to ensure that families have the right to review the information in their family data file if requested, and that contractors may place reasonable parameters on the time and place for viewing the file.

### Proposed Article 2. Family Fees for Full-day CSPP

### Proposed Section 17733. Family Fee Schedule.

This section is added to require contractors to determine family fees for full-day CSPP families using the most recent family fee schedule. This addition is necessary for specificity and consistency of the implementation of EC section 8273.

### Proposed Section 17734. Family Fee Assessment: Explanation to Families.

This section is added to clarify how contractors must notify families of the requirement to collect family fees and how contractors must assess the family fee. This addition is necessary for clarity and consistency of the implementation of EC section 8273.

**Proposed Section 17734(a)** is added to require families that receive full-day early learning and care services to pay a family fee, except as noted in proposed section 17735. This addition is necessary for clarity and consistency with EC sections 8273 and 8273.1.

**Proposed Section 17734(b)** is added to specify the factors that contractors will use to assess the family fee. This addition is necessary for clarity and consistency with EC section 8273.

**Proposed Section 17734(c)** is added to require the family fee to be determined based on the child that has been enrolled the longest. This addition is necessary for clarity and consistency of the implementation of EC section 8273 in the event that the family has more than one child is being served and, based on the particular schedules of the children, there is more than one possible applicable fee.

**Proposed Section 17734(d)** is added to clarify that the contractor must charge the family the lowest fee applicable to the family. This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5 and to recognize that it would not be fair to charge a fee which exceeds the actual cost of services or the maximum daily/hourly rate for part-time families.

**Proposed Section 17734(e)** is added to specify that the family fee does not change due to absences. This addition is necessary for clarity and consistency of the implementation of EC section 8273 and also for purposes of fairness to the contractor, who must be prepared to provide services irrespective of an absence.

**Proposed Section 17734(f)** is added to specify that the family fee is the cost per family to receive services and the family must not be charged per individual child or be charged extra for services. This addition is necessary for clarity and consistency with the implementation of EC section 8273.

**Proposed Section 17734(g)** is added to require contractors to keep records of family fees. This addition is necessary to ensure contractors have documentation for monitoring purposes.

**Proposed Section 17734(h)** is added to require the contractor to provide the family with written information about family fees. This addition is necessary to ensure families are informed of the family fee that has been assessed for their family and all policies applicable to the collection, assessment, and delinquency of fees.

**Proposed Section 17734(i)** is added to require contractors to assess the fee based on the certified need as stated on the family’s application. This subsection further clarifies that contractors will need to adjust the family fee assessment in months where the family does not utilize their full month of services due to certifying in the middle of the month or due to planned program closures. This addition is necessary for clarity and consistency to ensure families are not overcharged for months when services are not available to the family.

**Proposed Section 17734(j)** is added to clarify that families not exempt from family fees are required to pay a family fee, even when they do not have to submit income documentation to determine income eligibility. This is necessary to clarify that families certified under eligibility criteria that does not require the family to submit income documentation, such as experiencing homelessness and FRPM eligibility, are still required to pay a family fee and must self-certify their income in order for the contractor to assess the family fee.

**Proposed Section 17734(k)** is added to clarify that families whose incomes are higher than the family fee schedule will pay the highest fee rate for their family size. This addition is necessary to clarify what fee contractors must assess for families with incomes higher than what is represented on the family fee schedule.

### Proposed Section 17735. Exceptions to Family Fee Assessment.

This section is added to clarify which families are exempt from paying a family fee. This addition is necessary for clarity and consistency of the implementation EC section 8273.1.

**Proposed Section 17735(a)** is added to specify that a family fee is not assessed when the service plan for a child that receives child protective services or is at-risk requires the family to be exempt from paying a family fee. This addition is necessary to ensure it is clear to contractors that family fees must not be assessed only when the service plan requires it, and the exemption from being assessed a family fee is only applicable for 12 months.

**Proposed Section 17735(b)** is added to clarify that part-day CSPP families are not required to pay a family fee. This addition is necessary to align with EC section 8273.1.

**Proposed Section 17735(c)** is added to clarify that families with incomes that are less than the first entry on the family fee schedule are not required to pay a family fee. This addition is necessary to ensure that family fees are not more than 10 percent of the family’s income pursuant to EC section 8273(d).

**Proposed Section 17735(d)** is added to clarify that families who receive CalWORKs cash aid are exempt from a fee assessment. This addition is necessary to align with EC section 8273.1.

### Proposed Section 17736. No Additional Payments or Costs; Exceptions.

This section is added to clarify that families are not required to pay for additional costs. This addition is necessary for clarity and consistency of the implementation of EC section 8273.3.

**Proposed Section 17736(a)** is added to clarify that contractors must not require additional payments from families except as provided for in section 17736(b). This addition is necessary to ensure families are not charged for additional costs above the required family fee in alignment with EC section 8273.3.

**Proposed Section 17736(b)** is added to clarify when the contractor can charge additional costs and specifies the requirements on the contractor if they choose to charge families for field trips. This addition is necessary so there is clarity and consistency in the interpretation and application of EC section 8273.3 and the CSPP regulations in chapter 18.5.

**Proposed Section 17736(c)** is added to clarify that contractors must have a written policy adopted by the governing board in order to require the family to provide diapers if they are needed for the child. This addition is necessary for clarity and consistency of the implementation of EC section 8273.3.

### Proposed Section 17737. Credit for Fees Paid to Other Service Providers.

This section is added to clarify that families will receive a family fee credit when the family is required to pay for additional childcare services because the contractor cannot meet the certified needs of the family. This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17737(a)** is added to require contractors to apply a family fee credit for the cost of additional services needed by the family to meet the certified need that has been established. For example, if a family’s certified need is for the hours of 12 p.m. through 9 p.m. and the contractor is only open until 6 p.m., the family can choose to pay another provider to care for the child between 6 p.m. and 9 p.m. and have the cost of those services applied as a credit to the monthly family fee. This addition is necessary to ensure that families receive the services necessary for their certified need without undue burden to the family.

**Proposed Section 17737(b)** is added to require the contractor to apply the family fee credit in the billing period that immediately follows the services and limits the family from applying the credit beyond the following month. This addition is necessary to ensure that families receive the family fee credit in a timely manner.

**Proposed Section 17737(c)** is added to require the contractor to collect documentation of the payment for the family’s additional childcare services. This addition is necessary to ensure that families are receiving the proper family fee credit amount.

### Proposed Section 17738. Receipt for Payment of Fee; Retention of Copy for Records.

This section is added to require contractors to keep documentation of family fees that were paid. This addition is necessary to ensure contractors have the proper records to determine the amount paid in family fees during each program year.

**Proposed Section 17738(a)** is added to require the contractor to keep an original, pre-numbered, receipt for each fee that is paid. This addition is necessary for audit purposes to ensure that contractors are keeping the necessary records.

**Proposed Section 17738(b)** is added to clarify where contractors must keep their receipts of collected fees. This addition is necessary to ensure contractors have the applicable records for an audit or contract monitoring.

### Proposed Section 17739. Delinquent Family Fees; Notice of Delinquency; Plan for Payment.

This section is added to require contractors to keep documentation of family fees that were paid. This addition is necessary to ensure contractors have the proper records to determine the amount paid in family fees during each program year.

**Proposed Section 17739(a)** is added to clarify when family fees are delinquent. This addition is necessary so there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5 and to set a time period that considers the interests of both the contractor and the family.

**Proposed Section 17739(b)** is added to specify what information must be included in the Notice of Action, Recipient of Services for family fees. This addition is necessary so there is clarity and consistency in the information given to parents across the state and so they have sufficient information to determine whether they agree with the action being taken.

**Proposed Section 17739(c)** is added to allow families and contractors to determine a reasonable repayment plan if the family is unable to pay family fees when they are due. This addition is necessary to provide some flexibility to families to repay the family fee so the family does not lose care immediately if they are delinquent.

### Proposed Section 17740. Consequences of Nonpayment of Delinquent Fees.

This section is added to clarify that if a family is terminated due to delinquent family fees, they are unable to receive services again until they have paid the outstanding balance. This addition is necessary to ensure that families pay for the services that they receive.

### Proposed Article 3. Collaborative Programs for CSPP

### Proposed Section 17741. Collaborative Monitoring for Head Start Programs.

This section is added to give Head Start grantees, that are also CSPP contractors, flexibility by allowing them to provide monitoring documentation to the CDE, from other local, state, or federal monitoring agencies, to determine compliance with the CDE contract. This addition is necessary to reduce the administrative burden on contractors that is associated with the contract monitoring process when a contractor is also a Head Start grantee.

### Proposed Section 17742. Collaborative Transitional Kindergarten Programs.

This section is added to specify the requirements for programs that commingle CSPP children and TK children in the same classroom. This addition is necessary for clarity and consistency of the implementation of EC section 48000 and so that CSPP contractors have applicable requirements in one place.

**Proposed Section 17742(a)** is added to specify that in regards to CSPP children, only those four-year-olds, and not CSPP three-year-olds, may be commingled in a classroom with TK children. This addition is necessary to align with EC section 48000.

**Proposed Section 17742(b)** is added to specify the requirements for the classroom when CSPP children are commingled in a TK classroom. This addition is necessary to align with EC section 48000.

## Proposed Subchapter 5. Admission and Enrollment Requirements

### Proposed Article 1. Admission Requirements

### Proposed Section 17743. Admission Policies and Procedures; Interview.

This section is added to include a requirement for contractors to have admission policies available to all families. This addition is necessary to ensure that all families have access to the admission policies for the program for which they are enrolling.

**Proposed Section 17743(a)** is added to require contractors to make admission policies available to the public. This addition is necessary to ensure that all families have access to the admission policies for the program for which they are enrolling.

**Proposed Section 17743(b)** is added to ensure that admission policies are aligned with the requirements of CCR, title 22, section 101218.1 except as otherwise provided by law, such as for when a contractor is exempt from Title 22 licensing requirements. Title 22, CCR section 101218.1 requires that the contractor conduct an interview of the parent(s) to learn information about the child’s health and emotional needs and to inform the parent(s) about the contractor’s policies. It also requires that parents are be made aware of many rights that they have regarding inspection of the facility by licensing and the right to file complaints with regional licensing offices. This addition is necessary to ensure that contractors subject to licensing have a minimum standard of what to include in the program admission policies for the benefit of families.

### Proposed Section 17744. Waiting List; Displacement

This section is added to include the requirement for contractors to maintain a waiting list and how contractors must displace families if it is necessary. This addition is necessary to ensure contractors have clear guidance for waitlist and displacement requirements.

**Proposed Section 17744(a)** is added to clarify how contractors are required to maintain the waiting list. This addition is necessary to align with enrollment priorities established in law and ensure that contractors are contacting families to enroll in priority order.

**Proposed Section 17744(b)** is added to clarify how families must be displaced if it becomes necessary. This addition is necessary to align with EC section 8263.3(b) and to include the requirements in the regulations so contractors are able to easily access the information.

### Proposed Section 17745. Residency Requirements.

This section is added to include the residency requirements for eligibility in the CSPP. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17745(a)** is added to require the parent and child to reside in California when receiving early learning and care services. This addition is necessary to ensure that families served using state funds are residents of the state.

**Proposed Section 17745(b)** is added to include what evidence will be accepted to establish residency and to exempt proof of residency for families experiencing homelessness. This addition is necessary to alleviate the difficulties with proving residency for homeless families and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17745(c)** is added to clarify that the family’s immigration status does not prevent the family from being eligible for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Article 2. Enrollment Priorities

### Proposed Section 17746. Enrollment Priorities for Part-Day California State Preschool Programs.

This section is added to clarify the enrollment priorities for part-day CSPP. This addition is necessary to clarify the different enrollment priorities for part-day CSPP from full-day CSPP and to align with the priorities in Education Code section 8236.3. Section 17746 incorporates, with amendments, the current CCR, title 5, section 18131, which is proposed to be deleted.

**Proposed Section 17746(a)** is added to state the first priority for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17746(b)** is added to state the second priority for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17746(c)** is added to state the third priority for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17746(d)** is added to state the fourth, fifth, and sixth enrollment priorities for early learning and care services. All of the priorities listed in this subsection are permissive; therefore, the contractor does not have to enroll families using these eligibility priorities. However, if the contractor chooses to enroll families under any one of these provisions, they must enroll families in the order listed. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17746(e)** is added to clarify that when a child is certified for services due to being a recipient of child protective services or because the child has a disability, the family must also certify their eligibility to enroll additional children in the family. This addition is necessary to ensure compliance with eligibility requirements and ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17746(f)** is added to allow families to enroll all children in the program once the family is certified for services, as long as all children meet the requirements in subsection (e). This addition is necessary to clarify that when a family is certified as eligible for services, they are certified for all children in the family that are eligible. It is necessary to differentiate between when the family is certified for services and when the child is certified for services, such as when a child is eligible because they are a recipient of child protective services or the child has a disability.

**Proposed Section 17746(g)** is added to prohibit contractors from denying or assigning a lower priority for early learning and care services for families with a less than a full-time need. This addition is necessary to ensure that families are not denied services on the basis of the family not needing full-time services.

### Proposed Section 17747. Enrollment Priorities for Full-Day California State Preschool Programs.

This section is added to clarify the enrollment priorities for full-day CSPP. This addition is necessary to clarify the different enrollment priorities for full-day CSPP from part-day CSPP and to align with the priorities in EC sections 8236, 8236.3, and 8263.

**Proposed Section 17747(a)** is added to state the first enrollment priority for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17747(b)** is added to state the second enrollment priority for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17747(c)** is added to state the third enrollment priority for early learning and care services. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17747(d)** is added to state the fourth and fifth enrollment priorities for early learning and care services. All of the priorities listed in this subsection are permissive therefore the contractor does not have to enroll families using these eligibility priorities. However, if the contractor chooses to enroll families under any one of these provisions, they must enroll families in the order listed. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC sections 8236, 8236.3, and 8263.

**Proposed Section 17747(e)** is added to clarify that when a child is certified for services due to being a recipient of child protective services or because the child has a disability, the family must also certify their eligibility to enroll additional children in the family. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17747(f)** is added to allow families to enroll all children in the program once the family is certified for services, as long as all children meet the requirements in subsection (e). This addition is necessary to clarify that when a family is certified as eligible for services, they are certified for all children in the family that are eligible. It is necessary to differentiate between when the family is certified for services and when the child is certified for services, such as when a child is eligible because they are a recipient of child protective services or the child has a disability.

**Proposed Section 17747(g)** is added to prohibit contractors from denying or assigning a lower priority for early learning and care services for families with a less than a full-time need. This addition is necessary to ensure that families are not denied services on the basis of the family not needing full-time services.

### Proposed Section 17748. Enrollment Priorities for Head Start Collaborative.

This section is added to clarify how CSPP contractors who are also Head Start grantees must prioritize enrollment. This addition is necessary to clarify how contractors must align CSPP and Head Start enrollment priorities. Section 17748 incorporates, with amendments, the current CCR, title 5, section 18131.1, which is proposed to be deleted.

**Proposed Section 17748(a)** is added to clarify the enrollment priority order for CSPP contractors that are also Head Start grantees. This addition is necessary to provide clear direction to contractors how to prioritize enrollment when you have two different programs being implemented so it is consistent across the state.

**Proposed Section 17748(b)** is added to clarify that all families must meet eligibility criteria for part-day or full-day CSPP. This addition is necessary to ensure that all families receiving state funded early learning and care services are eligible for those services.

## Proposed Subchapter 6. Certifying Eligibility and Need for Services

### Proposed Article 1. Eligibility and Need Requirements

### Proposed Section 17749. Age Limitations.

This section is added to clarify the age limitations for the CSPP. This addition is necessary to align eligibility for services with the age definitions in EC section 8208.

**Proposed Section 17749(a)** is added to specify that four-year-old children as defined in EC section 8208 are eligible for CSPP services. This addition is necessary to ensure that if the definition of a four-year-old changes in EC, then the regulations will not need to be updated to reflect the change.

**Proposed Section 17749(b)** is added to specify that three-year-olds as defined in EC section 8208 are eligible for CSPP services. This addition is necessary to ensure that if the definition of a three-year-old changes in the EC, then the regulations will not need to be updated to reflect the change.

**Proposed Section 17749(c)** is added to specify that five-year-old children that are enrolled in CSPP during the summer immediately preceding kindergarten are eligible for CSPP services if they were enrolled in the CSPP on or before June 30 of that year. This addition is necessary for clarity and consistency in the interpretation of this requirement across the state to ensure access to CSPP services for five-year-old children until kindergarten entry.

### Proposed Section 17750. Eligibility Requirements for Part-Day CSPP.

This section incorporates, with amendments, the current CCR, title 5, section 18133, which is proposed to be deleted.

**Proposed Section 17750(a)** is added to clarify that families must be eligible pursuant to EC section 8263(a)(1)(A) unless they meet the criteria listed in section 17750(b) or (c). This addition is necessary to clarify that part-day families are required to meet eligibility criteria in order to receive early learning and care services.

**Proposed Section 17750(b)** is added to clarify additional eligibility provisions for part-day families pursuant to EC sections 8235 and 8236.3. This addition is necessary to clarify all eligibility criteria for the part-day CSPP in one section.

### Proposed Section 17751. Eligibility and Need Requirements for Full-Day CSPP.

**Proposed Section 17751(a)** is added to clarify that families must be eligible pursuant to EC section 8263(a)(1)(A) and (B) unless they meet the criteria listed in section 17751(b) or (c). This addition is necessary to clarify that full-day families are required to meet eligibility criteria in order to receive early learning and care services.

**Proposed Section 17751(b)** is added to clarify that full-day CSPP contractors may enroll three and four-year-olds if the family is eligible for services, but does not establish a need for services but only after all eligible children have been enrolled. This addition is necessary to ensure there is clarity and consistency in the interpretation and application of EC section 8263(a)(2).

**Proposed Section 17751(c)** is added to clarify that families that do not establish eligibility or a need for services may enroll at a CSPP FRPM site. This addition is necessary to ensure clarity and consistency in the interpretation and application of EC section 8236.3 and to specify that the family and the CSPP FRPM site must be within the same attendance boundary of the qualified FRPM school.

### Proposed Article 2. Certification and Recertification of Eligibility Requirements

### Proposed Section 17752. Initial Certification of Eligibility for Part-day and Full-day CSPP.

**Proposed Section 17752(a)** is added to provide the directive that families will be certified for early learning and care services based on the documentation provided in the family data file and references section 17758 that contains the requirements of the family data file. This section further clarifies that part-day CSPP contractors can begin initial certifications up to 120 days prior to the beginning of the school year and that full-day CSPP contractors can begin initial certifications up to 30 days prior to the beginning of the school year, but no earlier. Finally, this section clarifies the difference in how 12-month eligibility is implemented for part-day CSPP and full-day CSPP. This addition is necessary to align the requirements for initial certification and to provide contractors with clear direction in order to ensure implementation is consistent throughout the state.

**Proposed Section 17752(b)** is added to provide that when a family is certified as income eligible for full-day CSPP, they shall be made aware of the reporting requirements in writing should the family exceed income limits. The added language is necessary so that contractors may ensure that families are adhering to the new requirement in EC section 8263(h)(2) which requires that families are responsible for reporting when their income exceeds 85 percent of the state median income. This new section further references proposed section 17755, which provides the specific process by which contractors shall ensure that families are notified about this reporting requirement.

**Proposed Section 17752(c)** is added to clarify that although a family’s certification of eligibility and need is valid for 12 months, a family may be disenrolled prior to completion of their 12-month eligibility period as otherwise provided for in law or regulation and for the reasons specified in sections 17752(c)(1), (c)(2), and (c)(3). This is necessary for clarity and consistency of these regulations.

**Proposed Section 17752(d)** is added to provide direction that if a family is disenrolled prior to the completion of their 12-month eligibility period, they have due process rights and must be appropriately notified. This is necessary for clarity and consistency of these regulations and to comply with due process.

### Proposed Section 17753. Recertification of Eligibility for Full-Day CSPP.

**Proposed Section 17753(a)** is added to clarify that full-day CSPP contractors shall complete the recertification of eligibility no more than 30 calendar days after the parent has signed the application for services. This addition is necessary to ensure families are receiving services in a timely manner and have access to care as soon as possible.

**Proposed Section 17753(b)** is added to provide clear direction on the timeline for the completion of the full-day CSPP recertification process. This change provides agencies 50 days for recertification from the anniversary date of the 12-month certification or 30 days from the date the parent signs the application of services, pursuant to section 17782(b), whichever comes first. Meanwhile, the child is entitled to services unless found to be ineligible, served with a Notice of Action, and all appeals, if filed, have been exhausted, in accordance with due process requirements. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state, and that implementation also aligns with the requirements of EC section 8263.

**Proposed Section 17753(c)** is added to clearly define the contractor’s responsibilities to ensure that the recertification process is completed within the 50 days stated in proposed section 17753(b) and that the contractor is provided with all of the information necessary to complete the process. This is necessary in order to provide contractors with clear direction and ensure implementation is consistent throughout the state.

**Proposed Section 17753(d)** is added to clearly articulate that once eligibility is certified, families must continue to receive services for no less than 12 months, except as otherwise provided in law or regulation. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state and to align with the requirements EC section 8263(h).

**Proposed Section 17753(e)** is added to ensure families that are eligible because they meet income requirements are notified in writing of the maximum income threshold for their family and the requirement to report when their income exceeds the threshold for continued eligibility. This is necessary to ensure compliance with EC section 8263(h)(2).

**Proposed Section 17753(f)** is added to clearly articulate some of the reasons a family may be disenrolled prior to the 12-month period. This is necessary to provide contractors with clear direction and ensure implementation is consistent with other state and federal laws and with public policy. Additionally, further clarification is provided to ensure that if substantiated evidence of fraud is found, a family may only be disenrolled if the information invalidates the family’s eligibility and the family is not otherwise eligible. If the family would otherwise remain eligible, there is no action that needs to be taken. This addition is necessary for clarity and consistency of the regulations.

**Proposed Section 17753(g)** is added to provide contractors with direction on due process requirements that must be followed when disenrolling families prior to recertification. This is necessary to provide contractors with clear direction and ensure implementation is consistent with due process.

**Proposed Section 17753(h)** is added to require that contractors attempt to make every effort to ensure that the recertification process is convenient for families and does not disrupt their education, training, or employment. This is necessary to ensure families have a full and fair opportunity to be recertified for services.

### Proposed Section 17754. Certified Schedule for CSPP Full-Day Families with No Established Need.

This section is added to clarify the maximum hours of care that will be available to families without an established need for services. This addition is necessary to ensure the implementation is consistent statewide.

**Proposed Section 17754(a)** is added to clarify that families without an established need are limited to no more than 10 hours of care per day. This addition is necessary to ensure implementation is consistent statewide.

**Proposed Section 17754(b)** is added to clarify that families without an established need that require more than 10 hours of care per day, they must provide documentation to support the request. This addition is necessary to ensure implementation is consistent statewide.

### Proposed Section 17755. Requirement to Report when Income Exceeds Statutory Threshold for Income Eligibility.

This sectionis added to define more clearly the responsibilities of the contractor to ensure the family meets the income reporting requirement. This is necessary to include to align with the requirements of EC section 8263.1(b).

**Proposed Section 17755(a)** is added to provide contractors with a clear expectation of all of the information that must be provided to families who receive services on the basis of income eligibility to fully understand their responsibility for reporting income when it exceeds the threshold for continued eligibility. This further clarifies that when a parent is notified of the maximum income that could be earned in order to remain eligible for services, it is important the parent is told that this maximum amount takes into account income fluctuations calculated pursuant to section 17759. It is essential for parents to know that an occasional spike in income may not cause the family’s adjusted monthly income to exceed the income threshold level. This is necessary to ensure that families are not held responsible for reporting information that has not been clearly explained to them and to ensure that regulations are consistently implemented in alignment with EC section 8263.1(b).

**Proposed Section 17755(b)** is added to provide specific guidance for contractors to determine if a family remains income eligible, including the different processes to follow depending on whether the family is determined to be income eligible or not. It also reminds the contractor to determine whether there is any other basis for eligibility in the event that the family is no longer income eligible and to adhere to due process requirements if they are not.

### Proposed Section 17756. A Family’s Right to Voluntarily Request Changes.

This section is added to provide information describing both the family’s and the contractor’s responsibilities in the event that a family voluntarily reports income or other changes to reduce their fees, increase their services, or extend the period of eligibility before their next recertification. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state and to align with the requirements of EC section 8263(h)(4).

**Proposed Section 17756(a)** is added to clarify that families may voluntarily report changes, such as requesting a reduced family fee or an increase in services, but are no longer required to do so. Prior to enactment of 12-month eligibility, when the family’s circumstances changed, families were required to provide documentation of those changes, depending what the changes were, within a specific time period or risk being disenrolled for failure to do so. In addition, when changes were requested, the contractor could look at other aspects of eligibility and disenroll families in between certifications. That requirement has been eliminated now with the implementation of 12-month minimum eligibility. Instead, EC section 8263(h)(4) now provides the option to a family to voluntarily report income or other changes if it could benefit their family situation without having any other issues raised. This subsection is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state and to align with the requirements of EC section 8263.

**Proposed Section 17756(b)** is added to clearly define the process and timelines contractors must follow when a family voluntarily reports changes to reduce their family fees. The contractor is also reminded that the information must not be used for any other reason besides reducing the fee. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state and to align with the requirements of EC section 8263.

**Proposed Section 17756(c)** is added to set forth that the effective date of any fee reduction shall be the first day of the subsequent month. This is necessary because family fees are paid on a monthly basis and such a change benefits the family and should not be delayed. Such language is consistent with the intent of the revisions in EC section 8263.

**Proposed Section 17756(d)** is added to set forth the process to be followed by a contractor if a family requests an increase to their certified schedule during the 12-month eligibility period. It provides for a contractor to request documentation to support the requested change and, if the documentation supports the change, provides appropriate due process to the parent but, because the change benefits the family, the contractor can make the effective date of the change immediate. For CSPP contractors programs, this would be based on whether there was availability in the program. The regulation further provides that no other changes be made, consistent with ECsection 8263.

**Proposed Section 17756(e)** is added to provide a process for families to request a reduction to a family’s service level. Although it is the intent of these programs to provide consistent high-quality early learning and care services to families and children, some families may not find it beneficial and instead may choose to reduce their service level. These additions are necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state and to give guidance in the event a family requests a reduction in their service level, which is a situation that is not addressed in the EC section 8263(h)(4).

**Proposed Section 17756(f)** is added to provide further clarification of the process and timeline which needs to be followed by the contractor once a family requests a reduction to their service level during the 12-month eligibility period. This is necessary to ensure parents know that they may continue to bring their child pursuant to the current certified schedule and that their request will not be used to support other changes. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state and to align with the requirements of EC section 8263.

## Proposed Subchapter 7. Family Data File

### Proposed Article 1. Requirements of the Family Data File

### Proposed Section 17757. Application for Services: Contents.

This section is added to include the requirements for the contents of the application for services. This addition is necessary to ensure there is statewide consistency for the application for services.

**Proposed Section 17757(a)** is added to require the parent’s(s’) full name(s), mailing address and contact email and telephone number information. This addition is necessary to ensure the contractor has the name of the parent applying for services and has a way to contact the family.

**Proposed Section 17757(b)** is added to require the parent to disclose the names and birthdates of all children in the family under the age of 18. This addition is necessary for the contractor to assess the family size.

**Proposed Section 17757(c)** is added to require the parent to disclose how many hours of care are needed daily. This addition is necessary to ensure that contractors are aware of the services needed by the family.

**Proposed Section 17757(d)** is added to clarify for the application for service the various bases of eligibility permissible by EC sections 8263(a)(1)(A), 8235, and 8236.3 for part-day CSPP. This is necessary in order to provide contractors with clear direction and ensure implementation is in alignment with the EC for part-day CSPP.

**Proposed Section 17757(e)** is added to clarify for the application for service the various bases of eligibility permissible by EC sections 8263(a)(1)(A), 8235, and 8236.3 for full-day CSPP. This is necessary in order to provide contractors with clear direction and ensure implementation is in alignment with the EC for full-day CSPP.

**Proposed Section 17757(f)** is added to clarify for the application for services the various bases for need criterion permissible with EC sections 8263 and 8236.3 for full-day CSPP. This is necessary in order to provide contractors with clear direction and ensure implementation is in alignment with the EC for full-day CSPP.

**Proposed Section 17757(g)** is added to clarify the information that should be obtained for an application for services when the need for services is based on employment, vocational training or engagement in educational programs. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state as to the information that is necessary to collect.

**Proposed Section 17757(h)** is added to clarify that the family size and the family’s adjusted monthly income is required for the application for services. This is necessary to provide contractors with clear direction and ensure implementation is consistent throughout the state.

**Proposed Section 17757(i)** is added to allow for flexibility with respect to the application for services in the event that federal regulations later require collection of additional information from families.

**Proposed Section 17757(j)** is added to clarify that a parent’s signature must be signed under penalty of perjury. This is necessary to ensure that the information is correct and, in the event of any fraudulent representations, appropriate action can be taken.

**Proposed Section 17757(k)** is added to clarify that by signing the application for services, the contractor’s authorized representative is certifying that after reviewing all the documentation provided, the family meets requirements to receive early learning and care services. This change is necessary to ensure clarity and consistency of these regulations.

**Proposed Section 17757(l)** is added to require the family to include their preferred communication method. This addition is necessary to provide flexibility to families to decide how they prefer to receive official communications from the contractor.

### Proposed Section 17758. Contents of Family Data File.

This section is added to specify the documentation required in the family data file. This addition is necessary to ensure implementation is consistent statewide for monitoring purposes.

**Proposed Section 17758(a)** is added to require contractors to maintain a family data file. This addition is necessary to ensure that contractors have a data file for each enrolled family as such information is necessary for purposes of implementation of the program and for program monitoring.

**Proposed Section 17758(b)** is added to require the family data file to contain the application for services and any documentation needed to certify eligibly and need for the family. This addition is necessary to ensure contractors keep the documents used to determine eligibility and need on file for monitoring purposes.

**Proposed Section 17758(c)** is added to include other documentation that should be included in the family data file, other than documentation related to determining eligibility and need. “Documentation of a child’s disability” was added to this section as such documentation does not specifically pertain to eligibility and need but can be necessary to supporting a rate or determining services to be provided. This section further clarifies what child health and safety records are required to be kept on file by each type of facility or contractor. It also requires that the file contain documentation of notices to the parent regarding obligation to report excessive income, documentation of family residency, and any applicable Notices of Action pursuant to specified sections. This addition is necessary to ensure all contractors keep necessary documentation included in the family data file and is consistent statewide.

### Proposed Article 2. Requirements of Income Calculation

### Proposed Section 17759. Income Calculation.

This section is added to clarify how income must be calculated. This addition is necessary to ensure the calculation of income is consistent statewide.

**Proposed Section 17759(a)** is added to require contractors to use an income calculation worksheet to calculate the family fee or to determine income eligibility. This addition is necessary to ensure that contractors are correctly documenting the calculation process for monitoring purposes.

**Proposed Section 17759(b)** is added to specify what is required for the income calculation worksheet when the family has regular and steady income. This addition is necessary to ensure income calculation worksheets are implemented consistently statewide.

**Proposed Section 17759(c)** is added to clarify that when a family has fluctuating income the contractor must calculate the adjusted monthly income by averaging the income from the previous 12 months. This addition is necessary to clarify the difference in calculating income for families with fluctuating income from families with regular or stable income.

### Proposed Section 17760. Exceptions to Calculation of Adjusted Monthly Income for Military Personnel.

This section is added to allow an adjustment to the income calculation for military families that receive a military housing allowance. This addition is necessary to ensure implementation is consistent statewide. Section 17760 incorporates, with amendments, the current CCR, title 5, section 18134, which is proposed to be deleted.

**Proposed Section 17760(a)** is added to allow contractors to exclude the basic housing allowance for families that live on a military base or in military housing, when the CSPP site is within close proximity of the military base or housing and there is space in the program. This addition is necessary as, without such provision, many military families would be unable to access services as counting the housing allowance often renders them ineligible based on being over income.

**Proposed Section 17760(b)** is added to clarify that contractors must obtain prior written approval from the SSPI or their designee before excluding the basic housing allowance. This addition is necessary to ensure fairness and not allow families to access services who have sufficient financial ability to pay for non-subsidized services.

### Proposed Article 3. Documentation Requirements

### Proposed Section 17761. Documentation and Determination of Family Size.

This section is added to clarify what documentation is needed in order to determine family size. This addition is necessary to ensure contractors have the applicable documentation needed to support the information provided by the parent in the application for services and to ensure consistency statewide.

**Proposed Section 17761(a)** is added to require the family to provide documentation that supports the family size stated on the application for services and explains the documentation necessary to verify the family members. This addition is necessary to ensure contractors have access to the supporting documentation for monitoring purposes. This section is also added to allow one parent to self-certify the presence or absence of the second parent. This is necessary to align with EC section 8263(a)(3).

**Proposed Section 17761(b)** is added to clarify how the family size of a child who receives services and is living in a family that does not include their biological or adoptive parent must be calculated. This section further clarifies that the adult who is responsible for the child must still establish a need criterion if they are requesting full-day CSPP services. This addition is necessary to ensure there is clarity and consistency in the interpretation and statewide application of the CSPP regulations in chapter 18.5 as applied to foster children and other children not living with their biological or adoptive parent.

### Proposed Section 17762. Documentation of Income Eligibility; Income and Family Fees.

This section is added to clarify what documentation is needed in order to document income eligibility, income, and family fees. This addition is necessary to ensure contractors have the applicable documentation needed to support the determination of eligibility or the assessment of family fees.

**Proposed Section 17762(a)** is added to require the parent(s) to provide documentation for all total countable income for all individuals in the family size and specifies what type of documentation is required and what the contractor should do under specific situations, including when it may be difficult to obtain the necessary documentation. This addition is necessary to ensure contractors know how to obtain the documentation needed to support the determination of income eligibility or for the assessment of family fees, to ensure contractors are acting in a reasonable manner and not demanding unnecessary documentation, and to ensure they are acting in a consistent manner statewide.

**Proposed Section 17762(b)** is added to set forth the steps the contractor should take to document and verify the income of the parent(s) in order for the contractor to establish income eligibility and/or assess a family fee. This addition is necessary to ensure contractors are implementing the income calculation process consistently across the state.

**Proposed Section 17762(c)** is added to clarify that families who are exempt from paying a family fee because the child is receiving child protective services, or is at risk of abuse, neglect, or exploitation and the service plan or written referral requires the family fee to be waived, are not required to provide documentation for total countable income.

**Proposed Section 17762(d)** is added to clarify that contractors must use the income calculation requirements in this section and the determination of family size from section 17761 to determine the family fee. This addition is necessary to ensure contractors are implementing the family fee assessment consistently across the state.

### Proposed Section 17763. Documentation of Need for Full-Day CSPP: In General.

This section is added to clarify the acceptable documentation needed to verify a family’s need for full-day services. This addition is necessary to ensure contractors have the applicable documentation required to support the determine the family’s need for services.

**Proposed Section 17763(a)** is added to require each parent in the family to meet one need criterion to receive full-day CSPP services, unless the family is eligible pursuant to EC sections 8236.3 or 8263(a)(2). This addition is necessary to ensure compliance with EC requirements which require there be a need established for full-day services, except when otherwise provided for in law.

**Proposed Section 17763(b)** is added to clarify additional circumstances required for families to receive full-day early learning and care services. This addition is necessary to ensure the state is not paying for a child to receive CSPP services while the family does not have a need for services, while another parent in the family is available and capable of providing care for the child, or when supervision to the child is being provided by another entity.

**Proposed Section 17763(c)** is added to provide that a parent may provide new documentation to support an increase in their certified schedule because of a new or existing additional need requirement. This addition is necessary to ensure that parents understand their rights, that contractors have clear direction, and that implementation is equitable throughout the state. It is also necessary to align with the requirements of EC section 8263.

**Proposed Section 17763(d)** is added to include the requirement for families to provide a written request to decrease the certified schedule and for the contractor to notify the family of their right to maintain their certified schedule. This addition is necessary to ensure continuity of care, to provide contractors with clear direction, to ensure implementation is equitable throughout the state, and to align regulations with the requirements of EC section 8263.

**Proposed Section 17763(e)** is added to ensure that contractors understand families may receive services based on more than one need criterion. For example, a parent may be approved for services to work full-time, but later may also submit documentation to obtain services to attend school at night as well. This addition is necessary to ensure continuity of care, to provide contractors with clear direction, to ensure implementation is equitable throughout the state, and to align regulations with the requirements of EC section 8263.

### Proposed Section 17764. Documentation of Need for Full-Day CSPP; Employment.

This section is added to clarify the acceptable documentation required to verify a family’s need for full-day services. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services.

**Proposed Section 17764(a)** is added to clarify what should be included in the parent’s documentation of employment. This section further clarifies that when the total hours worked per week is consistent, but the days and/or hours per day within the week vary, the documentation shall support the total number of hours worked. If the total hours worked per week are inconsistent and/or unstable, provisions in section 17764(b)(4) apply. This change is necessary to ensure clarity and consistency of these regulations.

**Proposed Section 17764(b)** is added to clarify the types of documentation needed for the parent to verify their need based on employment when the parent has an employer. This addition is necessary to ensure statewide clarity and consistency of these regulations.

**Proposed Section 17764(c)** is added to clarify the types of documentation needed for the parent to verify their need based on employment when the parent is self-employed. This addition is necessary to ensure statewide clarity and consistency of these regulations.

**Proposed Section 17764(d)** is added to specify how contractors determine the number of days and hours of service for a parent’s travel and sleep time when need is based on employment. This addition is necessary to ensure statewide clarity and consistency of these regulations and to allow parents the opportunity to have a reasonable number of hours of care when necessary for their travel to or from work or for them to be able to sleep, when their hours of employment include particular nighttime hours.

### Proposed Section 17765. Documentation of Need for Full-Day CSPP: Employment in the Home or a Licensed Family Child Care Home; Service Limitations.

This section is added to clarify the acceptable documentation required to verify a family’s need for full-day services when the parent works in the home or in a licensed family child care home. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services and for purposes of monitoring.

**Proposed Section 17765(a)** is added to clarify that all requirements of section 17764 apply in addition to the requirements of this section when the parents works from home or works in a licensed family child care home. This addition is necessary to ensure that contractors understand the documentation requirements and reduces duplicating the requirements from section 17764.

**Proposed Section 17765(b)** is added to clarify the additional documentation required for families that work in the family home, or on property that includes the family’s home. This addition is necessary to ensure that families are unable to provide supervision of the child(ren) before they are approved for CSPP services.

**Proposed Section 17765(c)** is added to clarify that if the parent is a licensed family child care home provider or a license-exempt provider, they are not able to receive services for their child during the hours of their work as a child care provider. This addition is necessary because the parent’s employment does not preclude the parent from supervising their own children during the hours of employment.

**Proposed Section 17765(d)** is added to clarify the documentation required to receive services if the parent is an assistant in a large family child care home and is requesting services in the same family child care home. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services.

### Proposed Section 17766. Documentation of Need for Full-day CSPP: Seeking Employment; Service Limitations.

This section is added to clarify the acceptable documentation required to verify a family’s need for full-day services. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services.

**Proposed Section 17766(a)** is added to clarify that service hours are limited to less than 30 hours and no more than five days per week when a parent’s need for services is seeking employment. This addition is necessary to ensure there is a reasonable limitation and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17766(b)** is added to clarify that the parent must submit a written parental declaration signed under penalty of perjury in order to receive full-day CSPP services. This addition is necessary to ensure parents are held accountable and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17767. Documentation of Need for Full-Day CSPP: Educational Programs; Service Limitations.

This section is added to include a new category of need. This new category of need was established in ECsection 8263 (a)(1)(B)(ii)(ll) to specifically add engagement in particular educational programs as a separate category of need. The requirements and limitations of this proposed section 17767 are the same requirements and limitations as those in section 17768 Documentation of Need: Vocational Training; Service Limitations in order to be consistent and equitable.

**Proposed Section 17767(a)** is added to provide a total service limitation on receiving services based on need to engage in educational programs. It is necessary to align requirements with those of participation in vocational training in section 17768, which similarly place a limitation on how long services may be received when based on a parent’s participation in vocational training.

**Proposed Section 17767(b)** is added to clarify that the parent has the obligation to provide documentation of need for enrollment in either an English Language Learner or English as a Second Language, General Education Development, or High School Equivalency certificate. This is necessary to align with the other documentation of need sections, which also place the burden of providing documentation on the parent.

**Proposed Section 17767(c)** is added to specifically state what documentation the parent is responsible for gathering and submitting. This is necessary so that the contractor has complete information on the days and hours that the parent will be engaged in educational programs and there is documented support for the need. This is also necessary because it aligns with the documentation requirements in section 17768 regarding participation in vocational training.

**Proposed Section 17767(d)** is added to provide that the contractor shall determine the days and hours of service based on the documentation provided and not based on extraneous information or an independent investigation. This is necessary to ensure contractors have clear and accurate instructions and ensure alignment with requirements in section 17768 regarding participation in vocational training.

**Proposed Section 17767(e)** is added to outline how online or televised classes are to be counted for purposes of supporting days and hours of need for care. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17768 regarding participation in vocational training.

**Proposed Section 17767(f)** is added to specify how contractors determine the number of days and hours of service for a parent’s travel and study time when need is based on engagement in educational programs. This is necessary to ensure contractors have clear and accurate instructions and ensure alignment with requirements in section 17768 regarding participation in vocational training.

**Proposed Section 17767(g)** is added to provide contractors clarity that a parent may voluntarily request changes and provides a reference to section 17756 which provides additional directive when a parent requests a change to their certified schedule. This is necessary to ensure contractors have clear and accurate instructions and ensure alignment with requirements in section 17768 regarding participation in vocational training.

**Proposed Section 17767(h) – (j)** are added to address how contractors should handle recertification when need for services is based on enrollment in educational programs. It specifically provides that a parent must show “adequate progress,” and further defines what that adequate progress consists of, and, if the parent cannot make such a showing, gives the parent only one more chance to reach adequate progress in their educational program before the contractor must terminate them from the program, unless they can establish another basis for need for services. It further bars parents that fail to make adequate progress after an additional opportunity from being enrolled for service on the basis of enrollment in educational programs for at least six months from disenrollment. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17768 regarding participation in vocational training.

### Proposed Section 17768. Documentation of Need for Full-Day CSPP: Vocational; Service Limitations.

This section is added to clarify the acceptable documentation required to verify a family’s need for full-day services when based on attending vocational training. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services.

**Proposed Section 17768(a)** is added to provide a total service limitation on receiving services based on need for vocational training. It is necessary to align requirements with those of enrollment in educational programs in section 17767, which similarly place a limitation on how long services may be received when based on a parent’s enrollment in educational programs.

**Proposed Section 17768(b)** is added to clarify when the services limitations in section 17768(a) do not apply. This addition is necessary to ensure implementation of this section is consistent statewide.

**Proposed Section 17768(c)** is added to specifically state what documentation the parent is responsible for gathering and submitting. This is necessary so that the contractor has complete information on the days and hours that the parent will be participating in vocational programs and there is documented support for the need. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17767 regarding enrollment in educational programs.

**Proposed Section 17768(d)** is added to clarify that the contractor shall determine the days and hours of service based on the documentation provided and not based on extraneous information or an independent investigation. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17767 regarding enrollment in educational programs.

**Proposed Section 17768(e)** is added to outline how online or televised classes are to be counted for purposes of supporting days and hours of need for care. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17767 regarding enrollment in educational programs.

**Proposed Section 17768(f)** is added to specify how contractors determine the number of days and hours of service for a parent’s travel and study time when need is based on participation in vocational training. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17767 regarding enrollment in educational programs.

**Proposed Section 17768(g)** is added to provide contractors clarity that a parent may voluntarily request changes and provides a reference to section 17756 which provides additional directive when a parent requests a change to their certified schedule. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17767 regarding enrollment in educational programs.

**Proposed Section 17768(h) – (j)** are added to address how contractors should handle recertification when need for services is based on participation in vocational training. It specifically provides that a parent must show “adequate progress,” and further defines what that adequate progress consists of, and, if the parent cannot make such a showing, gives the parent only one more chance to reach adequate progress in their vocational training before the contractor must terminate them from the program, unless they can establish another basis for need for services. It further bars parents that fail to make adequate progress after an additional opportunity from being enrolled for service on the basis of participation in vocational training for at least six months from disenrollment. This is necessary to ensure contractors have clear and accurate instructions and there is alignment with requirements in section 17767 regarding enrollment in educational programs.

### Proposed Section 17769. Documentation of Need for Full-Day CSPP: Parental Incapacity; Service Limitations.

This section is added to clarify the acceptable documentation required to verify a family’s need for full-day services. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services.

**Proposed Section 17769(a)** is added to clarify the certified schedule is limited to 50 hours per week for parents that establish a need for services due to parental incapacity and to clarify that families with this established need must receive services for no less than 12 months. This addition is necessary to provide a reasonable limitation on the number of hours of service, ensure compliance with EC section 8263, and also ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17769(b)** is added to clarify what documentation is needed for parental incapacity. This addition is necessary for monitoring purposes and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17769(c)** is added to specify what must be included on the documentation for parental incapacity provided by the legally qualified health professional. This addition is necessary to ensure that services are provided as necessary for an incapacitated parent and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17769(d)** is added to clarify that the contractor may contact the legally qualified professional to verify the statement provided pursuant to subsection (c). This addition is necessary for monitoring purposes and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17769(e)** is added to clarify that the days and hours certified for services must be determined between the needs of the parents and recommendation of the health professional. This addition is necessary to ensure services are being provided only as necessary and that there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17770. Documentation of Child’s Disability.

This section is added to clarify the acceptable documentation required for a contractor to claim an adjustment factor for a child with a disability. This addition is necessary to ensure contractors have the applicable documentation required to claim an adjustment factor.

**Proposed Section 17770(a)** is added to include the necessary portion of the active individual family service plan or the individualized education program. This addition is necessary to verify the child’s disability that requires an adjustment factor.

**Proposed Section 17770(b)** is added to include a statement from a legally qualified professional that the child’s disability requires special attention from adults in a care setting. This addition is necessary to verify that the contractor needs to collect the adjustment factor in order to meet the needs of the child due to the child’s disability.

### Proposed Section 17771. Documentation of Eligibility and Need: Family Experiencing Homelessness.

This section is added to clarify the acceptable documentation required to verify a family’s eligibility and need services. This addition is necessary to ensure contractors have the applicable documentation required to support the determination of the family’s eligibility and need for services.

**Proposed Section 17771(a)** is added to clarify what documentation is necessary for a family that is experiencing homelessness to meet eligibility requirements to receive services. This addition is necessary to ensure contractors have the applicable documentation required to support the determination of the family’s eligibility for services.

**Proposed Section 17771(b)** is added to clarify what information must be in the referral described in subsection 17771(a)(1). This addition is necessary to ensure contractors have the applicable documentation required to support the determination of the family’s eligibility for services and for monitoring purposes.

**Proposed Section 17771(c)** is added to clarify what documentation is necessary for a family that is experiencing homelessness to meet need requirements to receive services. This addition is necessary to ensure compliance with EC section 8263 and to ensure contractors have the applicable documentation required to support the determination of the family’s need for full-day services.

**Proposed Section 17771(d)** is added to clarify that service hours are limited to less than 30 hours and no more than five days per week when a parent’s need for services is experiencing homelessness. This addition is necessary to place reasonable limitations on the amount of services and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17771(e)** is added to require contractors to allow families to begin services immediately after signing the application for services. This subsection further clarifies that families experiencing homelessness must complete and submit all required documentation within 30 days from the date the application for services was signed. This addition is necessary to ensure families experiencing homelessness can receive services that they need right away without having all of the required documentation, but requires that they do provide all documentation within 30 days to retain services.

**Proposed Section 17771(f)** is added to clarify that the contractor must issue a Notice of Action when the contractor approves or denies services. This addition is necessary to ensure that families are properly notified and receive due process.

### Proposed Section 17772. Documentation of Need for Full-Day CSPP: Seeking Permanent Housing; Service Limitations.

This section is added to clarify the acceptable documentation required to verify a family’s need for full-day services when the need for services is based on seeking permanent housing. This addition is necessary to ensure contractors have the applicable documentation required to establish the family’s need for services.

**Proposed Section 17772(a)** is added to provide that the certified schedule is limited to 30 hours per week for parents that establish a need for services due to seeking permanent housing and to clarify that families with this established need must receive services for no less than 12 months. This addition is necessary to place reasonable limits on the services, to ensure compliance with EC section 8263, and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17772(b)** is added to clarify that the parent must submit a written parental declaration signed under penalty of perjury and specifies what information must be in the parental declaration in order to receive full-day CSPP services. This addition is necessary for monitoring purposes and to ensure there is clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17773. Documentation of Child Protective Services.

This section is added to specify that when a child’s eligibility and need for services is established based on being a recipient of child protective services (CPS) or on being identified as abused, exploited or neglected or at risk thereof, a written referral is required, and includes what information is required in the written referral. This addition is necessary to ensure contractors have the applicable documentation required to support the determination of the child’s eligibility and need for services for monitoring purposes and to ensure clarity and consistency in the interpretation and application of EC section 8263.

**Proposed Section 17773(a)** is added to clarify a written referral dated within six months is required in order to be certified for services based on being a recipient of child protective services or being identified as abused, exploited or neglected or at risk thereof. The first option for the written referral is a statement from the local county welfare department CPS unit that states that early learning and care services are necessary for the service plan. The second option for the written referral is a statement from a legally qualified professional that the child is at risk of abuse or neglect and that early learning and care services are needed to reduce or eliminate risk. This addition is necessary to ensure contractors have the applicable documentation required to support the determination of the child’s eligibility and need for services on this basis.

**Proposed Section 17773(b)** is added to specify that the written referral must include the duration of the CPS plan or the at-risk situation. This addition is necessary to ensure services are related to what is happening in the family’s life and to provide clarity and consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17773(c)** is added to specify that the written referral must include the name, contact information, and signature of the legally qualified professional who is making the referral. This addition is necessary so the contract may be able to contact the health professional and for monitoring purposes.

### Proposed Section 17774. Documentation of Family Residency for FRPM Eligibility.

This section is added to clarify the acceptable documentation required to verify the family’s address in order to determine eligibility for services. This addition is necessary to ensure implementation of EC section 8236.3 is consistent statewide.

**Proposed Section 17774(a)** is added to require that families provide proof of residency when enrolling pursuant to EC section 8236.3. This addition is necessary to align with the requirements of EC 8236.3.

**Proposed Section 17774(b)** is added to clarify what documentation may be used to provide proof of residency when enrolling pursuant to EC section 8236.3. This addition is necessary to ensure implementation of EC section 8236.3 is consistent statewide.

## Proposed Subchapter 8. Local Education Agencies Operating CSPPs Exempt from Licensing Regulations

### Proposed Section 17775. General Provisions.

This section incorporates, with amendments, the current CCR, title 5, section 18140, which is proposed to be deleted.

**Proposed Section** 17775(**a)** is added to clarify that the exemption from Community Care Licensing requirements is voluntary for local educational agencies (LEAs). This is necessary to ensure flexibility for LEAs that choose to enroll three-year-olds as defined in ECsection 8208(ai), which requires children under four years old to be served in a CSPP that is licensed in accordance with CCR, title 22. Additionally, this section clarifies that although the definition of CSPP references EC section 8235, which defines part-day as less than four hours per day for no less than 175 days, it also states that “programs shall include but not be limited to part-day...” This section is necessary to ensure consistent administration of the CSPP throughout the state.

**Proposed Section** 17775**(b)** is added to specify the obligation in Health & Safety Code section 1956.792 that LEAs choosing to be exempt from CCR, title 22 licensing requirements must continue to meet all legal and contractual requirement of the CSPP, and to specifically draw attention that this would include requirements related to program quality. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure consistent and efficient administration of the CSPP.

**Proposed Section** 17775**(b)(1)** is added to specify that, in accordance with Health & Safety Code section 1596.792(o)(1), an LEA must be “operating” a program under contract with CDE, which does not include LEA’s running a CSPP through a subcontractor. A LEA operating a CSPP under subcontract with another agency, or school buildings owned or leased to another LEA or community-based organization under contract with CDE are not exempt from CCR, title 22 licensing requirements. This section is necessary to provide clarity on contracted CSPP agencies that may be exempt from licensure and to ensure consistent and efficient administration of the CSPP throughout the state.

**Proposed Section** 17775**(b)(2)** is added to specify that a classroom exempt from CCR, title 22 licensing requirements must, pursuant to Health & Safety Code section 1596.792, be located in a school building that is in compliance with the provisions of the Field Act in conformance with Health & Safety Code section 1596.792(o)(1). This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure the health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section** 17775 **(b)(3)** is added to specifically incorporate legal requirements applicable to all LEAs in EC sections 1240 and 35186 which require that LEA facilities be safe, clean and in good repair and to ensure alignment with existing LEA school facility inspection reporting requirements. It was also added to specify the requirement applicable to all LEAs pursuant to EC section 33126.1, which requires facility inspection information to be included on an LEA’s School Accountability Report Card. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place, to provide clarity and consistency regarding good repair of facilities to ensure health and safety of children and to provide consistent and efficient administration of the CSPP.

**Proposed Section** 17775**(b)(4)** is added to specify that a classroom exempt from CCR, title 22 licensing requirements must, pursuant to Health & Safety Code section 1596.792, be in compliance with CCR, title 5 kindergarten classroom requirements. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure the health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section** 17775**(c)** is added to clarify that, in accordance with Education Code section 8208(ai), an LEA choosing to be licensed exempt shall only serve four-year-old children as defined in Education Code section 8208(aj). A LEA that serves three-year-old children as defined in Education Code section 8208(ai) shall be licensed in accordance with from title 22 Code of California Regulations. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure alignment with the intent of the Legislature to provide all four-year-olds in California with a pre-kindergarten experience and provide consistent and efficient administration of the CSPP.

**Proposed Section** 17775**(d)** is added to specify the CDE’s authority to ensure LEAs are in compliance with the requirements specified above at the time of funding award and the mechanism through which the CDE can ensure the LEA continues to meet requirements annually. This will allow CDE to provide technical assistance and take corrective action as necessary to ensure compliance. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section** 17775**(e)** is added to specify that, should the CDE determine that a LEA does not meet the requirements to be exempt from licensure, the CDE will notify California Department of Social Services, Community Care Licensing Division to ensure that licensing requirements are being met and the LEA continues to be eligible to contract to provide CSPP services. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

### Proposed Section 17776. Visual Supervision.

This section incorporates the current CCR, title 5, section 18145, which is proposed to be deleted.

**Proposed Section 17776(a)** is added to clarify what is expected by visual supervision. This clarifying language was adopted from existing CCR, title 22 requirements in order to be consistent with other early learning and care setting requirements. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17776(b)** is added to specify that program staff need to monitor and document behavioral or wellness incidences that child(ren) experience in the program to ensure transparency and open communication between parents and staff. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed section 17776(c)** is added to clarify that an adult must continually monitor ill children, including those that may need to be isolated. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

### Proposed Section 17777. Indoor Space.

This section incorporates the current CCR, title 5, section 18150, which is proposed to be deleted.

**Proposed Section 17777** is added to specify that indoor space not only be sufficient for the number of children using the space, but must meet specific requirements addressed in subsections (a)(1) through (a)(4) in alignment with existing Health & Safety Code section 1596.7925, as well as recommendations set forth in Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 4th edition, 2019 (Caring for Our Children). Proposed section 18150 is necessary to ensure children are provided a safe and healthy environment to participate in developmentally appropriate activities and to provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17777(a)** is added to specify the square footage per child requirement that is outlined in kindergarten classroom requirement CCR, title 5, section 14030(h)(2) and required by Health & Safety Code section 1596.972(o)(1). These requirements align with classroom requirements for similar aged children attending kindergarten. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17777(b)** is added to specify that the classroom must be kept safe and sanitary at all times to ensure children’s exposure to communicable diseases is minimalized. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17777(c)** is added to specify that classroom equipment, toys, and materials must be age-appropriate and in good condition. Additionally, there should be enough variety and quantity to allow children in the classroom to fully participate in activities. This provision is in alignment with recommendation set forth in Caring for Our Children. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17777(d)** is added to specify that surfaces, toys, and materials that children are exposed must be toxin free. This provision is in alignment with recommendation set forth in Caring for Our Children. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

### Proposed Section 17778. Outdoor Space.

This section incorporates, with amendments, the current CCR, title 5, section 18155, which is proposed to be deleted.

**Proposed Section 17778(a)** is added to incorporate Health & Safety Code section 1596.792.5 requirements that outdoor space be sufficient for the number of children using the space, and to specify that the outdoor space must meet specific requirements addressed in subsections (a)(1) through (a)(2). This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17778(a)(1)** is added to is added to ensure that adequate and safe shade is provided to protect children from harmful effects of the sun while participating in developmentally appropriate activities as required by Health & Safety Code section 1596.7925 and to clarify what is deemed to be adequate and safe shade. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17778(a)(2)** is added to ensure that outdoor space is accessible for the use of age appropriate children and not shared with older school age children while in use by CSPP children. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17778(b)** is added to specify the requirements for fence or barrier to ensure that the CSPP children are kept in the play area and can be visually supervised at all times. These provisions align with specifications described the Consumer Product Safety Commission’s “Handbook for Public Playground Safety,” Pub. No. 325, November 2010. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP, ensuring that children receive the highest quality programs for optimum school readiness outcomes.

**Proposed Section 17778(c)** is added to specify requirements that playground equipment and activity areas be set up in such a way that they do not create hazards for children including defining “clearance space” from structures that are not used in play activities. This provision aligns with specifications described the Consumer Product Safety Commission’s “Handbook for Public Playground Safety,” Pub. No. 325, November 2010. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17778(d)** is added to specify that in order to prevent injury playground equipment shall be anchored to the ground. This provision is in alignment with recommendation set forth in the Consumer Product Safety Commission’s “Handbook for Public Playground Safety,” Pub. No. 325, November 2010. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17778(e**) is added to specify that in order to prevent injury areas around playground equipment must be surrounded by shock absorbing surface. This provision is in alignment with recommendation set forth in the Consumer Product Safety Commission’s “Handbook for Public Playground Safety” Pub. No. 325, November 2010. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

### Proposed Section 17779. Restroom Facilities.

This section incorporates, with nonsubstantive edits, the current CCR, title 5, section 18160, which is proposed to be deleted.

**Proposed Section 17779(a)(1)** is added to specify that, in accordance with Health & Safety Code section 1796.7925 (a)(4), bathroom facilities must only be available for use of preschool and kindergarten children. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17779(a)(2)** is added to specify that restroom facilities must be accessible to children whenever the CSPP is in session and that it only be accessible to preschool, transitional kindergartners and kindergartners, as provided for in Health & Safety Code section 1596.7925. This provision is also in alignment with recommendations set forth in Caring for Our Children. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17779(a)(3)** is added to specify that, in accordance with Health & Safety Code section 1796.7925 (a)(4), restroom facilities must have one toilet and sinkfor every 15 children. Additionally, in accordance CSPP program quality requirements, toilets and sinks must be sized for the use by preschool age children to ensure that children can safely use them. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17779(a)(4)** is added to specify that children with exceptional needs must be provided access to restrooms and appropriate accommodations must be made. This clarifying language was adopted from existing CCR, title 22 requirements in order to be consistent with other early learning and care setting requirements. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17779(b)** is added to ensure that the restroom facility is safe for children, with water temperatures regulated to prevent injury. This provision is in alignment with recommendation set forth in Caring for Our Children. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17779(c)** is added to ensure that in case of accidental soiling, the restroom facility is kept safe and sanitary as required by Health & Safety Code section 1596.7925. This provision is in alignment with recommendation set forth in Caring for Our Children. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

### Proposed Section 17780. Drinking Water.

This section incorporates the current CCR, title 5, section 18165, which is proposed to be deleted.

**Proposed Section 17780(a)** is added to ensure that children have access to clean and safe drinking water throughout the day and clarifies the types of dispensing devices that may be used. This provision is needed to implement Health & Safety Code section 1596.7925(a)(2) and is in alignment with recommendation set forth in Caring for Our Children. This section is necessary to include in the regulations so that all requirements pertaining to exempt LEAs are in one place and to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17780(b)** is added to clarify the manner in which water should be made available and accessible to children, as required by Health & Safety Code section 1596.7925(a)(2) and further specifies the types of assistive devices that may be used to ensure the safety of children. This provision is in alignment with recommendation set forth in Caring for Our Children. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

**Proposed Section 17780(c)** is added to specify requirements for the safety, functionality and cleanliness of drinking fountains when used to meet the requirements in subsection (a) above to meet the requirements of Health & Safety Code section 1596.792(a)(2). This provision is in alignment with the requirements set forth in the State of California’s Facilities Inspection Tool, School Facility Conditions Evaluation (revised May 2009) as well as recommendation set forth in Caring for Our Children. This section is necessary to ensure health and safety of children and provide consistent and efficient administration of the CSPP.

### Proposed Section 17781. Uniform Complaint Procedure.

This section is added to require LEAs that are exempt from licensing pursuant to Health and Safety Code section 1596.7925 to comply with the Uniform Complaint Procedure. This addition is necessary to ensure contractors are in compliance with the family’s right to file complaints and to align with Health and Safety Code section 1596.7925.

## Proposed Subchapter 9. Due Process

### Proposed Article 1. Notice of Action

### Proposed Section 17782. Notice of Action, Application for Services.

**Proposed Section 17782(a)** is added to provide clear directions to contractors regarding the notice to be provided to families informing them of whether they have been approved to receive the services, and to give flexibility to provide the notice through electronic means. It is also added to ensure the contractor keeps a copy of the notice in the family’s data file. This is to necessary to ensure that the family receives due process and that there is a record that due process was provided.

**Proposed Section 17782(b)** is added to specify a particular period of time by which the contractor must notify the family of whether their application has been approved for services. A 30-day deadline is necessary to ensure that the contractor has sufficient time to determine whether the family meets need and eligibility requirements but does not unreasonably delay letting the family know whether they will receive services. It is also added to require that the parent receives the notice in the manner they prefer. This is necessary to ensure the parent will receive the notice.

**Proposed Section 17782(c)** is added to require that the contractor make all attempts to provide the notice to the parent in the language spoken by the parent. This is necessary to ensure that the parent can, whenever possible, understand what the notice says.

**Proposed Section 11782(d)** is added to require basic information including the name and address of both the contractor and applicant, the contact information for the contractor’s representative, the date the decision is sent to the family and the method by which it is transmitted. This is necessary so the family has information it needs and to ensure the family receives due process.

**Proposed Section 17782(e)** is added to require information regarding the early learning and care services for which the family is approved, in the event that the contractor approves of the application for services. This is necessary so that the family will know exactly what services they can expect to receive and so they can file a Notice of Appeal in the event they believe they were entitled to different services.

**Proposed Section 17782(f)** is added to clarify that when services are denied, the Notice of Action must state the specific basis for the denial of services and additional information required to ensure the family receives due process. This is necessary so the family has the information they need so they can file a Notice of Appeal in the event they believe they were entitled to services.

**Proposed Section 17782(g)** is added to require CSPP contractors that operate through a Family Child Care Home Education Network to send the family child care home provider a copy of the family’s Notice of Action, Application for Services at the same time the family is sent one. This is necessary to ensure the provider receives notice in a timely manner regarding services for families that are receiving services through the provider.

### Proposed Section 17783. Notice of Action, Recipient of Services.

**Proposed Section 17783(a)** is added to inform contractors of the notice to be provided when they make any changes to a family’s services and to delineate the types of changes that can be made. This is necessary to ensure that the family receives due process.

**Proposed Section 17783(b)** is added to specify the title of the notice to be provided and that it shall contain all of the information set forth in subsection (f). This is necessary to ensure that the family receives due process. It is also added to provide that the family receive the notice in their preferred manner (e.g., by mail or email) as specified in their application. This is necessary to ensure that the parents will receive the notice.

**Proposed Section 17783(c)** is added to require that the contractor make all attempts to provide the notice in the parent’s language. This is necessary to ensure that, where at all possible, the parents will be able to understand the notice without need to seek out a translator.

**Proposed Section 17783(d)** is added to set forth the minimum amount of time before the action can be effective depending upon the mode of delivery. This is necessary to ensure that the parent has a sufficient opportunity to appeal the notice, if desired.

**Proposed Section 17783(e)** is added to set forth an exception to subsection (d) to allow an action to take effect immediately if it is to decrease family fees or increase the amount of services. This is necessary as actions which are requested by a family and that benefit a family do not need to be delayed to allow for an opportunity to appeal.

**Proposed Section 11783(f)** is added to require basic information concerning the action that has been taken. This is necessary so the family has due process and the information it needs to determine whether the action should be appealed. It is also added to ensure the parent receives specific instructions on how to appeal the action. This is necessary to ensure due process for the family.

**Proposed Section 17783(g)** is added to require that a copy of any notice sent to the parent should also be sent to the CSPP family child care home provider, if applicable. This is necessary because the provider in such situation would not be aware of any changes to the services provided and, as the provider, should be aware of such changes.

## **Proposed Article 2. Due Process Requirements**

### Proposed Section 17784. Clients Request for a Hearing; Rules and Procedures.

**Proposed Section 17784(a)** is added to specify how families can appeal a notice of action to their local agency, whether the notice is received pursuant to section 17782 or section 17783, and the amount of time they have to file such appeal. This is necessary to ensure that families have due process and that timelines are consistent across the state.

**Proposed Section 17784(b)** is added to specify that an appeal stays implementation of an action. This is necessary to ensure that families receive due process during the appeal.

**Proposed Section 17784(c)** is added to specify a time limit by which agencies shall set appeal hearings. This is necessary to ensure hearings are not unreasonably delayed. It also requires that the time and place for hearing be, to the extent possible, convenient for the family. This is necessary as families have a number of limitations on their time and ability to travel or appear telephonically for a hearing and should be accommodated to the greatest extent possible.

**Proposed Section 17784(d)** is added to specify who at the agency shall conduct the hearing and that they should not have been involved in the taking of the action. This is to ensure a family receives due process.

**Proposed Section 17784(e)** is added to require that the parent, or the parent’s authorized representative, appear at the appeal hearing and, if they do not, the appeal may be considered abandoned unless the parent can demonstrate good cause for the failure to appear. This is necessary to allow an agency to proceed to finalize the action in the event that the parent or authorized representative does not attend the hearing but to also ensure that the parent receives due process in the event that good cause existed for the failure to appear.

**Proposed Section 17784(f)** is added to provide that only the persons directly affected by the action may attend the hearing. This is necessary to ensure the family’s privacy.

**Proposed Section 17784(g)** is added to provide that an interpreter must be provided at the hearing, without cost to the family, if one is requested. This is necessary to ensure the family receives due process.

**Proposed Section 17784(h)** is added to provide that the hearing officer explain to the parents the legal, regulatory or policy basis for the intended action. This is necessary to ensure due process.

**Proposed Section 17784(i)** is added to clarify the opportunity each side shall have to present their position at the hearing. This is necessary to ensure due process.

### Proposed Section 17784(j) is added to specify a time by which the hearing officer shall issue a decision in writing when the hearing is concluded. This is necessary to ensure there is not unreasonable delay in issuing the decision.

### Proposed Section 17785. Appeal Procedure for Early Learning and Care Division Review.

**Proposed Section 17785(a)** is added to specify how families can appeal the agency’s written decision to CDE’s ELCD, and the amount of time they have to file such appeal. This is necessary to ensure that families have due process and that timelines are consistent.

**Proposed Section 17785(b)** is added to provide agencies with a date by which they can determine that the parent has not filed an appeal and can proceed to implement the agency’s written decision. This is necessary to ensure that families have due process and that timelines are consistent.

**Proposed Section 17785(c)**is added to require the parent who submits an appeal to specify the reasons they disagree with the agency decision and provide any relevant information or documents. This is necessary for the ELCD to review the decision and determine whether or not the appeal should be granted.

**Proposed Section 17785(d)** is added to require that the parent submit a copy of the agency’s decision with their appeal. This is necessary so that the ELCD will see the basis for the decision and need not delay its work in order to obtain a copy of the decision.

**Proposed Section 17785(e)** is added to set forth the powers that the ELCD has with respect to receipt of appeals, including the right to conduct further investigations and, with consent of the parties, mediation. This is necessary so that the ELCD can has tools available at its disposal to ensure resolutions of appeals in accordance with the law and, if possible, resolve appeals in a manner satisfactory to all parties.

**Proposed Section 17785(f)** is added to provide a timeline by which a decision shall be issued and sent to the parties. This is necessary to ensure there is no unreasonable delay in resolving the appeal.

### Proposed Section 17785(g) is added to provide that the decision should be transmitted to the family in the manner preferred by the parent. This is necessary to ensure that the parent receives the decision.

### Proposed Section 17786. Contractor Compliance with Early Learning and Care Division Decision; Reimbursement for Services During the Appeal Process.

**Proposed Section 17786(a)** is added to require that the contractor comply with the decision immediately upon receipt. This is necessary to ensure that contractors will know what to do when they receive the decision and to allow the decision to be implemented as soon as possible.

**Proposed Section 17786(b)** is added to provide that the contractor will be reimbursed for services provided to the family during the appeal process. This is necessary to ensure due process to the family that is not at the expense of the contractor.

**Proposed Section 17786(c)** is added to provide that if a decision issued by ELCD upholds a contractor’s decision to discontinue services should be discontinued upon the contractor’s receipt of the decision.

## Proposed Subchapter 10. General Fiscal Requirements

### Proposed Article 1. General Provisions

### Proposed Section 17787. Notification of Address Change.

**Proposed Section 17787(a)** is added to require contractors to notify the ELCD 30 calendar days prior to changing their mailing address used for communication. This addition is necessary to ensure the ELCD is able to communicate with contractors about the early learning and care contract and to ensure timely payments to the contractor.

**Proposed Section 17787(b)** is added to require contractors to notify the ELCD 30 calendar days prior to changing their operating facility address(es) unless the address change is due to an emergency. This addition is necessary to ensure the ELCD is aware of the address of where the contractor is providing early learning and care services.

### Proposed Section 17788. Materials Developed with Contract Funds.

**Proposed Section 17788(a)** is added to clarify income restrictions when materials are developed with state contract funds. This addition is necessary to ensure that income received as a result of the use of state funds are responsibly used and to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17788(b)** is added to clarify income restrictions when materials are developed with a portion of state contract funds. This addition is necessary to ensure that income received as a result of the use of state funds, even if only due to partial use of state funds, is responsibly used and to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17788(c)** is added to specify acknowledgment and disclaimer requirements for any materials that are developed with state contract funds. This addition is necessary to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17789. Prohibition Against Religious Instruction or Worship.

This section is added to clarify that CSPP contractors cannot provide, or be reimbursed for services that include religious instruction or worship. This addition is necessary to align with the California Constitution, which does not support the use of public funds to support religious instruction or worship.

### Proposed Section 17790. Prohibition Against Presigned Checks, Early Learning and Care Division Prior Written Approval; Two Authorized Signatures on Checks.

**Proposed Section 17790(a)** is added to clarify that private contractors cannot use presigned, preauthorized, or pre-stamped checks without prior approval. This addition is necessary to ensure fiscal integrity. .

**Proposed Section 17790(b)** is added to clarify when it is not necessary for private contractors to have two authorized signatures on all checks. This addition is necessary to provide some flexibility while still ensuring fiscal integrity.

### Proposed Section 17791. Prohibition Against Loans and Advances.

**Proposed Section 17791(a)** is added to clarify that contractors cannot loan contract funds. This addition is necessary to provide fiscal integrity and ensure the protection of public funds.

**Proposed Section 17791(b)** is added to clarify that contractors cannot advance unearned staff salaries. This addition is necessary to provide fiscal responsibility with public funds.

**Proposed Section 17791(c)** is added to clarify when contractors can make advance payments to subcontractors and when they cannot. This addition is necessary to ensure fiscal oversight as necessary for certain subcontracts.

### Proposed Section 17792. Compliance with Title 22 California Code of Regulations.

This section is added to clarify that contractors who operate facilities that are exempt from licensure, including but not limited to tribal or military facilities, must comply with the California Code of Regulations title 22 health and safety requirements. This provision does not include LEAs exempt from licensure pursuant to Health and Safety Code 1596.792(o). This addition is necessary to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17793. Contracts with Multiple Service Areas.

**Proposed Section 17793(a)** is added to ensure that contractors that provide CSPP services in more than one service delivery area maintain services at approximately the level they are contracted to serve. This addition is necessary to ensure contractors are using state funds to serve families in the specified areas that were approved in the contract.

**Proposed Section 17793(b)** is added to provide flexibility for contractor’s service delivery area if the contractor can demonstrate a need. This addition is necessary to ensure contractors are using state funds to serve areas where there is a need for early learning and care services.

**Proposed Section 17793(c)** is added to require the ELCD to approve or deny requests set forth in subsection (b) within 30 days. This addition is necessary to ensure that contractors are provided with a response in a timely manner.

**Proposed Section 17793(d)** is added to allow the contractor to appeal the decision made pursuant to subsection (c). This addition is necessary to ensure that contractors have an avenue to dispute contract decisions with which they do not agree.

### Proposed Section 17794. Contract Monitoring.

**Proposed Section 17794(a)** is added to include definitions that are specific to only this section. This addition is necessary to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17794(b)** is added to require the CDE to conduct compliance reviews at least once every three years. This addition is necessary to ensure that early learning and care contracts are being monitored on a consistent timeline.

**Proposed Section 17794(c)** is added to clarify how reviews will be conducted and clarifies that the monitoring instrument to be used will be contained in an annually published guide by the SSPI. This addition is necessary to ensure that contractors will have clear expectations as to what is required to be found compliant.

**Proposed Section 17794(d)** is added to clarify who will conduct monitoring reviews. This addition is necessary so contractors will know what to expect and to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

### Proposed Section 17795. Contractor’s Termination for Convenience.

**Proposed Section 17795(a)** is added to allow contractors to terminate their early learning and care contract for any reason in the contract term in compliance with these regulations. This addition is necessary to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5.

**Proposed Section 17795(b)** is added to require contractors that choose to terminate their contracts to give 90 calendar day notice to the ELCD. This addition is necessary to ensure that the ELCD has adequate time to assist the families served by the contractor in finding another placement for early learning and care services.

**Proposed Section 17795(c)** is added to specify what the contractor must submit to the ELCD within 15 calendar days after notifying the ELCD of the intent to terminate the contract. This addition is necessary to ensure that the ELCD can distribute equipment purchased with contract funds to other early learning and care contractors and to ensure the ELCD has adequate time to assist the families served by the contractor in finding another placement for early learning and care services.

**Proposed Section 17795(d)** is added to require the ELCD to transfer the program to another agency as soon as possible. This addition is necessary to ensure CSPP funds are used to serve families that need care as soon as possible.

**Proposed Section 17795(e)** is added to ensure that contractors cooperate with the ELCD when transitioning families. This addition is necessary to ensure that CSPP families have a smooth transition to another CSPP program when the contractor chooses to terminate their contract.

### Proposed Section 17796. Title, Use, Disposition and Retention of Equipment.

**Proposed Section 17796(a)** is added to require that title of equipment purchased with state funds shall remain in the contractor’s name only for such period of time as the contractor has the early learning and care contract. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (UG) title 2 Code of Federal Regulations (CFR) section 200.313.

**Proposed Section 17796(b)** is added to allow the ELCD to provide authorization for the contractor to retain the equipment if the contractor pays fair compensation and defines what fair compensation is. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically UG title 2, CFR section 200.313.

**Proposed Section 17796(c)** is added to restrict how equipment purchased with state funds can be used and how costs should be split among two or more programs. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically UG, title 2, CFR section 200.313.

**Proposed Section 17796(d)** is added to provide that if the contractor no longer has an ELCD contract, the contractor shall dispose of the equipment in accordance with ELCD’s written direction. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically UG, title 2, CFR section 200.313.

### Proposed Article 2. Subcontracts

### Proposed Section 17797. Subcontracts.

**Proposed Section 17797(a)** is added to require that, unless as otherwise specified in regulations, subcontracts that are service agreements must be in writing. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically UG title 2, CFR section 200.22 and with requirements pertaining to other types of contracts in the Public Contract Code.

**Proposed Section 17797(b)** is added to clarify which types of agreements are not subcontracts subject to article 2. This addition is necessary to provide clarity and statewide consistency in the interpretation and application of the CSPP regulations in chapter 18.5 so that contractors are not under a misunderstanding as to which requirements apply to which agreements.

### Proposed Section 17798. Private Contractors: Three Bids for Subcontracts Exceeding the Amount Stated in Annual Contract.

**Proposed Section 17798(a)** is added to require that private contractors obtain at least three bids or estimates for subcontracts that exceed a particular threshold set forth annually in their contract. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically, UG, title 2 CFR sections 200.317 and 200.320, and with the requirements in the Public Contract Code.

**Proposed Section 17798(b)** is added to require the subcontract be awarded to the lowest responsible bidder. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically UG, title 2 CFR sections 200.317 and 200.320, and with the Public Contract Code.

**Proposed Section 17798(c)** is added to allow an alternative if three bids or estimates cannot be obtained. This is necessary for flexibility and to be consistent with UG, title 2 CFR section 200.320(f).

**Proposed Section 17798(d)** is added to prohibit the splitting of subcontracts in order to avoid competitive bidding. This is necessary for fiscal integrity and to be consistent with requirements pertaining to federal funds, specifically UG, title 2 CFR section 200.318(d).

### Proposed Section 17799. Prior Early Learning and Care Division Approval Required for All Subcontracts Exceeding the Amount Stated in the Annual Early Learning and Care Contract.

This section is added to require contractors to obtain prior written approval from the ELCD for subcontracts specified in subsections (a) and (b). This addition is necessary to ensure the ELCD approves of how early learning and care funds are subcontracted out under particular circumstances.

**Proposed Section 17799(a)** **and (b)** are added to provide that subcontracts not otherwise excluded from section 17797 and that meet a specific threshold articulated in the annual ELCD contract must be approved in advance in writing by ELCD. This is necessary for maintaining fiscal integrity of the program.

### Proposed Section 17800. Required Documents for Prior Early Learning and Care Division Approval of Subcontracts.

This section is added to require the contractor to submit the documents listed in subsections (a) through (e) to the ELCD before establishing an agreement with a proposed subcontractor and before any work begins by the subcontractor. This addition is necessary to ensure fiscal efficiency and integrity.

**Proposed Section 17800(a)** is added to require the contractor to submit bids or estimates. This addition is necessary to ensure fiscal efficiency and integrity.

**Proposed Section 17800(b)** is added to require contractors that cannot get three bids to submit all applicable documentation relied upon pursuant to section 17798(c). This addition is necessary to ensure fiscal efficiency and integrity.

**Proposed Section 17800(c)** is added to require the contractor to identify the lowest responsible bidder. This addition is necessary to provide fiscal efficiency and integrity.

**Proposed Section 17800(d)** is added to provide that for capital outlay subcontracts, documents must be provided that show the successful bidder has obtained a payment bond in a specific amount. This is necessary for fiscal integrity.

**Proposed Section 17800(e)** is added to specify how many copies of the proposed subcontract must be submitted to the ELCD and what items must be included within the proposed subcontract, including the total cost of labor and materials. This addition is necessary to assist the ELCD in performing their duties and ensure fiscal efficiency and integrity.

### Proposed Section 17801. Early Learning and Care Division Approval or Disapproval of Subcontract Within 30 Calendar Days.

**Proposed Section 17801(a)** is added to specify the timeline in which the ELCD must approve or deny a proposed subcontract. This addition is necessary to ensure that the ELCD responds to requests within a timely manner.

**Proposed Section 17801(b)** is added to specify that the ELCD will return a copy of the contract to the contractor, informing them as to whether or not it has been approved. This addition is necessary to ensure that the contractor may take next steps depending upon whether or not the subcontract has been approved.

**Proposed Section 17801(c)** is added to require the ELCD to provide the contractor with a statement explaining why the subcontract was not approved. This addition is necessary to ensure that the contractor is informed of the reason why the subcontract was not approved so they can decide upon next steps.

**Proposed Section 17801(d)** is added to allow the contractor to appeal the ELCD’s decision to deny a subcontract. This addition is necessary to allow for a second review of the issue by CDE.

### Proposed Section 17802. Required Subcontract Provisions.

This section is added to clarify that the subcontracts covered in this article shall be in writing and include various provisions that must be spelled out in the subcontract. This addition is necessary ensure fiscal integrity of subcontracts and for monitoring purposes.

**Proposed Section 17802(a)** is added to require that the subcontract must include the dates of performance, which shall not begin prior to, nor extend beyond, the time of the performance of the contract. This addition is necessary to provide appropriate spending and fiscal integrity.

**Proposed Section 17802(b)** is added to require that the dollar amount of the subcontract be specified or at least set forth an amount that the subcontract not exceed. This is necessary to provide fiscal integrity and for monitoring purposes.

**Proposed Section 17802(c)** is added to require that the services to be performed be spelled out. This is necessary for purposes of fiscal integrity and for monitoring purposes.

**Proposed Section 17802(d)** is added to set forth the responsibilities of the parties in the subcontract. This is necessary for fiscal integrity and for monitoring purposes.

**Proposed Section 17802(e)** is added to clarify that the subcontractor acts in an independent capacity and is not an officer or agent or employee of the state. This is necessary to protect the state from unwarranted liability or obligations.

**Proposed Section 17802(f)** is added to require the subcontract to state that modifications must be in writing and that prior approval is required unless otherwise exempt from approval. This is necessary to ensure fiscal integrity and for monitoring purposes.

**Proposed Section 17802(g)** is added to clarify the subcontract must state it is the exclusive statement of the understanding of the parties, superseding any prior agreements between the parties. This is necessary to ensure a meeting of the minds between the parties.

**Proposed Section 17802(h)** is added to require the inclusion of a remedies section in the event of a breach of the subcontract, if the subcontract is over $10,000. This is necessary for fiscal integrity to ensure that the parties do not need to spend money on unnecessary litigation.

**Proposed Section 17802(i)** is added to provide that the state retains title to any equipment or supplies purchased with state funds and that such equipment must be returned to the contractor upon termination of the contract. It is also added to provide that the subcontractor must obtain prior written approval from the contractor and ELCD for any equipment that costs in excess of the amount stated in the contract. This is necessary for fiscal integrity.

**Proposed Section 17802(j)** is added to provide for reimbursement to the subcontractor for travel, but that it must be limited to rates that do not exceed the rates paid to the majority of CDE’s represented employees. This is necessary for purposes of fiscal integrity.

**Proposed Section 17802(k)** is added to provide that the subcontractor will indemnify and hold harmless the state and its agents from any and all claims and losses that may occur as the result of any injury or damage by the subcontractor performing under the subcontract. This is necessary to protect the state from unwarranted liability.

**Proposed Section 17802(l)** is added to require that the subcontractor maintain records for five years and make them available to the state for those subcontracts requiring ELCD approval. This addition is necessary to provide fiscal integrity and for purposes of performing monitoring.

**Proposed Section 17802(m)** is added to require the insertion of a nondiscrimination clause. This is necessary as entities that receive state funds must attest that they will not act in a discriminatory manner.

### Proposed Section 17803. Audit Requirements for Subcontracts to Operate Early Learning and Care Programs.

**Proposed Section 17803(a)** is added to clarify that only subcontracts to operate one or more of a contractor’s early learning and care programs need to be audited. This addition is necessary to ensure fiscal responsibility for the operation of the early learning and care program.

**Proposed Section 17803(b)** is added to clarify the cost of the audit of the subcontract shall be reimbursable and borne by the contractor, either directly or as an allowance in the contract. This is necessary for purposes of clarifying who must pay for the audit and whether such cost is reimbursable.

**Proposed Section 17803(c)** is added to clarify when the subcontractor’s audit is due and how it shall be submitted, depending upon whether the contractor is an LEA or not. This is necessary as LEAs and non-LEAs have different reporting schedules and obligations.

### Proposed Article 3. Costs

### Proposed Section 17804. General Standards.

### This section is added to clarify that only reasonable and necessary costs, as determined in conjunction with the federal UG, will be reimbursed to the contractor. This is necessary to establish clarity and statewide consistency on what costs will be reimbursable for contractors and to align as much as possible with requirements that are applicable to contracts funded with federal dollars.

### Proposed Section 17805. Specific Items of Reimbursable Costs.

**Proposed Section 17805(a)** is added to clarify that start-up costs are reimbursable and may not exceed 15 percent of the expansion or increase of each agency’s total contract amount, as limited by Education Code section 8275. This addition is necessary to ensure consistency with state law and provide all requirements related to costs in one article.

**Proposed Section 17805(b)** is added to clarify that administrative costs are reimbursable and must not exceed 15 percent of a contractor’s net reimbursable costs, as limited by Education Code section 8276.7. This addition is necessary to ensure consistency with state law and provide all requirements related to costs in one article.

**Proposed Section 17805(c)** is added to clarify that employee compensation, including fringe benefits, and personal service contracts are reimbursable. This is necessary so contractors will know what is reasonable and to be consistent with UG section 200.431.

**Proposed Section 17805(d)** is added to clarify that equipment and equipment replacement are reimbursable costs, assuming prior approval was needed and obtained. This is necessary so contractors will know what is reasonable and to be consistent with UG sections 200.407 and 200.313.

**Proposed Section 17805(e)** is added to clarify that improvement of sites and adjacent grounds to meet or continue to meet licensing requirements are reimbursable costs under specified conditions. This is necessary so that contractors will know what costs are reimbursable, there will be fiscal integrity, and to be consistent with UG section 200.452.

**Proposed Section 17805(f)** is added to clarify that taxes, insurance and maintenance of buildings and/or equipment are reimbursable costs. This is necessary so that contractors will know what costs are reimbursable and to be consistent with UG section 200.452.

**Proposed Section 17805(g)** is added to clarify that depreciation of assets may be claimed as reimbursable costs under certain circumstances. This is necessary so that contractors will know what costs are reimbursable, to ensure fiscal integrity and to be consistent with UG section 200.436.

**Proposed Section 17805(h)** is added to clarify that a use allowance for buildings and improvements can be taken as reimbursable costs subject to specific limitations. This is necessary so that contractors will know what costs are reimbursable and to ensure fiscal integrity.

**Proposed Section 17805(i)** is added to clarify that travel expenses, including out of state travel expenses, are reimbursable if they don’t exceed the rates used by the state for their represented employees. It is also added to provide that ELCD must notify the contractor of a change in published travel rates used by the state. This is necessary to ensure that contractors know what costs are reimbursable under their contract, to ensure fiscal integrity, and to be consistent with UG section 200.474.

**Proposed Section 17805(j)** is added to clarify that contractors may claim an indirect cost rate as reimbursable if it is based on an approved cost allocation plan, not to exceed the rate stated in the contract. This is necessary so contractors know what costs are reimbursable under their contract, to ensure fiscal integrity, and to be consistent with UG section 200.416.

### Proposed Section 17806. Nonreimbursable Costs.

**Proposed Section 17806(a)** is added to clarify that bad debts and any losses, and related legal costs, are types of costs considered nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.426.

**Proposed Section 17806(b)** is added to specify that contributions are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.434.

**Proposed Section 17806(c)** is added to specify that costs of amusement and entertainment are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.438.

**Proposed Section 17806(d)** is added to specify that costs of fines or penalties are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.441.

**Proposed Section 17806(e)** is added to specify that costs of idle facilities are nonreimbursable to the early learning and care contract unless those costs are related to a partial-year program. This is necessary for fiscal integrity and to be consistent with UG section 200.446.

**Proposed Section 17806(f)** is added to specify that costs incurred after the contract has been terminated are not reimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with Public Contracting Code section 10226.

**Proposed Section 17806(g)** is added to specify that fundraising costs are nonreimbursable to the early learning and care contract unless they are related to community involvement pursuant to section 17707. This is necessary for fiscal integrity and to be consistent with UG section 200.442.

**Proposed Section 17806(h)** is added to clarify that consumer interest is nonreimbursable to the early learning and care contract unless the interest is on borrowed funds due to apportionments being withheld because of a delay or error on the part of the state and the amount of interest claimed has been approved by the ELCD or interest is incurred as a part of a lease purchase agreement. This is necessary for fiscal integrity and to be consistent with UG section 200.449.

**Proposed Section 17806(i)** is added to specify that investment management costs are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.442.

**Proposed Section 17806(j)** is added to specify that the costs related to organization of a nonprofit organization are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.455.

**Proposed Section 17806(k)** is added to specify that public relations consultant fees are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.421.

**Proposed Section 17806(l)** is added to specify that legal and accounting services incurred in prosecution of claims against the state are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.426.

**Proposed Section 17806(m)** is added to specify that state and federal income taxes paid are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with UG section 200.470.

**Proposed Section 17806(n)** is added to specify that costs for the acquisition of sites and buildings are nonreimbursable to the early learning and care contract, except through depreciation. This is necessary for fiscal integrity and to be consistent with principles in the UG.

**Proposed Section 17806(o)** is added to specify that bonuses are nonreimbursable to the early learning and care contract unless part of a collective bargaining agreement. This is necessary for fiscal integrity and to be consistent with principles in the UG.

**Proposed Section 17806(p)** is added to specify that compensation to boards is nonreimbursable to the early learning and care contract except for travel reimbursement while board members are conducting business and as provided for in the Corporations Code. This is necessary for fiscal integrity and to be consistent with principles in the UG.

**Proposed Section 17806(q)** is added to specify that costs of subcontracts which increase the contractor’s cost or subcontracts which contain a provision for reimbursement for cost plus a percentage of costs are nonreimbursable to the early learning and care contract. This is necessary for fiscal integrity and to be consistent with principles in the UG.

### Proposed Section 17807. Charging of Expenditures.

**Proposed Section 17807(a)** is added to require that costs be incurred during the contract period. This is necessary in order to attribute costs to the appropriate fiscal year to ensure fiscal accountability. It is also added to set rules around allowable expenditures as required by EC section 8269. This addition is necessary for fiscal integrity and to be consistent with UG section 200.309.

**Proposed Section 17807(b)** is added to require that contractors not use current year contract funds to pay prior or future year obligations. This is necessary to ensure fiscal accountability and to be consistent with UG section 200.309.

**Proposed Section 17807(c)** is added to require that the cost of the annual audit is an exception to the above rule so it may be charged to the contract period which was the subject of the audit or the period in which the audit was completed. This is necessary to ensure contractors have some flexibility with respect to costs of obtaining an audit.

### Proposed Section 17808. Recoupment of Advanced Contract Funds.

**Proposed Section 17808(a)** is added to provide that CDE has the right to recoup payments for costs that are not reasonable and necessary and that such amount shall be the excess payment over the reasonable or fair market value or 100 percent of the cost if the cost was not necessary. This is necessary for fiscal integrity and to be consistent with UG sections 200.53, 200.428 and 200.305.

**Proposed Section 17808(b)** is added to allow CDE to recoup costs incurred in attempting to collect money, including attorneys’ fees. This is necessary for purposes of fiscal integrity as the state should not have to bear such costs.

### Proposed Section 17809. Use of Subsidized Parent Fees.

**Proposed Section 17809(a)** is added to require that family fees be used by contractors before other contract funds can be claimed for reimbursement. This is necessary to ensure that family fees are used for purposes of expenses in the incurred by operation of the program.

**Proposed Section 17809(b)** is added to require that family fees be spent on reimbursable costs and that they be earned by the contractor either at a specific rate or the actual costs of care. This is necessary to ensure fiscal integrity on the part of the contractor who receives the family fees.

### Proposed Section 17810. Prior Approval for Certain Capital Outlay Expenditures.

**Proposed Section 17810(a)** is added to require that contractors obtain three bids or estimates when purchasing equipment, equipment replacement and improvements that exceed the threshold in the annual contract, that they make an award to the lowest responsible bidder, and that if they cannot obtain three bids or estimates, they explain why it is not possible. This is to ensure fiscal responsibility on the part of the contractor so they do not overpay for such items.

**Proposed Section 17810(b)** is added to specify that when costs of equipment, equipment replacement and improvements exceed a specific level in the annual contract, the contractor must receive prior approval in writing from the ELCD. This is necessary to ensure fiscal integrity with state funds and to be consistent with UG sections 200.407 and 200.439.

**Proposed Section 17810(c)** is added to set approval deadlines for expenditures that require prior written approval by the CDE ELCD. This addition is necessary to ensure there is not unreasonable delay on the part of the ELCD.

**Proposed Section 17810(d)** is added to establish an appeal process for expenditures that are denied. This addition is necessary to provide the contractor an additional opportunity to show CDE why the expenditures should be approved.

### Proposed Section 17811. Prior Approval for Out-of-State Travel

**Proposed Section 17811(a)** is added to require contractors to obtain prior written approval from the ELCD for out of state travel and specifies when the ELCD must not approve out-of-state travel expenses. This is necessary for purposes of ensuring fiscal responsibility with state funding.

**Proposed Section 17811(b)** is added to specify the timeline in which the ELCD must approve or deny out-of-state travel. This addition is necessary to ensure that the ELCD responds to requests within a timely manner.

**Proposed Section 17811(c)** is added to allow the contractor to appeal the ELCD’s decision to deny out-of-state travel. This addition is necessary to ensure that contractors have a right to have such decisions reviewed by a second level within CDE process.

### Proposed Article 4. Determination of Reimbursement

### Proposed Section 17812. Determination of Reimbursable Amount.

**Proposed Section 17812(a)-(c)** are added to set forth the limitations of reimbursement for an audited claim. It provides that contractors are to be reimbursed the lesser of either the maximum reimbursable amount set forth in their annual contract, their net reimbursable costs or their contract rate multiplied by the adjusted child days of enrollment, multiplied by the percentage of attendance, plus 5 percent (though not to exceed 100 percent of enrollment). This formula for reimbursing CSPP providers has long been in place and is necessary to ensure fairness to the contractor as well as fiscal integrity so that contractors are not reimbursed at inflated amounts.

### Proposed Section 17813. Minimum Days of Operation.

This section is added to provide that if a contractor fails to operate at least 98 percent of the minimum days of operation required by the contract, ceases to operate or the contract is terminated early, the maximum reimbursable amount set forth in the contract shall be proportionately reduced. This is necessary as it would be unfair to reimburse agencies at their maximum reimbursable amount if they did not generally operate all of the days they were supposed to operate.

### Proposed Section 17814. Reduction, Withholding, and Cancelling Apportionments to Contractors.

**Proposed Section 17814(a)** is added to set standards for withholding payments under a number of specific circumstances, such as when the contractor has failed to submit an acceptable audit, not turned in certain reports or requests for information, won’t earn their contract amount, has a lien imposed by a creditor or owes money to the CDE. This is necessary to maintain fiscal integrity and to make sure the contractor does not receive an overpayment of funds.

**Proposed Section 17814(b)** is added to require that CDE shall provide written notice before they reduce, withhold or cancel an apportionment under this section. This is necessary to provide fairness to the contractor.

### Proposed Section 17815. Order of Expenditure.

**Proposed Section 17815(a)–(c)** is added to set standards for which moneys must be used first, second, and last. Family fees shall be collected and used first. Second, is state and federal funding and last is interest received on advanced CDE funds. This is necessary to ensure contractors spend money responsibility and in conformance with CDE expectations.

### Proposed Article 5. Accounting and Reporting Requirements

### Proposed Section 17816. General Provisions.

This section is added to clarify the requirement for contractors to report expenditures on an accrual basis. This addition is necessary to provide clarity and statewide consistency and to perform reporting based on generally accepted financial principles.

### Proposed Section 17817. Child Development Fund; Interest Bearing Accounts.

**Proposed Section 17817(a)** is added to specify that all contractors should establish a Child Development Fund as required by EC section 8328 for school districts and counties except that for private contractors the fund shall be established at a federally insured bank in California. This addition is necessary for purposes of ensuring fiscal responsibility and the safety of state funds.

**Proposed Section 17817(b)** is added to clarify that contractors with multiple fund sources shall establish separate program cost accounts for each source of funds. This is necessary for fiscal accountability and monitoring purposes.

**Proposed Section 17817(c)** is added to require that a contractor that places funds in an interest-bearing account, that the account shall be separate from the child development fund. This is necessary for purposes of ensuring fiscal responsibility and for monitoring purposes.

**Proposed Section 17817(d)** is added to specify that interest earned in the interest-bearing account shall be retained by the contractor only if it is spent on reimbursable costs. This is necessary to ensure fiscal integrity since the interest was the result of state funding.

### Proposed Section 17818. Enrollment and Attendance Accounting.

**Proposed Section 17818(a)** is added to require contractors to use daily sign-in and sign-out sheets and that they be the primary source documents for audit and reimbursement purposes. This is necessary to ensure consistency and accountability with determining enrollment and attendance.

**Proposed Section 17818(b)** is added to specify that the time of arrival and departure must be documented on the sign-in/sign-out sheet and that it must be signed by the parent or parent’s authorized representative or by a staff person of the contractor if the child is not dropped off/picked by a parent or authorized adult. This addition is necessary to provide consistency and ensure accountability with determining enrollment and attendance.

**Proposed Section 17818(c)** is added to clarify what is required on the sign-in/sign-out sheet when school age children leave for school and return from school. This addition is necessary to recognize that a parent won’t be able to document when a school-age child departs to school from care or returns from school to care and to provide consistency and accountability in determining enrollment and attendance.

### Proposed Section 17819. Verification of Excused Absence; Policies.

**Proposed Section 17819(a)** is added to clarify what information is necessary to document when an excused absence is claimed by the contractor. This addition is necessary to sure the contractor has proper documentation for monitoring purposes.

**Proposed Section 17819(b)** is added to clarify what documentation is needed in the family data file if excused absences are used when the child is absent as required by a court of law. This addition is necessary to sure the contractor has proper documentation for monitoring purposes.

**Proposed Section 17819(c)** is added to specify that reasonable absence policies must be adopted by the contractor and that such policies must spell out what constitutes an excused absence for purposes of family emergency and best interest of the child. This addition is necessary so families will know the circumstances under which a child’s absence will be deemed to be excused.

**Proposed Section 17819(d)** is added to require contractors to adopt a policy for unexcused absences, which may set forth reasonable limitations. This addition is necessary to allow contractors the ability to fill a spot when a family has, in effect, abandoned care.

**Proposed Section 17819(e)** is added to require contractors to notify families of the absence policies. This addition is necessary to provide fairness to the families impacted by the policies.

**Proposed Section 17819(f)** is added to specify how many excused absences that are “in the best interest of the child” may be used during the contract period. This addition is necessary to ensure that children are attending CSPP and that contractors are not being routinely reimbursed when a child is consistently not in attendance.

**Proposed Section 17819(g)** is added to clarify that children who are recipients of child protective services or are at risk of abuse or neglect are not limited in the number of excused absences that are “in the best interest of the child” during the contract period. This addition is necessary to recognize that these families have special needs and may require additional time away from the program.

### Proposed Section 17820. General Recordkeeping Requirements.

**Proposed Section 17820(a)** is added to require paper and electronic records be retained for at least five years. This is necessary to ensure that fiscal monitoring can be performed as necessary, which often can occur several years later.

**Proposed Section 17820(b)** is added to clarify that the contractor bears the burden of supporting claims for reimbursement and such claims cannot be paid without supporting documentation. This is necessary to ensure fiscal responsibility.

### Proposed Section 17821. Attendance and Expenditure Reports.

**Proposed Section 17821(a)** is added to establish the basic reporting elements, which include the days and hours of enrollment and attendance for children being served, the total days of operation, the revenues and expenditures for both subsidized and non-subsidized children, and the amount and sources of all revenues (breaking down particularly categories of revenues) and total expenditures. This is necessary for purposes of ensuring contractors are accurately reimbursed under their contracts.

**Proposed Section 17821(b)** is added to provide that contractors not report child nutrition program revenue received from the CDE if the associated expenses for that program are not being claimed to the early learning contract. This is necessary to ensure expenses are appropriately tracked.

**Proposed Section 17821(c)** is added to clarify when reports are delinquent and the penalties for delinquent reporting. This addition is necessary to encourage contractors to provide their reports in a timely manner.

**Proposed Section 17821(d)** is added to establish more frequent reporting requirements for agencies that are new or where the agency has been placed on conditional status. This is necessary as such agencies require more frequent technical assistance to ensure any problems are promptly resolved.

### Proposed Section 17822. Report Data.

**Proposed Section 17822(a)** is added to require contractors to submit data when requested by the CDE. This addition is necessary to ensure the CDE will receive the data necessary to prepare legislatively mandated reports, to meet reporting requirements, and to effectively administer early learning and care contracts.

**Proposed Section 17822(b)** is added to clarify when the data will be due to the CDE. This addition is necessary to ensure that contractors have a deadline to submit data requested by the CDE and that CDE has some flexibility.

**Proposed Section 17822(c)** is added to clarify when reports are delinquent and the penalties for delinquent reporting. This addition is necessary to give CDE some leverage to ensure it receives the data needed for purposes of federal and state reporting requirements and to effectively administer the contracts.

### Proposed Section 17823. Audits and Auditors

**Proposed Section 17823(a)** is added to require that all contractors must annually submit an audit to the CDE audits unit. This addition is necessary to ensure there is appropriate fiscal responsibility.

**Proposed Section 17823(b)** is added to clarify who can perform an audit. This addition is necessary to provide clarity and statewide consistency and ensure fiscal integrity.

**Proposed Section 17823(c)** is added to specify the audit due date for non-school district contractors. This addition is necessary to provide clarity and statewide consistency and ensure that the CDE receives the audit in sufficient time to perform its work.

**Proposed Section 17823(d)** is added to specify the audit due date for school district and county offices of education contractors, along with how the deadline may be extended, and to specify that it should be submitted to the State Controller’s Office. This addition is necessary to provide clarity and statewide consistency and ensure that the state has the audit and align the dates with other audits conducted related to school district and county offices of education.

**Proposed Section 17823(e)** is added to clarify the audit period when a contractor terminates the contract during the contract period. This addition is necessary to provide clarity and statewide consistency and to make it clear that an audit is still required in such circumstances.

**Proposed Section 17823(f)** is added to specify the conditions in which a public agency can have their audit prepared by in-house auditors. This addition is necessary to provide clarity and statewide consistency and to provide flexibility to public agencies.

### Proposed Section 17824. Review of Audit by the California Department of Education Office of External Audits and Investigations Division.

**Proposed Section 17824(a)** is added to require the CDE Audits and Investigation Division to review audits submitted by the contractor to determine net reimbursable costs and earnings and that their determination is the final accounting of any amount payable to or receivable from the contractor. This addition is necessary to ensure the audit was completed accurately and to determine the appropriate final accounting of any amount payable or receivable so there is finality with respect to the calculation.

**Proposed Section 17824(b)** is added to allow the contractor to appeal findings from the Audits and Investigations Division to the Office of Administrative Hearings if it meets the thresholds set forth in EC. This addition is necessary to ensure contractors know their right to an administrative hearing with respect to large overpayments or demands for remittance.

**Proposed Section 17824(c)** is added to limit the length of time an audit report may be submitted to the CDE to two years past the due date. This addition is necessary because the information in an audit report loses its value if it is not received timely, and an audit report can result in payments to an agency, so the CDE needs to receive the audit report before funding sources expire.

### Proposed Section 17825. Delinquent Audits; One-Time Extension; Unsubmitted Audits.

**Proposed Section 17825(a)** is added to specify when an audit is determined delinquent. This addition is necessary to ensure that contractors submit audits on time and apportionments are not withheld as a consequence.

**Proposed Section 17825(b)** is added to provide flexibility for the CDE to grant an audit extension. This addition is necessary to ensure that there is some flexibility when uncontrollable circumstances occur that prevent the contractor from submitting an audit on time.

**Proposed Section 17825(c)** is added to specify that contractors may be charged 100 percent of the early learning and care funding they received in the contract year if an acceptable audit is not submitted within one year. This addition is necessary to ensure that contractors submit timely audits to the CDE.

## Proposed Subchapter 11. Appeal and Dispute Resolution Procedures

### Proposed Section 17826. Termination, Suspension, and Major Reductions in Contract.

**Proposed Section 17826(a)** is added to specify the instances when a contractor may appeal an action to the Office of Administrative Hearings seeking a formal administrative hearing. This is necessary to ensure procedures to challenge actions are consistent with provisions in the EC.

**Proposed Section 17826(b)** is added to require that a written notice spell out the specific action taken and why, in accordance with the requirements of the Administrative Procedures Act. This is necessary to ensure that contractors will have the ability to fairly prepare a defense to the action.

**Proposed Section 17826(c)** is added to set forth the process should a contractor file an appeal, including the process set forth in other regulations which have adopted specifically for this process. This is necessary to ensure that any hearing complies with all applicable laws and regulations.

**Proposed Section 17826(d)** is added to delineate the instances when a termination upon 90 days' notice or a suspension could occur. This is necessary to provide consistent rules for all contractors and to provide the state with the tools to terminate a contractor when they are not performing under the terms of their contract.

**Proposed Section 17826(e)** is added to delineate the instances when a termination action can be immediately taken. This is necessary to provide consistent rules for all contractors and to provide the state with the tools to immediately terminate a contractor for serious misconduct.

### Proposed Section 17826(f) is added to set forth when an appeal may stay an action taken by the department. This is necessary to provide consistent rules for all contractors and to allow for contractors to operate under specific circumstances.

### Proposed Section 17827. Contractor’s Responsibility After Notice of Termination or Notice of Decision to Make No Offer of Continued Funding.

**Proposed Section 17827(a)** is added to require that when a contractor will no longer be administering a contract, the contractor must provide a copy of, or make available for copying, a list of all equipment purchased in whole or in part with contract funds. This is necessary as such equipment does not belong to the contractor and the ELCD needs to be able to identify such equipment.

**Proposed Section 17827(b)** is added to require that when a contractor will no longer be administering a contract, the contractor must provide a copy of, or make available for copying, the names and addresses and telephone numbers of all families served with contract funds as well as for all staff members. This is necessary to ensure continuity of services can be provided to families served by the contract.

**Proposed Section 17827(c)** is added to require that when a contractor will no longer be administering a contract, the contractor must provide a copy of, or make available for copying, monthly enrollment and attendance reports until the contract is actually terminated or until the final month for which the contractor retains a contract. This is necessary so that the department has what it needs to process calculations relating to the contract.

**Proposed Section 17827(d)** is added to require that when a contractor will no longer be administering a contract, the contractor must provide a copy of, or make available for copying, the names and addresses and telephone numbers of all family child care home providers serving families if the contract operates through a family child care home education network. This is necessary to ensure there can be continuity of care for the families.

**Proposed Section 17828. Administrative Review of Changes in Contract Status.**

**Proposed Section 17828(a)** is added to require that contracts be reviewed annually to determine, by April 1, whether to offer continued funding on a clear contract, offer funding on a conditional basis or whether to make no offer of funding. This is necessary to ensure there is plenty of time for any administrative review process to take place and to ensure contracts to be continued can have their contract ready for the next fiscal year beginning July 1.

**Proposed Section 17828(b)** is added to provide a deadline by which a contractor should be notified in writing if they are not to receive continued funding or if the funding is going to be made on a conditional basis. It is also added to require that the written notice be sufficiently specific so that the contractor is aware of the factual basis for the change in contract status and can respond. This is necessary to provide fairness to the contractor and so that the contractor can determine whether they wish to seek administrative review of the decision.

**Proposed Section 17828(c)** is added to set forth the steps a contractor must follow to contest the change in contract status to the ELCD, including the timeline in which the contractor has to file their request for administrative review with the ELCD and whether the contractor wishes to make an oral presentation. This is necessary to ensure that all administrative reviews are equally treated and that the ELCD has the information it needs to render a decision.

**Proposed Section 17828(d)** is added to provide how the administrative review process should be handled and the persons who are responsible for being on the administrative review panel. It is also added to set forth requirements that the panel members not have been involved in the taking of the action to change the contract status. This is necessary so that contractors can receive a fair and impartial administrative review. It is also added to allow panel members to request information or to ask questions of either the ELCD or the contractor, and allow the parties an opportunity to respond. This is necessary to ensure panel members have sufficient information to render a fair and complete decision

**Proposed Section 17828(e)** is added to provide what the process is if a contractor does not request an oral presentation and to clarify that the decision is rendered by the administrative review panel based upon the written submissions. This is necessary so that contractors have full knowledge of their options.

**Proposed Section 17828(f)**is added to provide what the process is if a contractor does request an oral presentation as part of the administrative review, that the presentation may be conducted virtually, and the time limitations on scheduling the presentation. This is necessary so that contractors have full knowledge of their options and to ensure that oral presentations, if requested, are conducted promptly.

**Proposed Section 17828(g)** is added to provide direction as to how the oral presentation should be conducted. This is necessary to ensure that the oral presentation goes smoothly and that there is a fair process for all parties.

**Proposed Section 17828(h)** is added to provide a timeline by which a decision should be rendered by the panel and to set forth the manner in which the decision should be served. It is also added to require that the decision contain the reasoning for the administrative review panel’s decision. This is necessary to ensure that there is no delay in issuance of a decision and that the decision contains sufficient information in the event the decision is to be challenged in the courts.

### Proposed Section 17828(i) is added to specify that the panel’s decision is the final action with respect to the contract. This is necessary so that the contractor knows that there are no additional avenues for appeal within CDE and that any further action may only be available through the courts.

### Proposed Section 17829. Conditional Status Imposed During the Contract Period.

**Proposed Section 17829(a)** is added to specify that the ELCD may take action to change a contract to conditional status during the year if programmatic or fiscal noncompliance is demonstrated by the contractor. This is necessary to ensure that all contractors are held to high standards and to allow the department to take steps to correct any noncompliance before problems grow larger.

**Proposed Section 17829(b)** is added to require that a contractor receive notice prior to its contract status being changed and given the opportunity to seek administrative review. This is necessary to ensure that the contractor is treated fairly.

**Proposed Section 17829(c)** is added to require that if a contractor is placed on conditional status during the last 90 days of their contract and is offered continued funding, that the subsequent year’s contract also be on conditional status. This is necessary to ensure that the contractor continues to be provided with technical assistance and support in their subsequent contract to ensure that all fiscal or programmatic issues are corrected. .

### Proposed Section 17830. Conditional Status Addendum.

**Proposed Section 17830(a)** is added to require that a conditional status contract must include a Conditional Status Addendum, which contains a bill of particulars, including the specific items of noncompliance which the contractor must correct. This is necessary to ensure that the contractor is made fully aware of the items of noncompliance and that those items of noncompliance are included as part of the contract by way of the Conditional Status Addendum.

**Proposed Section 17830(a)(1)-(2)** is added to require that a conditional status contract must include a Conditional Status Addendum which contains a bill of particulars, including the specific corrective actions that must be taken by the contractor to fix the items of noncompliance. This is necessary to ensure that the contractor is explicitly informed of what can be done to correct the issues of noncompliance and that such required corrections become part of the contract.

**Proposed Section 17830(a)(3)** is added to require that a conditional status contract must include a Conditional Status Addendum which contains a bill of particulars, including the time period in which the corrections must be made. This is necessary to ensure that fiscal or programmatic issues are timely corrected and that the contractor knows what is expected of them in order to meet the requirements of the Conditional Status Addendum.

**Proposed Section 17830(a)(4)** is added to require that a conditional status contract must include a Conditional Status Addendum which contains a bill of particulars, including a Notice that failure to make the required corrections may result in contract termination or no offer of continued funding. This is necessary to ensure fair warning is provided to the contractor of the consequences that may inure if the corrections are not timely made as required in the Conditional Status Addendum.

**Proposed Section 17830(b)** is added to explain that the Conditional Status Addendum is issued when a contract is placed on conditional status and that is incorporated as part of the contract. This is necessary to ensure that the parties can look to the contract to determine what requirements must be followed and that there are contractual remedies for failure to meet such requirements.

### Proposed Section 17831. Monthly Reports; Inventory of Equipment.

**Proposed Section 17831(a)** is added to require that contractors whose contracts are on conditional status must submit monthly enrollment and attendance reports to the ELCD. This is necessary to ensure that the ELCD can closely monitor the contracts and provide the contractor with necessary technical assistance in a timely manner.

**Proposed Section 17831(b)** is added to require that contractors whose contracts are on conditional status must include with the first monthly enrollment and attendance report a current inventory of equipment paid for, in whole or part, with ELCD funds. This is necessary so that the ELCD can track the equipment that belongs to them in the event that the contract is terminated or not renewed.

### Proposed Section 17832. Duration of Conditional Contract Status.

**Proposed Section 17832(a)** is added to provide that a contractor whose contracts are on conditional status remains on that status until they have been notified by ELCD that all deficiencies have been corrected and their status on conditional status has been cleared. This is necessary to ensure there is clear understanding of the parties as to when a contractor is no longer deemed to be on conditional status.

**Proposed Section 17832(b)** is added to clarify that a contractor whose contracts are on conditional status may not return to clear status until they have finished making all payments due under a repayment plan. This is necessary to make sure that ELCD closely monitors any agency that owes the CDE money.

**Proposed Section 17832(c)** is added to provide that a contractor on conditional status may request written verification from the ELCD that some items of noncompliance have been corrected, even if not all items have been corrected, and the contractor is to remain on conditional status. This is necessary to help both parties determine what items have been corrected and what items still remain in need of correction.

### Proposed Section 17833. Resolution of Contract Administration Disputes.

**Proposed Section 17833(a)** is added to provide a dispute resolution process for when there is a dispute with a contractor about the interpretation or application of any term or condition of a contract, other than where there is another avenue for dispute in statute or regulation. This is necessary as it allows disputes to, whenever possible, be resolved through informal means.

**Proposed Section 17833(b)** is added to provide that the first step in the dispute resolution process is to resolve disputes at the lowest staff level. This is necessary to ensure that only disputes that cannot be readily resolved between the contractor and the department are elevated to a higher level

**Proposed Section 17833(c)** is added to provide that, if a dispute is not resolved at the lowest level, the contractor may file a written appeal with a Regional Administrator, which should contain the issues and the basis for the appeal, and that the Regional Administrator has 30 days from receipt of the appeal to issue a written decision. This is necessary to ensure that disputes get resolved in a timely manner and that contractors receive a written statement informing them of the basis for the department’s decision.

**Proposed Decision 17833(d)** is added to provide a vehicle for the contractor to appeal the decision of the Regional Administrator to the Associate Director of the ELCD and that the Associate Director has 30 days from receipt of the appeal to issue a written decision. It also provides that this decision is the final decision of the CDE. This is necessary to ensure that disputes get resolved in a timely manner and that contractors receive a written statement informing them of the basis for the department’s decision. It is also necessary to provide finality to the dispute.

**SUBCHAPTER 4. CALIFORNIA STATE PRESCHOOL PROGRAM**

Chapter 19, subchapter 4 is deleted to remove duplicate regulations that apply to the CSPP. This is necessary to ensure contractors are following the correct regulations that apply to the CSPP. In some cases, the current regulations in subchapter 4 were amended to align with current Education Code when this rulemaking file was developed.

**Article 1. Scope of Chapter**

**Section 18130** is deleted because it no longer needed because chapter 18.5 includes all regulations applicable to the CSPP.

**Article 2. Enrollment Priorities**

**Section 18131** is deleted because it is incorporated in proposed section 17746.

**Section 18131.1** is deleted because it is incorporated in proposed section 17748.

**Section 18132** is deleted because it is incorporated in proposed section 17752.

**Section 18133** is deleted because it is incorporated in proposed section 17750.

**Section 18134** is deleted because it is incorporated in proposed section 17760.

**Article 3. Other Requirements**

**Section 18135** is deleted because it is incorporated in proposed section 17716.

**Section 18136** is deleted because it is incorporated in proposed section 17727.

**Article 4. Local Educational Agencies Exempt from Licensing Requirements**

**Section 18140** is deleted because it is incorporated in proposed section 17775.

**Section 18145** is deleted because it is incorporated in proposed section 17776.

**Section 18150** is deleted because it is incorporated in proposed section 17777.

**Section 18155** is deleted because it is incorporated in proposed section 17778.

**Section 18160** is deleted because it is incorporated in proposed section 17779.

**Section 18165** is deleted because it is incorporated in proposed section 17780.

## ECONOMIC IMPACT ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

***Purpose:***

The proposed regulations are to provide CSPP contractors with clear direction in order to ensure implementation of the CSPP and application of these regulations are consistent throughout the state.

### *Creation or Elimination of Jobs within the State of California:*

There is no evidence that the proposed regulations will either create or eliminate jobs within California. These proposed regulations are designed to provide clear and consistent guidance for contractors operating a CSPP. Prior to the enactment of these regulations, contractors followed similar guidance in the California Code of Regulations, title 5, chapter 19. These activities are currently being performed by existing staff and these regulations simply clarify and update the program requirements. Therefore, no jobs in California will be created or eliminated.

### *Creation of New or Elimination of Existing Businesses within the State of California:*

There is no evidence that the proposed regulations will either create or eliminate businesses within California. These proposed regulations are designed to provide clear and consistent guidance for contractors operating a CSPP. Prior to the enactment of these regulations, contractors followed similar guidance in the California Code of Regulations, title 5, chapter 19. Since these regulations only impact contractors operating CSPPs, no businesses in California will be created or eliminated.

### *Expansion of Businesses or Elimination of Businesses Currently Doing Business within the State of California:*

There is no evidence that the proposed regulations will either expand or eliminate businesses within California. These proposed regulations are designed to provide guidance for current CSPP contractors. Since these regulations only impact current CSPP contractors, no businesses in California will be expanded or eliminated.

### *Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:*

The benefit anticipated by the proposed regulations is the assurance of the continued health and safety of young children enrolled in these programs. These regulations are specifically appropriate for a preschool environment and thus will benefit the health and welfare of California’s preschool-age children.

## INCORPORATED BY REFERENCE

No documents are to be incorporated by reference.

## OTHER REQUIRED SHOWINGS

### *Studies, Reports or Documents Relied Upon – Gov. Code. Section 11346.2(b)(3):*

The SSPI relied upon the following documents in proposing the adoption of these regulations.

* Public Playground Safety Handbook, U.S. Consumer Product Safety Commission (Pub. No. 325, November 2010)
* Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 4th ed. Itasca, IL; American Academy of Pediatrics, American Public Health Association, National Resource Center for Health and Safety in Child Care and Early Education, (2019), ISBN: 978-1-61002-297-2
* The State of California’s Facilities Inspection Tool, School Facility Conditions Evaluation (revised May 2009)

### *Reasonable Alternatives Considered or Agency’s Reasons for Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(5)(A):*

No other alternatives were presented to or considered by the SSPI.

### *Reasonable Alternatives that Would Lessen the Impact on Small Businesses – Gov. Code Section 11346.2(b)(5)(B):*

The SSPI has not identified any alternatives that would lessen any adverse impact on small business.

### *Evidence Relied Upon to Support the Initial Determination that the Regulations Will Not Have a Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(5)(A):*

The proposed regulations would not have a significant adverse economic impact on any business because they apply only to contractors under contract with CDE to provide CSPP services and do not change their current practices in any way.

### *Analysis of Whether the Regulations are an Efficient and Effective Means of Implementing the Law in the Least Burdensome Manner – Gov. Code Section 11346.3(e)*

The proposed regulations have been determined to be the most efficient and effective means of implementing the law in the least burdensome manner.

### *Determination of Inconsistent/Incompatible Existing Regulations – Gov. Code Section 11346.5(a)(3)(D):*

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).

10-06-2020 [California Department of Education]