* The State Superintendent of Public Instruction has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.

# Title 5. EDUCATIONDivision 1.

## ~~Chapter 18.5. California State Preschool Program~~

### Subchapter 1. Definitions

**§ 17700. Definitions.**

Unless otherwise specified, the following definitions apply throughout this chapter:

(a) “Actual and allowable net costs” means the costs which may be reimbursed under an early learning and care contract after disallowed costs and restricted income have been subtracted from total expenditures.

(b) “Additional funds” means award of new contracts or expanded contracts that increase the contractor's level of administrative responsibility. Additional funds do not include cost of living adjustments, rate increases, or one-time-only supplemental funds.

(c) “Adjusted child days of enrollment” means child days of enrollment after adjustment factors specified in Education Code sections 8266.1, 8266.2 and 8266.5 have been applied.

(d) “Adjusted monthly income” means the total countable income as defined below, minus verified child support payments paid by the parent whose child is receiving early learning and care services, excluding the non-countable income listed below:

(1) Earnings of a child under age 18 years;

(2) Loans;

(3) Grants or scholarships to students for educational purposes;

(4) Federal Supplemental Assistance Program (CalFRESH/SNAP) or Women, Infants and Children (WIC) benefits or other food assistance;

(5) Earned Income Tax Credit or tax refund;

(6) GI Bill entitlements, hardship duty pay, hazardous duty pay, hostile fire pay, or imminent danger pay;

(7) Adoption assistance payments received pursuant to Welfare and Institutions Code section 16115 et seq;

(8) Non-cash assistance or gifts;

(9) All income of any individual counted in the family size who is collecting federal Supplemental Security Income (SSI) or State Supplemental Program (SSP) benefits;

(10) Insurance or court settlements including pain and suffering and excluding lost wages and punitive damages;

(11) Reimbursements for work-required expenses such as uniforms, mileage, or per diem expenses for food and lodging;

(12) Business expenses for self-employed family members;

(13) When there is no cash value to the employee, the portion of medical and/or dental insurance documented as paid by the employer and included in gross pay;

(14) Disaster relief grants or payments, except any portion for rental assistance or unemployment; and

 (15) AmeriCorps Volunteers In Service to America (VISTA) and Federal Emergency Management Agency (FEMA) stipends, room and board, and grants.

(e) “Administrative costs” means costs incurred for administrative activities where neither the family, the child, nor the service providers operating family child care homes directly benefit from the activity.

(f) “Adult” for the purposes of this chapter means a person who is at least 18 years of age.

(g) “Applicants headquartered in” means:

(1) Contractors or applicants that have provided early learning and care services in the service delivery area, as defined in subsection (be), for at least three years immediately preceding the posting date of the request for applications; or

(2) Contractors or applicants that have their primary administrative offices for the early learning and care program in the service delivery area as defined in subsection (be). The primary administrative office is that office which houses the executive officer(s), the fiscal functions, and other centralized support services as documented to the Internal Revenue Service and/or the California School Directory website located at <http://www.cde.ca.gov>.

(h) “Authorized representative” means a person who has been given authority to perform a task for a parent or a contractor.

(i) “Benefit to the state” means that the activity will improve knowledge or expertise in areas directly related to subsidized early learning and care services.

(j) “California State Preschool Program eligible four-year-olds” are children that meet the definition or “four-year-olds” in Education Code section 8208.

(k) “California State Preschool Program eligible three-year-olds” are children that meet the definition or “three-year-olds” in Education Code section 8208.

(l) “California State Preschool Program (CSPP)” means age and developmentally appropriate subsidized early learning and care programs, including part-day and full-day, designed to meet the needs of working families, and to facilitate the transition to kindergarten for eligible three- and four-year-olds. The CSPP includes educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development.

(m) “Ceases operation” means the contractor does not provide subsidized services in accordance with the contractor's program operating calendar submitted to and approved by the California Department of Education (CDE) Early Learning and Care Division for the applicable contract period.

(n) “Certified schedule” means the number of hours per day and/or week that a family is approved to receive subsidized early learning and care services. This is also referred to sometimes as a “child care schedule.”

(o) “Child protective services” means children receiving protective services through the local county welfare department as well as children identified by a legal, medical, social service agency or emergency shelter as abused, neglected or exploited or at risk of abuse, neglect or exploitation.

(p) “Child with disabilities” means the definition of “children with exceptional needs” as defined in Education Code section 8208.

(q) “Commingled early learning and care services” means the provision of services to both subsidized and nonsubsidized children in the same classroom at the same time.

(r) “Contract period” means the time span the contract is in effect as specified in the early learning and care contract.

 (s) “CSPP free and reduced priced meal (FRPM) sites” means a CSPP site that has been verified as operating within the attendance boundaries of a qualified FRPM school.

(t) “Declaration” means a written statement signed by a parent under penalty of perjury attesting that the contents of the statement are true and correct to the best of that parent’s knowledge.

 (u) “Developmental profile” means a record of a child's physical, cognitive, social, and emotional development that is used to inform teachers and parents about a child's developmental progress in reaching expected child outcomes. In center-based programs, teacher and parent observations shall be included as part of the information used to complete the child's developmental profile. In family child care home networks, the observations of agency staff, in consultation with provider and parents shall be included as part of the information used to complete the child's developmental profile.

 (v) “Desired Results Developmental Profile” is a document issued by the department to record the information in the developmental profile defined in subsection (u).

 (w) “Desired Results System” means the program foundation, frameworks and assessment tools used to inform and facilitate high-quality programs, which include a developmental profile, environment rating scale, program self-evaluation, and a parent survey that measure the following desired results for children and families:

 (1) Children are personally and socially competent.

 (2) Children are effective learners.

 (3) Children show physical and motor competence.

 (4) Children are safe and healthy.

 (5) Families support their child’s learning and development.

 (6) Families achieve their goals.

(x) “Depreciation” means a cost in the current fiscal year that is based on acquisition costs, less any estimated residual value, computed on a straight-line method based on the normal, estimated useful life expectancy of the asset.

(y) “Disallowed costs” means costs which have been incurred but are not reimbursable because they are not reasonable and/or necessary for the performance of the contract or are non-reimbursable as specified in section 17806.

(z) “Displace families” means the disenrollment of families in order to reduce service levels due to insufficient funding or inability of a contractor to operate one or more sites because of reasons stated in Education Code section 8271.

(aa) “Early learning and care programs” is defined as “child care and development programs” as set forth in Education Code section 8208.

(ab) “Early learning and care services” is defined as “child care and development services” as set forth in Education Code section 8208.

(ac) “Education program” means the environment, activities, and services provided to the children.

 (ad) “Environment rating scale” means an instrument that measures program quality by rating the education program as defined in section 17703, the staff professional development program as defined in section 17704, and family engagement as defined in section 17705.

(ae) “Family” means the parents and the children for whom the parents are responsible who comprise the household in which the child receiving services is living. For purposes of income eligibility and family fee determination, when a child and that child’s siblings are living in a family that does not include their biological or adoptive parent, “family” shall be considered the child and related siblings.

 (af) “Family engagement and strengthening” means those activities specifically designed to include parents in the education of their children, help parents participate in the program, and enhance their understanding of child development.

(ag) “Family experiencing homelessness” is defined as set forth in section 11434(a)(2) of title 42 of the United States Code, known as the McKinney-Vento Homeless Assistance Act.

(ah) “Family Fee Schedule” means the fee schedule issued by the State Superintendent of Public Instruction (SSPI) pursuant to Education Code section 8273.

 (ai) “Income eligibility” for the purpose of determining income eligibility for early learning and care services is defined as set forth in Education Code section 8263.1(a) and (b) as applicable.

(aj) “Income fluctuation” means income that varies due to:

(1) Migrant, agricultural, or seasonal work;

(2) Inconsistent, and/or unstable employment, or self-employment resulting in an inconsistent pattern of income; or

(3) Intermittent, occasional, sporadic, or infrequent earnings or income, including but not limited to bonuses, commissions, lottery winnings, inheritance, back child support payment, overtime or net proceeds from the sale of real property or stock.

(ak) “Indirect cost” means an expense that cannot be readily assigned to one specific program or one specific line item within a program.

(al) “Indirect cost allocation plan” means a written justification and rationale for assigning the relative share of indirect costs across more than one program or contract.

 (am) “Initial certification” means the formal processes the contractor goes through to collect information and documentation to determine that the family and/or child meets the criteria for receipt of subsidized early learning and care services. The dated signature of the contractor’s authorized representative on an application for services certifies that the criteria have been met, and begins the period of eligibility.

 (an)“Legally qualified professional” means a person licensed under applicable laws and regulations of the State of California to perform legal, medical, health or social services for the general public.

(ao) “Magnet school” means an entire school with a focus on a special area of study, such as science, the performing arts, or career education, designed to attract pupils from across the school district who may choose to attend the magnet school instead of their local public school.

(ap) “Maximum reimbursable amount” means the total dollar amount of a contract. Reimbursement from the state shall not exceed the maximum reimbursable amount. The initial maximum reimbursable amount shall be the approved original version of the annual contract based on the Budget Act as signed by the Governor.

(aq) “Net reimbursable program costs” means the portion of the actual and allowable net costs which are incurred in the provision of early learning and care services for subsidized children.

(ar) “New contract” means either:

(1) A contract award to applicants who do not currently contract with the CDE for early learning and care services; or

(2) A contract award to a current contractor that is for a program type as specified in Education Code section 8208(i) that is different than the early learning and care contract(s) currently administered by the applicant.

(as) “Parent” means a biological parent, adoptive parent, stepparent, foster parent, caretaker relative, legal guardian, domestic partner of the parent as defined in Family Code section 297, or any other adult living with a child who has responsibility for the care and welfare of the child.

(at) “Parental incapacity” means the temporary or permanent inability of the child's parent(s) to provide care and supervision of the child(ren) for any part of the day due to a physical and/or mental health condition.

 (au) “Parent survey” means a questionnaire completed by the parent to assess the child care program or services that the child and family receive. The parent survey asks for information about how the program helps parents support their child's learning and development and meets the family's needs.

(av) “Program self-evaluation process” means those activities and procedures used by the contractor to evaluate its program quality and compliance with applicable laws, regulations, and contractual provisions.

(aw) “Private contractor” means an entity other than a public agency which is tax exempt or non-tax exempt and under contract with CDE for the provision of early learning and care services.

(ax) “Public contractor” means a school district, community college district, county superintendent of schools, campus of the California State University or the University of California system, county, city or other public agency under contract with the CDE for the provision of early learning and care services.

(ay) “Qualified FRPM school” is a public elementary school, that is not a charter or magnet school, where at least 80 percent of the enrolled students are eligible for the free and reduced priced meal program.

(az) “Reasonable and necessary costs” means expenditures that, in nature and amount, do not exceed what an ordinarily prudent person would incur in the conduct of a competitive business.

(ba) “Recertification” means the formal processes the contractor goes through to collect information and documentation to determine that the family and/or child continues to meet the criteria for receipt of subsidized full-day early learning and care services. The dated signature of the contractor’s authorized representative on an application for services certifies that the criteria have been met, and begins the period of eligibility.

(bb) “Recipients of service” means families and/or children enrolled in an early learning and care program subsidized by the CDE.

(bc) “Restricted income” means income which the donor designates may only be expended for specific limited purposes that are reimbursable according to the contract.

(bd) “Request for applications (RFA)” means an announcement issued by the CDE for an award of new funding for early learning and care services or expansion of existing level of services. The RFA includes, but is not limited to:

(1) The application content requirements;

(2) Procedures and timelines for submission of an application for funding; and

(3) How the application will be scored.

(be) “Service delivery area” means the community, geographic area or political subsection in which the early learning and care services are to be provided as specified in the RFA.

(bf) “Self-certification of income” means a declaration signed by the parent under penalty of perjury, identifying, to the extent known, the employer’s name, address, start date of work, the rate and frequency of pay, the total amount of income received for the preceding month(s), the type of work performed, and the hours and days worked.

 (bg) “Staff professional development program” means those activities that address the needs, interests, and skills of program staff or service providers to improve program quality.

(bh) “Subcontract” means a written agreement between the contractor and any entity to perform a service on behalf of the contractor.

 (bi) “Total countable income” means all income of the individuals counted in the family size that includes, but is not limited to, the following:

 (1) Gross wages or salary, commissions, overtime, tips, bonuses, gambling or lottery winnings;

 (2) Wages for migrant, agricultural, or seasonal work;

 (3) CalWORKs cash aid;

 (4) Gross income from self-employment less business expenses with the exception of wage draws;

 (5) Disability or unemployment compensation;

 (6) Workers compensation;

 (7) Spousal support, child support received from the former spouse or absent parent, or financial assistance for housing costs or car payments paid as part of or in addition to spousal or child support;

 (8) Survivor and retirement benefits;

 (9) Dividends, interest on bonds, income from estates or trusts, net rental income or royalties;

 (10) Rent for room within the family's residence;

 (11) Foster care grants, payments or clothing allowance for children placed through child welfare services;

 (12) Financial assistance received for the care of a child living with an adult who is not the child's biological or adoptive parent;

 (13) Veterans pensions;

 (14) Pensions or annuities;

 (15) Inheritance;

 (16) Allowances for housing or automobiles provided as part of compensation;

 (17) Insurance or court settlements for lost wages or punitive damages;

 (18) Net proceeds from the sale of real property, stocks, or inherited property; or

(19) Other enterprise for gain.

(bj) “Total expenditures” means all costs for the provision of subsidized services under the contract and any nonsubsidized services which are provided in classrooms with commingled early learning and care services.

(bk) “Unnecessarily increase the value” means an improvement of a site beyond what is required to meet California Code of Regulations, title 22, Community Care Licensing Standards.

(bl) “Unrestricted income” means income that has no restrictions regarding use by the donor, and income restricted by the donor for purposes that are not reimbursable according to the contract, including income for services to children not subsidized by the contract.

(bm) “Use allowance” means an alternate method for claiming the use of the contractor's assets as a cost when depreciation methods are not used.

 (bn) “Vocational training” means an educational or job training/apprenticeship/internship program, courses and/or classes leading to a recognized trade, paraprofession or profession.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8202, 8203, 8208, 8235, 8261, 8263, 8263.1, 8266.1, 8266.2, 8266.5, 8271, 8273, 8406.6 and 8447, Education Code.

### Subchapter 2. Program Quality Article 1. General Program Requirements

#### § 17701. Program Philosophy, Goals and Objectives.

 (a) Each contractor shall have a written philosophical statement and goals and objectives which support that philosophy and address equity, diversity, inclusion, cultural and linguistic responsiveness. The governing body of each contractor shall approve the program philosophy, goals and objectives.

 (b) The goals and objectives shall address the requirements contained in all of the sections in this article.

 (c) The goals and objectives shall reflect the cultural and linguistic characteristics of the families served by the contractor.

(d) The goals and objectives shall meet the needs of all children and their families, including children with disabilities and dual language learners.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8235 and 8261, Education Code.

#### § 17702. Developmental Profile.

 (a) Contractors shall complete the age-appropriate Desired Results Developmental Profile, as defined in this chapter, and submit it as directed by the California Department of Education (CDE) for each child who is enrolled in the program for at least 10 hours per week.

 (b) The Desired Results Developmental Profile required in subsection (a) shall be completed for each child between 60 and 90 calendar days from the first day of attendance and at least once every six months thereafter.

 (c) The contractor shall use data from the Desired Results Developmental Profile to plan and conduct age and developmentally appropriate activities as required by the education program.

 (d) If a child has a disability, the Desired Results Developmental Profile shall be completed with any necessary accommodations and adaptations and submitted as directed by the CDE. Notwithstanding subsection (a), a developmental profile is required for a child with disabilities, even if that child is enrolled less than 10 hours per week.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8203.5, and 8235, Education Code.

#### § 17703. Education Program.

The standards for the education program component shall include, but are not limited to, the following:

 (a) The program approach addresses equity, diversity and is developmentally, linguistically, and culturally appropriate.

 (b) The program is inclusive of children with disabilities.

 (c) The program encourages respect for the feelings and rights of others.

(d) The program uses information derived from data collected in the Desired Results Developmental Profile to plan activities that support individual, classroom, and program goals.

 (e) The program supports children's social and emotional development by:

 (1) Building trust;

 (2) Planning routines and transitions so they can occur in a timely, predictable, and unhurried manner; and

 (3) Helping children develop emotional security and facility in social relationships.

 (f) The program provides for the development of each child's cognitive and language skills by:

 (1) Using various strategies, including experimentation, inquiry, observation, play, and exploration;

 (2) Ensuring opportunities for creative self-expression through activities such as art, music, movement, and dialogue;

 (3) Promoting interaction and language use among children and between children and adults; and

 (4) Supporting emerging literacy and numeracy development.

 (g) The program promotes each child's physical development by providing sufficient time, indoor and outdoor space, equipment, materials, and guidelines for active play and movement.

 (h) The program promotes and maintains practices that are healthy and safe.

 (i) The program uses data from the Desired Results Developmental Profile to support every child’s developmentally appropriate participation in the program.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8235, Education Code.

#### § 17704. Staff Professional Development Program.

Each contractor shall develop and implement a staff professional development program that includes the following:

 (a) Identification of training needs of staff or service providers that improves the quality, diversity, stability, and retention of caregivers, teachers, and directors;

 (b) Written job descriptions;

 (c) An orientation plan for new employees;

 (d) An annual written performance evaluation procedure, unless a different frequency of performance evaluations is specified in a contractor's collective bargaining agreement with their employees;

 (e) Staff development opportunities that include topics related to the functions specified in each employee's job description and those training needs identified by the contractor pursuant to subsection (a) of this section. Staff development topics must be linked to the Desired Results System.

 (f) An internal communication system that provides each staff member with the information necessary to carry out his or her assigned duties.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8208, 8235, 8244, 8261 and 8360.1, Education Code.

#### § 17705. Family Engagement and Strengthening.

 (a) Each contractor shall include in its program a family engagement and strengthening component.

 (b) The family engagement and strengthening component shall include the following:

 (1) An orientation for parents that includes topics such as program philosophy, program goals and objectives, program activities, eligibility criteria and priorities for enrollment, family fee requirements, and due process procedures;

 (2) At least two individual conferences with the parent(s) per year;

 (3) Parent meetings with program staff,

 (4) An open-door policy that encourages parents to participate in the daily activities whenever possible;

 (5) A parent advisory committee that advises the contractor on issues related to services to families and children; and

 (6) Sharing information between staff and parents concerning the child's progress.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8235 and 8261, Education Code.

#### § 17706. Health and Social Services.

Each contractor shall include in its program a health and social service component that:

 (a) Identifies the needs of the child and the family for health or social services;

 (b) Refers a child and/or family to appropriate agencies in the community based on the health or social service needs; and

 (c) Conducts follow-up procedures with the parent to ensure that the needs have been met.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8235 and 8261, Education Code.

#### § 17707. Community Involvement.

Each contractor shall include a community involvement component in its program which shall include, but not be limited to, the following:

(a) Facilitating relationships between the local educational agency or local regional centers and families that need services.

 (b) Soliciting support from the community, this includes the solicitation of donated goods and services.

 (c) Providing information to the community regarding the services available. Contractors may utilize media or other forms of communication in the community.

(d) Collaborating with the local resource and referral agency to provide services to families.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8235 and 8261, Education Code.

#### § 17708. Nutrition.

 (a) Each contractor shall include in its program a nutrition component that ensures that the children have nutritious meals and snacks during the time in which they are in the program.

 (b) The meals and snacks shall be culturally and developmentally appropriate for the children being served and shall meet the nutritional requirements specified by the federal Child Care Food or the National School Lunch program.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8204, 8235 and 8261, Education Code.

#### § 17709. Program Self-Evaluation Process.

 (a) Each contractor shall develop and implement an annual plan for its program self-evaluation process.

 (b) The annual plan shall include the following:

 (1) A self-evaluation based on the use of the Contract Monitoring Review (CMR), as defined in section 17794 of this chapter;

 (2) An assessment of the program by parents using the parent survey, as defined in subsection 17700 of this chapter;

 (3) An assessment of the program by staff and board members as evidenced by written documentation;

 (4) An analysis of the CMR findings, including, as applicable, the Desired Results Developmental Profiles, the environment rating scales, and the parent surveys, as defined in section 17700 together with the self-evaluation findings described in this section;

 (5) A written list of tasks needed to modify the program in order to address all areas that need improvement, as indicated in the analysis specified in subsection (b)(4); and

 (6) Procedures for the ongoing monitoring of the program to assure that areas of the program that are satisfactory continue to meet standards, and areas requiring modification pursuant to subsection (b)(5) are addressed in a timely and effective manner.

 (c) The contractor shall submit a summary of the findings of the program self-evaluation to the CDE by June 1 of each year. The contractor may submit self-evaluation reports required by other local, state, or federal agency requirements, such as Head Start and Quality Counts California, and the CDE shall review such reports to determine if the reports meet all, or a part of, the requirements listed in subsection (b).

 (d) The contractor shall modify its program to address any areas identified during the self-evaluation as needing improvement.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8235 and 8261, Education Code.

#### § 17710. Parent Survey.

 (a) Each contractor shall annually distribute the parent survey to parents, collect the surveys from parents, and analyze the results.

 (b) The contractor shall use the parent survey results to plan and conduct activities to help parents support their child's learning and development and to meet the family's needs.

 (c) The contractor shall use the results and analysis of the parent survey as part of its annual self-evaluation process.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8235, Education Code.

#### § 17711. Environment Rating Scales.

 (a) Contractors shall use the tool determined in the annual program requirements to complete an environment rating scale to measure program quality that is appropriate for the type of setting and age of children served. The environment rating scale shall be completed:

 (1) As part of the contract monitoring review; and

 (2) Annually as part of the self-evaluation process.

 (b) For each environment rating scale completed, the contractor shall achieve the minimum score threshold set forth in the annual program requirements.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8235, Education Code.

#### § 17712. Quality Rating Improvement System

 (a) By July 1, 2024, all contractors must have an initial rating on the quality continuum framework through the local Quality Counts California Consortia.

 (b) After the initial rating, contractors must be rated on an ongoing basis as determined through the local Quality Counts California Consortia.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8203.1 and 8235, Education Code.

### Article 2. Staffing Ratios

#### § 17713. Staffing Ratios for CSPP.

 (a) Contractors shall maintain a minimum of: 1:8 adult-child ratio, 1:24 teacher-child ratio.

 (b) Compliance with these ratios shall be determined based on actual attendance.

 (c) Contractors that also receive funding to operate a federal Head Start program may follow Head Start staffing ratios. If a contractor chooses to follow Head Start staffing ratios, they must also follow Head Start group sizes.

 (d) Contractors that commingle transitional kindergarten and California State Preschool Program (CSPP) children shall follow the adult-child ratios specified in subsection (a).

 (e) Contractors that operate through Family Child Care Home Education Networks shall follow the adult-child ratios for family child care homes pursuant to California Code of Regulations (CCR), title 22, section 102416.5.

NOTE: Authority cited: Section 8264.7, Education Code. Reference: Sections 8264.7, 8264.8 and 48000, Education Code.

#### § 17714. Commingling of Age Categories.

 (a) Except as provided for in section 17713(d), whenever groups of children that are younger or older than CSPP age eligible children are commingled with CSPP age eligible children, and the younger age group exceeds 50 percent of the total number of children in attendance, the ratios for the entire group must meet the ratios required for the younger age group.

 (b) If the younger age group does not exceed 50 percent of the total number of the children in attendance, the teacher-child and adult-child ratios shall be computed separately for each group.

NOTE: Authority cited: Section 8264.7, Education Code. Reference: Sections 8264.7 and 8264.8, Education Code.

#### § 17715. Staffing Ratio Variance for Full-Day CSPP.

 (a) Except as otherwise provided in title 22 of the CCR, Community Care Licensing Standards, the full-day CSPP may exceed adult-child ratios prescribed by section 17713 by 15 percent of the total number of children in attendance, for a period of time not to exceed 120 minutes in any one day.

 (b) The ratio during a scheduled nap period may be a 1:24 teacher-child ratio, provided that the remaining staff necessary to meet the adult-child ratio specified in section 17713 are immediately available at the center.

 (c) For subsection (b) to apply, all napping children shall remain on a cot/mat. If one child gets up, additional staff need to be called in immediately to meet the required adult-child ratio.

NOTE: Authority cited: Section 8264.7, Education Code. Reference: Sections 8264.7 and 8264.8, Education Code.

#### § 17716. Volunteers for Part-day CSPP.

 (a) All adult volunteers must meet the requirements in CCR, title 22, sections 101216(c) and (d), and unless exempted under CCR, title 22, section 101170(b), shall be required to obtain a criminal record clearance.

 (b) Contractors may recruit a maximum of one adult volunteer per 24 children to meet adult/child ratios, as required in section 17713, under the following conditions:

 (1) Adult volunteer shall obtain a criminal record clearance as specified in CCR, title 22, section 101170; and

 (2) Shall meet personnel requirements specified in CCR, title 22, section 101216.

 (c) The contractor shall ensure that adult/child ratios, as required in sections 17713 or 17715, are maintained during program operations.

 (d) The contractor shall have a written plan indicating how the program will meet the adult/child ratios in sections 17713 and 17715, in the event that the adult volunteer is not able to participate on any given day.

NOTE: Authority cited: Sections 8261 and 8264.7, Education Code. Reference:

Sections 8235, 8264.7 and 8264.8, Education Code.

### Article 3. Staff Qualifications.

#### § 17717. Teacher Qualifications.

Staff must meet the qualifications in subsections (a) or (b) to be considered a “teacher” in the CSPP.

(a) A permit issued by the Commission on Teacher Credentialing authorizing service in the care, development, and instruction of children in an early learning and care program. This can be any of the following permits:

(1) Regular Children’s Center Instructional Permit;

(2) Limited Children’s Center Instructional Permit;

(3) Emergency Children’s Center Instructional Permit;

(4) Child Development Master Teacher Permit;

(5) Child Development Teacher Permit; or

(6) Child Development Associate Teacher Permit (Note: This permit authorizes the holder to supervise Assistant Permit holders and an aide.); or

(b) A current credential issued by the Commission on Teacher Credentialing authorizing teaching service in elementary school or a single subject credential in home economics, and 12 units in early childhood education and/or child development (ECE/CDE) or two years of experience in early childhood education or an early learning and care program.

NOTE: Authority cited: Sections 8261 and 8264.7 Education Code. Reference: Section 8360, Education Code.

#### § 17718. Site Supervisor Qualifications.

Staff must meet the qualifications in subsections (a), (b), or (c) below to be considered a “site supervisor” in the CSPP.

(a) A permit issued by the Commission on Teacher Credentialing authorizing supervision of an early learning and care program operating in single site. This can be either of the following permits:

 (1) Child Development Site Supervisor Permit or

 (2) Children's Center Supervision Permit; or

(b) A current credential issued by the Commission on Teacher Credentialing authorizing teaching service in elementary school or a single subject credential in home economics, and six units in administration/supervision of ECE/CD (not required to any person who was employed as a program director prior to January 1, 1993 in an early learning and care program receiving funding by CDE’s Early Learning and Care Division) and 12 units of ECE/CD or at least two years of experience in an ECE/CD program; or

(c) An Administrative Services Credential authorizing administration or supervision in public schools in California that includes a preschool authorization.

NOTE: Authority cited: Sections 8261, Education Code. Reference: Section 8208, Education Code.

#### § 17719. Waiver of Qualifications for Site Supervisor; Conditions.

 (a) The Early Learning and Care Division may grant a waiver of the requirements in section 17718 upon a contractor's demonstration of the existence of compelling need. The Early Learning and Care Division shall consider, but is not limited to, the following factors in determining compelling need:

 (1) Evidence that the contractor's recruitment efforts have not be successful in obtaining qualified applicants;

 (2) Evidence of the contractor's inability to offer competitive salaries; or

 (3) Evidence of potential or current staff lack of reasonable access to training resources which offer required course work.

 (b) Waivers granted shall remain in effect for the period of time specified by the Early Learning and Care Division.

 (c) The site supervisor shall, at a minimum, meet the qualifications specified in CCR, title 22, Community Care Licensing Standards for “program director.”

NOTE: Authority cited: Sections 8261 and 8264.7, Education Code. Reference: Section 8208, Education Code.

#### § 17720. Program Director Qualifications.

Staff must meet the qualifications in subsections (a), (b), or (c) below to be considered a “program director” in the CSPP.

(a) A permit issued by the Commission on Teacher Credentialing authorizing supervision of an early learning and care program operating in multiple sites. This can be either of the following permits:

(1) Child Development Program Director Permit or

(2) Children's Center Supervision Permit; or

(b) A current credential issued by the Commission on Teacher Credentialing authorizing teaching service in elementary school or a single subject credential in home economics, and six units in administration/supervision of early childhood education (ECE/CD) (not required to any person who was employed as a program director prior to January 1, 1993 in an early learning and care program receiving funding by the Early Learning and Care Division) and 12 units of ECE/CD or at least two years of experience in an ECE/CD program; or

(c) An Administrative Services Credential authorizing administration or supervision in public schools in California that includes a preschool authorization.

NOTE: Authority cited: Sections 8264.7 and 8269, Education Code. Reference: Sections 8244 and 8360.1, Education Code.

#### § 17721. Waiver of Qualifications for Program Director; Conditions.

 (a) The Early Learning and Care Division may grant a waiver for the qualifications of a program director described in Education Code sections 8360.1 and 8360.3 upon a finding of one of the following circumstances:

 (1) The applicant is making satisfactory progress toward securing a permit issued by the Commission on Teacher Credentialing authorizing supervision of an early learning and care program operating in two or more sites or fulfilling the qualifications for program directors in severely handicapped programs; or

 (2) The place of employment is so remote from institutions offering the necessary coursework as to make continuing education impracticable and the contractor has made a diligent search but has been unable to hire a more qualified applicant.

 (b) Waivers granted shall remain in effect for the period of time specified by the Early Learning and Care Division.

NOTE: Authority cited: Sections 8261 and 8264.7, Education Code. Reference: Sections 8244 and 8360.1, Education Code.

### Subchapter 3. Award of Funding

### Article 1. General Provisions

#### § 17722. Eligibility for Funding.

(a) A current contractor is eligible to apply for new or additional funds except when one or more of the following conditions apply during the request for applications (RFA) cycle:

(1) The contractor is on conditional status because of fiscal or programmatic noncompliance;

(2) The California Department of Education's (CDE) Early Learning and Care Division has conducted a compliance review pursuant to section 17794 and the contractor has failed to resolve items of fiscal and programmatic noncompliance identified in the review within 12 months of the issuance of the compliance review report;

(3) The RFA outlines reasons for being ineligible for funding such as when the contractor has a contract on provisional status or has previously received expansion funding and has not yet begun to provide services with that funding;

(4) The CDE has evidence that the agency has not been able to successfully fulfill current contract requirements by serving children in a quality program and in a fiscally responsible manner;

(5) The contractor has in place, or places, a person in a position of fiscal responsibility or control who has been convicted of a crime involving misuse or misappropriation of state or federal funds, or a state or federal crime involving moral turpitude;

(6) The CDE reduced the contractor's current year maximum reimbursement amount due to the contractor's inability to utilize its full contract amount, whether through low enrollment or low expenditures for the same contract type;

(7) The contractor has an outstanding accounts receivable balance with the CDE; or

(8) The contractor has a delinquent audit with the CDE pursuant to section 17825.

(b) An applicant that is not a current CDE contractor is not eligible to apply for funding if the CDE is informed that one of the following conditions apply:

(1) The applicant had a previous contract with the CDE that was terminated or not continued by the CDE for fiscal or programmatic noncompliance within three years immediately preceding the date the RFA was posted;

(2) The applicant has an outstanding accounts receivable balance with the CDE or another state or federal agency;

(3) The applicant has a delinquent audit with the CDE pursuant to section 17825;

(4) The applicant is currently listed on a state or federal debarment list; or

(5) The applicant has in place, or places, a person in a position of fiscal responsibility or control who has been convicted of a crime involving misuse or misappropriation of state or federal funds, or a state or federal crime involving moral turpitude.

 (c) The RFA may set forth additional limitations on who will be eligible to apply for funding.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261, 8406.6, 8406.9, 8447.5 and 8448, Education Code.

### Article 2. Selection of Contractors

#### § 17723. Application Review.

(a) An applicant must submit a complete application in accordance with the instructions and timeline(s) contained in the RFA.

(b) Any change made to the contents of the RFA, shall be posted on the CDE's funding website located at http://www.cde.ca.gov/.

(c) All complete applications submitted in accordance with the instructions and timeline(s) in the RFA shall be evaluated as follows:

(1) Applications shall be evaluated and scored as specified in the RFA;

(2) If the RFA includes more than one service delivery area, applicants shall be considered for the service area(s) specified in their applications; and

(3) Applicants headquartered in the service delivery area(s) specified in the RFA shall be given preference over applicants with the same score that are not headquartered in the specified area(s).

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8445, Education Code.

#### § 17724. Appeals for Request for Applications.

After receiving the application score, the applicant may review the application, the criteria used to score the application, and any reader comments on the application. An applicant may appeal the score. If the applicant intends to appeal, the following appeal process shall apply:

(a) An applicant shall send a notice of appeal to the CDE's Early Learning and Care Division in the manner prescribed and within the timeline stated in the RFA.

(b) The appeal will be limited to whether the Early Learning and Care Division correctly applied the scoring criteria set forth in the RFA.

(c) The CDE shall notify the appellant in writing of the results of the appeal.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8406.6, Education Code.

#### § 17725. Award of Contract.

(a) Prior to announcing an award, the CDE shall verify:

(1) The applicant's eligibility for funding pursuant to section 17722 of this chapter; and

(2) As applicable, all applicants who have filed appeals have either been notified of the results of their appeal or the applicant has withdrawn its appeal.

(b) The applicants will be awarded contract funding based on the applicable state laws and pursuant to the criteria established in the RFA.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8444, Education Code.

### Article 3. Continued Funding

#### § 17726. Continued Funding.

(a) Contractors have no vested right to a subsequent contract.

(b) Contractors who are not on conditional contract status but where there is evidence of fiscal or programmatic noncompliance with the provisions of this chapter or Education Code sections 8200 et seq., shall receive an administrative review in accordance with section 17828 of this chapter to determine whether they will receive an offer for continued funding.

(c) Contractors currently on conditional status who do not meet the requirements specified in the Conditional Status Addendum, as specified in section 17830, may not be offered a subsequent contract and shall be so notified by the Early Learning and Care Division in accordance with section 17828.

(d) Contractors who intend to accept the offer to continue services in the subsequent contract period shall respond to a continued funding application request from the Early Learning and Care Division in accordance with the instructions and timelines specified in the request.

(e) Failure to respond within the timelines specified in the continued funding application request shall constitute notification to the Early Learning and Care Division of the contractor's intent to discontinue services at the end of the current contract period unless the contractor has received a written extension of the original timeline from the Early Learning and Care Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8406.6, Education Code.

### Subchapter 4. Programmatic Requirements

### Article 1. Operational Requirements

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

Part-day California State Preschool Program (CSPP) shall operate a minimum of three hours and up to three hours and 59 minutes per day, excluding home-to-school transportation time, and operate for a minimum of 175 days per year, unless the early learning and care contract specifies a lower minimum day of operation.

NOTE: Authority cited: Sections 8261 and 8265, Education Code. Reference: Sections 8235, 8239 and 8265, Education Code.

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

Full-day CSPP shall operate a minimum of 246 days per year, unless the contract indicates a lower number of days, and for the number of operational hours reasonably necessary to meet the early learning and care needs of the families in the community.

NOTE: Authority cited: Sections 8261 and 8265, Education Code. Reference: Sections 8235, 8239, and 8265, Education Code.

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

The contractor shall obtain prior written approval from the California Department of Education (CDE) before enrolling children using free and reduced priced meals (FRPM) eligibility.

NOTE: Authority cited: Sections 8261 and 8236.3, Education Code. Reference: Sections 8235, 8236.3 and 8265, Education Code.

#### § 17730. Family Child Care Home Education Networks.

CSPP contractors approved to operate through a family child care home education network are required to meet all applicable requirements in this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8235 and 8236, Education Code.

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

(a) The contractor shall not expel or unenroll a child who is exhibiting persistent and serious challenging behaviors, except as described in subsection (b) below.

(b) The contractor must pursue and document steps to maintain the child's safe participation in the program, including, but not limited to:

(1) Inform the parents or legal guardians of the process described herein.

(2) Consult and partner with the parents or legal guardians and teacher.

(3) If the child has an Individual Education Plan (IEP) or individual family service plan (IFSP), with the parent or guardian’s written consent, contact the responsible local educational agency (LEA) or local regional center to seek consultation on how to best serve the child.

(4) If the child does not have an IEP or IFSP, before referring the child to the LEA to request an assessment to determine the child’s eligibility for special education, consider the following, if appropriate:

(A) Completing a universal screening of the child that includes, but is not limited to, a screening of the child’s social and emotional development, such as but not limited to, the Ages and Stages Questionnaires: Social Emotional and Learn the Signs Act Early.

(B) Referring the parent or guardian to community resources, such as, but not limited to, an early childhood mental health consultant, Quality Counts California coaches for parents, and the local resource and referral agency.

(C) Implementing positive behavior supports within the program.

(D) Reviewing results from developmental profile data to support children’s safe participation in the program.

(c) If after expeditiously pursuing and documenting the steps in subsection (b), the contractor, in consultation with the parents or legal guardians, teacher, and if, applicable, LEA responsible for the student's IEP, determines that the child’s continued enrollment would present a continued serious safety threat to the child or other enrolled children, the contractor shall refer the parents or legal guardians to other potentially appropriate placements, the local child care resource and referral agency, or any other referral service available in the community. The contracting agency may then unenroll the child, subject to the due process requirements and procedures identified in sections 17782 through 17786.

(d) The contractor must complete this process within 180 days.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8239.1, Education Code.

#### § 17732. Confidentiality of Records.

 (a) The use or disclosure of all information held by the contractor pertaining to the child and the child’s family shall be restricted to purposes directly connected with the administration of the program or as otherwise permitted by law.

 (b) The contractor shall permit the review of the family data file by the child's parent(s) or parent's authorized representative, upon request and at reasonable times and places.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code; and Section 10850, Welfare and Institutions Code.

### Article 2. Family Fees for Full-Day CSPP

#### § 17733. Family Fee Schedule.

Contractors enrolling families for full-day services shall use the most recent family fee schedule adopted by the State Superintendent of Public Instruction.

NOTE: Authority cited: Section 8263, Education Code. Reference: Section 8273, Education Code.

#### § 17734. Family Fee Assessment: Explanation to Families.

(a) Except as noted in section 17735, families with children enrolled in full-day, full-year programs shall be assessed a family fee as described in this section.

 (b) The contractor shall utilize the following factors in determining the family fee to be assessed for each family:

 (1) The adjusted monthly family income;

 (2) Family size; and

 (3) Certified schedule.

 (c) The family fee shall be assessed and collected based on the family's child who is enrolled for the longest period.

 (d) The family fee assessed and collected shall be either the family fee indicated on the family fee schedule, the actual costs of services, or the contract maximum daily/hourly rate, whichever is less.

 (e) No adjustment shall be made for excused or unexcused absences.

 (f) The family fee shall be the full portion of the family's cost for services, no additional fees shall be required.

 (g) The contractor shall maintain a record of each family's fee assessment, the effective date(s) of each fee increase or decrease, the dates and amounts of family fees collected and any amounts which are delinquent.

 (h) The contractor shall provide written information to the parent(s), in advance of collecting family fees, about the policies regarding family fee assessment, collection, and the consequences for delinquent payment of fees.

(i) When assessing the family fee, contractors shall use the total monthly certified need as documented on the application for services.

(1) When a family is certified for 130 hours or more per month, a full-time monthly fee is assessed.

(2) When a family is certified for under 130 hours, a part-time monthly fee is assessed.

(3) When the initial enrollment is not on the first day of the month, the contractor must assess a fee based on the certified hours for the partial month and another fee for subsequent months based on the certified need as documented in the application for services.

(4) Contractors shall factor in the approved program calendar and include in the Notice of Action which months the part-time and/or full-time fees apply.

(j) Contractors shall assess a family fee for families who are certified based on an eligibility criterion other than income eligible, and are not exempt from a family fee as described in section 17735. These families are required to self-certify their income for purposes of assessing a family fee.

(k) Families whose incomes are higher than the maximum income for their family size represented on the annual family fee schedule shall pay the highest fee rate for their family size.

NOTE: Authority cited: Section 8263, Education Code. Reference: Section 8273, Education Code.

#### § 17735. Exceptions to Family Fee Assessment.

No fees shall be collected from families with any of the following circumstances:

 (a) A child that receives child protective services, or is at-risk thereof may be exempt for up to 12 months if it is required by the services plan;

 (b) Enrollment in a part-day CSPP;

 (c) With an income level that, in relation to family size, is less than the first entry in the family fee schedule; or

(d) A family that receives CalWORKs cash aid.

NOTE: Authority cited: Sections 8263, Education Code. Reference: Section 8273.1, Education Code.

#### § 17736. No Additional Payments or Costs; Exceptions.

(a) A contractor shall not require additional payments, in cash or in kind, as a condition of participation, except as provided in subsection (b).

(b) A contractor may charge recipients of services for field trips only under the following conditions:

(1) The fee has been established in a written policy adopted by the governing board that includes a parent advisory committee in the decision-making process.

(2) The maximum total charges per child in a contract year shall not exceed $25.

(3) A child shall not be denied participation in a field trip due to a parent’s inability or refusal to pay the charge. No adverse action shall be taken against any parent or child for their inability or refusal to pay.

(4) Federal or state money shall not be used to reimburse parents for the costs of field trips if those costs are charged as an additional fee. A contractor that charges parents an additional fee for field trips shall inform the parents, prior to enrolling the child, that a fee may be charged and that no reimbursement will be available.

(5) The contractor shall establish a payment system that prevents the identification of children based on whether or not their parent(s) have paid a field trip fee.

(c) The contractor may only require that families provide diapers if the contractor has a written policy adopted by the governing board that includes a parent advisory committee in the decision-making process.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8235 and 8273.3, Education Code.

#### § 17737. Credit for Fees Paid to Other Service Providers.

This section shall apply to early learning and care services provided by someone other than the contractor:

 (a) When a contractor cannot meet all of a family's needs for child care for which eligibility and need as specified in Education Code sections 8263(a)(1) and (a)(2) have been established, the contractor shall grant a credit to the family’s fee equal to the amount paid to the other provider(s) of these services.

 (b) The contractor shall apply the credit to the subsequent family fee billing period. The family shall not be allowed to carry over the credit beyond the subsequent family fee billing period.

 (c) The contractor shall obtain copies of receipts or cancelled checks for the other childcare services from the parent. The copies of the receipts or cancelled checks shall be maintained in the contractor's fee assessment records.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

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

 (a) The contractor or service provider shall provide an original copy of a pre-numbered receipt to each person who pays a fee. The receipt shall show the amount paid, the date of payment, the rate of payment and the period of service purchased.

 (b) The contractor shall retain a copy of the receipt in its fee assessment records.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

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

 (a) Fees shall be considered delinquent after seven calendar days from the date the fees were due.

 (b) A Notice of Action, Recipient of Services shall be used to inform the family of the following:

 (1) The total amount of unpaid fees;

 (2) The fee rate;

 (3) The period of delinquency; and

 (4) That services shall be terminated two weeks from the date of the Notice unless all delinquent fees are paid before the end of the two-week period.

 (c) The contractor shall accept a reasonable plan from the parent(s) for payment of delinquent fees. The contractor shall continue to provide services to the child, provided the parent(s) pays current fees when due and complies with the provisions of the repayment plan.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

#### § 17740. Consequences of Nonpayment of Delinquent Fees.

Upon termination of services for nonpayment of delinquent fees, the family shall be ineligible for early learning and care services until all delinquent fees are paid.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

### Article 3. Collaborative Programs for CSPP

#### § 17741. Collaborative Monitoring for Head Start Programs.

For contractors that are also Head Start grantees, the CDE may accept monitoring documentation from another local, state, or federal monitoring agency in order to determine compliance with contract requirements during a contract monitoring review.

Note: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8235 and 8261, Education Code

#### § 17742. Collaborative Transitional Kindergarten Programs.

 (a) Contractors may place CSPP four-year-olds that are enrolled in a CSPP, into a transitional kindergarten (TK) classroom.

 (b) When children enrolled in CSPP are commingled with children in a TK classroom, the contractor shall adhere to the following requirements:

 (1) Not include children enrolled in TK for a second year, or children enrolled in kindergarten, in the classroom.

 (2) Must complete a developmental profile for each child as specified in section 17702.

 (3) Must complete an Environment Rating Scale as specified in section 17709.

 (4) Teachers must meet the requirements in Education Code section 48000(g).

Note: Authority cited: Sections 8261, Education Code. Reference: Sections 8235, 8261 and 48000, Education Code

### Subchapter 5. Admission and Enrollment Requirements.

### Article 1. Admission Requirements

#### § 17743. Admission Policies and Procedures; Interview

 (a) Contractors shall develop written admission policies and procedures which shall be made available to the public.

 (b) Except as otherwise provided by law, the admission procedures established shall conform to requirements in California Code of Regulations, title 22, section 101218.1.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8203 and 8263, Education Code.

#### § 17744. Waiting List; Displacement

 (a) After full enrollment is attained, contractors shall maintain a current waiting list in accordance with the enrollment priorities in article 2. Contractors may satisfy the requirement for maintaining a waiting list by participating in a county child care centralized eligibility list. Contractors shall contact applicants in order of priority from the waiting list as vacancies occur.

 (b) If it is necessary to displace families, families shall be displaced in the following order:

(1) Families with the highest income in relation to family size.

(2) Families that have the same income and have been enrolled in early learning and care services the longest.

(3) Families that have the same income and have a child with exceptional needs.

(4) Families whose children are receiving child protective services or are at risk of being neglected or abused, regardless of family income.

Note: Authority cited: Section 8263, Education Code. Reference: Section 8263.3, Education Code.

#### § 17745. Residency Requirements.

 (a) In addition to other applicable eligibility requirements as specified elsewhere in this chapter, to be eligible for early learning and care services the parent and child must live in the State of California while services are being received.

 (b) Any evidence of a street address or post office address in California will be sufficient to establish residency. A person identified as homeless is exempted from this requirement and shall submit a declaration that they reside in California.

 (c) The determination of eligibility for early learning and care services shall be without regard to the immigration status of the child or the child's parent(s), unless the child or the child's parent(s) are under a final order of deportation from the United States Department of Homeland Security.

NOTE: Authority cited: Section 8263, Education Code. Reference: Section 8263, Education Code.

### Article 2. Enrollment Priorities

#### § 17746. Enrollment Priorities for Part-Day California State Preschool Program.

 (a) The first priority for services shall be given to California State Preschool Program (CSPP) three-year-old or CSPP four-year-old children who are recipients of child protective services or who have been determined to be neglected, abused or exploited or at risk thereof.

 (b) The second priority shall be given to eligible CSPP four-year-old children, not enrolled in transitional kindergarten (TK), in the following order:

 (1) Eligible children who were enrolled in CSPP as a three-year-old.

 (2) Children whose families have the lowest income ranking based on the most recent Schedule of Income Ceiling eligibility table as published by the State Superintendent of Public Instruction (SSPI) at the time of enrollment.

 (A) When two or more families have the same income ranking, according to the most recent Schedule of Income Ceiling eligibility table, the child with a disability, as defined in section 17700, shall be admitted first.

 (B) If there are no families with children with a disability, the family that has been on the waiting list for the longest time shall be admitted first.

 (c) The third priority shall be given to eligible CSPP three-year-old children and shall be enrolled based on the priorities described in subsections (b)(2) through (4) above.

 (d) After all otherwise eligible children have been enrolled, the contractor may enroll the following children in the order listed:

 (1) Children from families whose income is no more than 15 percent above the eligibility income threshold. Children from families enrolled under this exception may not exceed 10 percent of the participating CSPP’s total contract enrollment. Priority shall be given to four-year-old children before three-year-old children.

 (2) A child with a disability as defined in section 17700, whose family’s income is above the income eligibility threshold. Children enrolled pursuant to this subsection, shall not count towards the ten percent limitation. Priority shall be given to four-year-old children before three-year-old children.

 (3) For CSPP sites operating within the attendance boundaries of a qualified free and reduced priced meals (FRPM) school, in accordance with section 17729, the contractor may enroll CSPP four-year-old children whose families reside within the attendance boundary of the same qualified FRPM elementary school without establishing eligibility or a need for services pursuant to Education Code sections 8263(a)(1)(A) and (B). These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest.

 (e) When not all of the children in a family are certified based on the child receiving child protective services, or because of the child's disability, the parents in the family must meet eligibility criteria as specified in section 17750 prior to enrollment of additional children and those children shall be admitted in accordance with priorities specified in this section.

 (f) Except for situations stated in subsection (e), a family that has been certified for services shall be allowed to enroll all children in the family provided there exists an age and developmentally appropriate program opening.

 (g) Contractors shall not deny service to nor assign a lower priority to a family that needs less than full-time services.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235, 8236, 8236.3 and 8263, Education Code.

#### § 17747. Enrollment Priorities for Full-Day California State Preschool Program.

 (a) The first priority for services shall be given to CSPP three- or four-year-old children who are recipients of child protective services or who have been determined to be neglected, abused or exploited or at risk thereof.

(b) The second priority shall be given to eligible CSPP four-year-old children, not enrolled in TK, whose families have the lowest income ranking based on the most recent Schedule of Income Ceiling eligibility table as published by the SSPI at the time of enrollment.

(1) When two or more families have the same income ranking, according to the most recent Schedule of Income Ceiling eligibility table, the child with a disability as defined in section 17700 shall be admitted first.

(2) If there are no families with children with a disability, the family that has been on the waiting list for the longest time shall be admitted first.

(c) The third priority shall be given to eligible CSPP three-year-old children who shall be enrolled based on the priorities described subsections (b)(1) through (3) above.

(d) After all otherwise eligible children have been enrolled, the contractor may enroll the following children in the order listed:

(1) The contractor may, enroll CSPP three- and four-year-old children from families that meet eligibility criteria without establishing a need for services pursuant to section 17751. Within this priority, contractors shall enroll families in income ranking order, lowest to highest, and within income ranking order, enroll four-year-olds before three-year-olds.

(2) For CSPP sites operating within the attendance boundaries of a qualified FRPM school, in accordance with section 17729, the contractor may enroll CSPP four-year-old children whose families reside within the attendance boundary of the same qualified FRPM elementary school without establishing eligibility or a need for services pursuant to section 17751. These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest.

(e) When not all of the children in a family are certified based on the child receiving child protective services, or because of the child's disability, the parents in the family must meet both eligibility and need criteria as specified in section 17751 prior to enrollment of additional children and those children shall be admitted in accordance with priorities specified in this section.

 (f) Except for situations stated in subsection (e), a family that has been certified for services shall be allowed to enroll all children in the family provided there exists an age and developmentally appropriate program opening.

 (g) Contractors shall not deny service to nor assign a lower priority to a family that needs less than full-time services.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235, 8236, 8263 and 8236.3, Education Code.

#### § 17748. Enrollment Priorities for Head Start Collaborative.

(a) When the CSPP contractor is also a Head Start grantee or delegate agency or has a signed collaboration agreement with a Head Start grantee or delegate agency, and is providing collaborative full-day services using both Head Start and CSPP contract funds, the contractor shall utilize the CSPP waiting list in conjunction with the Head Start program waiting list and enroll children in the following priority order:

(1) First priority shall be given to CSPP age eligible children that have been identified at risk of abuse, neglect, or exploitation or who are receiving child protective services in accordance with section 17773;

(2) Second priority shall be given to CSPP eligible four-year-old children from families that meet Head Start income guidelines, and have the lowest income ranking based on the most recent income ranking schedule adopted by the SSPI;

(3) Third priority shall be given to CSPP eligible four-year-old children from families that meet applicable Head Start priorities as stipulated in the Eligibility, Recruitment, Selection, Enrollment, and Attendance requirements (45 C.F.R. § 1305);

(4) Fourth priority shall be given to CSPP eligible three-year-old children from families that meet Head Start income guidelines, and have the lowest income ranking based on the most recent income ranking schedule adopted by the SSPI; and

(5) Fifth priority shall be given to CSPP eligible three-year-old children from families that meet applicable Head Start priorities as stipulated in the Eligibility, Recruitment, Selection, Enrollment, and Attendance requirements (45 C.F.R. §1305).

(b) All families shall meet CSPP eligibility criteria as described in sections 17750 and 17751.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235 and 56443, Education Code.

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

### Article 1. Eligibility and Need Requirements

#### § 17749. Age Limitations.

California State Preschool Program (CSPP) services shall be limited to:

(a) CSPP eligible four-year-old children, as defined in Education Code section 8208;

(b) CSPP eligible three-year-old children, as defined in Education Code section 8208; and

(c) Five-year-old children receiving full-day services during the summer immediately prior to their enrollment in kindergarten. These children must have received full-day services as a CSPP eligible four-year-old on or before June 30 of that year.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8208, 8235, 8261 and 8263, Education Code.

#### § 17750. Eligibility Requirements for Part-Day CSPP.

(a) Unless otherwise specified in this subchapter, to be eligible for CSPP part-day services, families shall meet the eligibility requirements described in Education Code section 8263(a)(1)(A).

(b) After all otherwise eligible families have been enrolled, a part-day CSPP may enroll children that do not meet the eligibility requirements described in Education Code section 8263(a)(1)(A), with the following circumstances:

(1) Children from families whose income is no more than 15 percent above the income eligibility threshold. Children from families enrolled under this exception may not exceed 10 percent of the participating CSPP’s total contract enrollment.

(2) Child with a disability as defined in section 17700. Children enrolled pursuant to this subsection, shall not count towards the 10 percent limitation.

(3) CSPP four-year-old children without establishing eligibility if the CSPP free and reduced priced meals (FRPM) site and the family reside within the same attendance boundary of a qualified FRPM school.

NOTE: Authority cited: Sections 8236.3 and 8263, Education Code. Reference: Sections 8235 and 8236.3, Education Code.

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

(a) Except as set forth in subsections (b) and (c), to be eligible for CSPP full-day services, families shall meet the eligibility and need requirements described in Education Code section 8263(a)(1)(A) and (B).

(b) After all eligible children have been enrolled, a full-day CSPP contractor may enroll CSPP three-year-old and CSPP four-year-old children from families that are eligible for services pursuant to Education Code section 8263(a)(1)(A) but do not have a need for services.

(c) After all children have been enrolled pursuant to the above subsections, a full-day CSPP contractor may enroll four-year-old children, without establishing eligibility or a need for services, if the CSPP FRPM site and the family reside within the same attendance boundary of a qualified FRPM school.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8263.3, Education Code.

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

#### § 17752. Initial Certification of Eligibility for Part-Day and Full-Day CSPP.

 (a) The contractor shall designate the staff person(s) authorized to certify family/child eligibility.

 (1) At initial certification, the authorized representative of the contractor shall certify or deny each family's/child's eligibility and need for early learning and care services after reviewing the completed application and documentation contained in the family data file, as applicable, as provided in section 17758.

 (2) Part-day CSPP contractors shall certify initial eligibility no more than 120 calendar days prior to the first day of the beginning of the new preschool year. A child shall not be enrolled in more than one part-day CSPP session per day.

 (3) Full-day CSPP contractors shall certify initial eligibility no more than 30 calendar days prior to the first day of the beginning of the new preschool year.

 (4) Once certified as eligible to receive services, except as otherwise provided in law or regulation, the contractor shall consider the family to meet all eligibility and/or need requirements:

 (A) For part-day CSPP, only for the remainder of the program year;

 (B) For full-day CSPP for not less than 12 months, at which point, the family’s eligibility and/or need shall be recertified as provided in section 17753.

 (b) When a family is certified as income eligible for full-day CSPP, the contractor shall, at the same time, notify the family in writing of the requirement to report if their income exceeds ongoing income eligibility limits, as provided in section 17755.

 (c) Except as otherwise provided for in law or regulation, disenrollment cannot occur prior to the end of the 12-month certification period, with the following exceptions:

 (1) When the family is initially certified or recertified on the basis of income eligibility and the recalculation of income, pursuant to section 17755, based on the provided documentation indicates that the family’s adjusted monthly income exceeds the income eligibility threshold set forth in Education Code section 8263.1 and the family does not meet the requirements for another eligibility basis pursuant to sections 17750 or 17751;

(2*)* When the parent changes residency outside of California; or

 (3) When there is substantiated evidence of fraud that invalidates the initial certification and the family is not otherwise eligible.

 (d) Families disenrolled prior to the last day of the 12-month certification period shall be issued a Notice of Action for disenrollment pursuant to section 17783.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8235, 8237, 8261, 8263 and 8263.1, Education Code.

#### § 17753. Recertification of Eligibility for Full-Day CSPP.

 (a) Full-day CSPP contractors shall recertify eligibility no more than 30 calendar days after the parent has signed the application for services.

 (b) Families shall be recertified for services by the contractor no later than 50 calendar days following the last day of the 12-month certification period, which starts with the day the agency’s authorized representative signed the last application for services.

 (c) In order to recertify families, the contractor’s authorized representative shall:

 (1) Notify the parent in writing in the final 30 days of the 12-month certification period, which starts with the day the contractor’s authorized representative signed the last application for services, of:

 (A) The requirement that the families be recertified in order to receive ongoing services;

(B)The date that the recertification must be completed by;

(C)The recertification appointment date, which can be no earlier than one day following the last day of the 12-month certification period;

(D) Information on the recertification process;

(E) Required information/documentation needed for the recertification appointment; and

(F) A telephone contact number and an optional email address in the event the parent may have any questions regarding the recertification process.

(2) Recertify or deny each family's/child's eligibility and need for early learning and care services after reviewing the completed application and documentation contained in the family data file, as provided for in section 17758; and

 (3) Issue a Notice of Action pursuant to section 17783 to recertify eligibility for services or disenroll the family.

 (d) Once recertified as eligible to receive services, except as otherwise provided in law or regulation, the contractor shall consider the family to meet all eligibility and/or need requirements for 12 months, at which point the family’s eligibility and/or need must be recertified as set forth in this section.

 (e) When a family is recertified as income eligible, the contractor shall at the same time provide notice to the family of the requirement to report if their income exceeds the income threshold, as provided in section 17755.

 (f) Except as otherwise provided for in law or regulation, disenrollment cannot occur prior to the end of the 12-month certification period, even if disqualifying information is discovered during the preliminary collection of documentation for recertification, with the following exceptions:

 (1) When the recalculation of income, pursuant to section 17755, based on the provided documentation indicates that the family’s adjusted monthly income, adjusted for family size, exceeds the income threshold set forth in Education Code section 8263.1 and the family does not meet the requirements for another eligibility basis pursuant to sections 17750 or 17751; or

 (2*)* When the parent changes residency outside of California; or

 (3) When there is substantiated evidence of fraud that invalidates the initial certification or recertification.

 (g) Families disenrolled prior to the last day of the 12-month initial certification or recertification period shall be issued a Notice of Action for disenrollment pursuant to section 17783.

 (h) The contractor shall make every effort to make the recertification process convenient for families by providing early morning, evening, weekend appointments, or appointments at alternative locations as needed. The contractor may use technology to complete the recertification process if there is no reasonable way for the family to complete the process in person.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8235, 8261, 8263 and 8263.1, Education Code; and 45 Code of Federal Regulations Section 98.21.

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

 (a) The certified schedule for families with no established need who are enrolled pursuant to Education Code sections 8236.3(a)(4) or 8263(a)(2) shall be based upon the parent’s request and be limited to no more than 10 hours per day and no more than five days per week.

 (b) Families that request services for more than 10 hours per day shall provide documentation to support the need for additional services pursuant to applicable regulations.

NOTE: Authority cited: Sections 8235 and 8261, Education Code. Reference: Section

8235, Education Code.

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

 (a) When a family is initially certified or recertified on the basis of income eligibility, the contractor shall:

 (1) Provide the parent a copy of the income calculation worksheet that verifies the family is income eligible;

 (2) Provide the parent with a copy of the most recent Schedule of Income Ceiling eligibility table, as published by the State Superintendent of Public Instruction; and

 (3) Notify the parent in writing of the following:

 (A) The maximum adjusted monthly income, adjusted for family size, taking into account income fluctuations pursuant to section 17759, that the family could earn before the family would be disqualified for services, based on on-going eligibility requirements; and

 (B) The requirement to notify the contractor, within 30 calendar days, of any current and on-going income change that causes the family’s adjusted monthly income, adjusted for family size, to exceed this maximum amount.

 (b) Upon notification by the parent that they may have exceeded the maximum income threshold, the contractor shall utilize the process set forth in sections 17759 and 17762 to recalculate the family’s adjusted monthly income, adjusted for family size, to determine if the family remains income eligible for continued services.

 (1) If the contractor determines, based on the provided documentation, that the family is still income eligible for services, the contractor shall inform the family in writing.

 (2) If the contractor concludes the family is no longer income eligible based upon the documentation provided by the parent or the parent fails to provide the documentation as requested by the contractor within 15 calendar days from the day of the parent’s notification and the family does not establish another basis for eligibility based on documentation, the contractor shall issue a Notice of Action to disenroll the family pursuant to section 17783.

 (3) If the contractor concludes the family remains eligible for services based on documentation supporting another basis of eligibility, the contractor shall issue a Notice of Action approving services on the new basis for eligibility pursuant to section 17783.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8261, 8263 and 8263.1, Education Code; and 45 Code of Federal Regulations Section 98.21.

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

 (a) A family may, at any time, voluntarily request to reduce a family fee or increase their certified schedule, and shall provide applicable supporting documentation for the requested change.

 (b) When a family voluntarily requests to reduce their family fee, the contractor shall:

 (1) Use the documentation provided by the parent to reduce the family fee, if applicable, pursuant to sections 17757, 17759 and 17762;

 (2) Within 10 business days after receipt of applicable documentation, issue a Notice of Action pursuant to section 17783;

 (3) Only use any information received to reduce the family fee, if applicable. No other changes to the certified schedule shall be made unless requested by the family pursuant to subsection (e) below.

 (c) Notwithstanding any other law or regulation, the effective date of any family fee reduction shall be the first day of the subsequent month.

 (d) When a family voluntarily requests an increase to their certified schedule, the contractor shall:

 (1) Use the documentation provided by the parent to increase the certified schedule;

 (2) Within 10 business days after receipt of applicable documentation, issue a Notice of Action pursuant to section 17783;

 (3) Notwithstanding any other law or regulation, make the effective date of the increase in certified schedule immediate. For CSPP contractors, this is based on hours of operation and space availability, as applicable; and

 (4) Only use any information received to increase the certified schedule. No other changes to the certified schedule shall be made.

 (e) When a family voluntarily requests a reduction to their certified schedule, the parent shall:

 (1) Submit a written request that includes:

 (A) Days and hours per day requested; and

 (B) Date of the proposed reduction of their certified schedule.

 (2) Acknowledge in writing that they understand that they may retain their current certified schedule.

(f) Upon receipt of the parent’s written request in subsection (e), the contractor shall:

 (1) Notify the family in writing of the parent’s right to continue to bring the enrolled child pursuant to the original certified schedule;

 (2) Use the documentation provided by the parent to reduce the certified schedule, as applicable;

 (3) Issue a Notice of Action pursuant to section 17783; and

 (4) Only use any information received to reduce their certified schedule. No other changes to the certified schedule shall be made.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8261, 8263 and 8263.1, Education Code; and 45 Code of Federal Regulations Section 98.21.

### Subchapter 7. Family Data File

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

#### § 17757. Application for Services: Contents.

The application for services shall contain the following information:

 (a) The parent's(s') full name(s), mailing address(es), telephone number(s), and email address(es), if available;

 (b) The names and birth dates of all children under the age of 18 years in the family, as defined in section 17700, whether or not they are served by the program;

 (c) The number of hours of care needed each day for each child;

 (d) The basis of the family’s eligibility for part-day California State Preschool Program (CSPP), which may be any one of the following:

(1) The parent is receiving CalWORKs cash aid;

 (2) The family is income eligible;

 (3) The family is experiencing homelessness;

 (4) The child is receiving child protective services;

 (5) The child is identified as being abused, neglected or exploited or at risk thereof;

 (6) The family’s income is no more than 15 percent above the income eligibility threshold;

 (7) The child has a disability; or

 (8) The family resides within the boundaries of the same qualified free and reduced priced meals (FRPM) school as the CSPP FRPM site.

 (e) The basis of the family’s eligibility for full-day CSPP, which may be any one of the following:

 (1) The parent is receiving CalWORKs cash aid;

 (2) The family is income eligible;

 (3) The family is experiencing homelessness;

 (4) The child is receiving child protective services;

 (5) The child is identified as being abused, neglected or exploited or at risk thereof; or

 (6) The family resides within the boundaries of the same qualified FRPM school as the early learning and care program.

 (f) The reason(s) for needing services for full-day CSPP is (are):

 (1) The child is receiving child protective services;

 (2) The child is identified as being abused, neglected or exploited or at risk thereof;

 (3) The family is experiencing homelessness;

 (4) The parent is employed;

 (5) The parent is seeking employment;

 (6) The parent is enrolled in vocational training;

 (7) The parent is enrolled in educational programs;

 (8) The parent is incapacitated;

 (9) The parent is seeking permanent housing for family stability;

 (10) The parent does not have a need for services pursuant to Education Code section 8263(a)(2); or

(11) The parent does not have a need for services pursuant to Education Code

section 8236.3.

 (g) Employment, vocational training, or educational program information for the parent(s) shall include:

 (1) Name and phone number of the employer or contact person;

 (2) Name and address of the business, vocational training, or educational program; and

 (3) Days and hours of employment, enrollment in vocational training, or an educational program, as applicable.

 (h) Family size and family’s adjusted monthly income, if applicable.

 (i) Any additional information or data as required by 45 Code of Federal Regulations.

 (j) The parent's signature, signed under penalty of perjury, and date of the signature.

 (k) The signature of the contractor's authorized representative certifying that the family and/or child meets the criteria for receipt of services.

 (l) The parent’s preference of receiving official communication from the contractor by mail or electronic means.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

#### § 17758. Contents of Family Data File.

 (a) Contractors shall establish and maintain a family data file for each family receiving early learning and care services.

 (b) The family data file shall contain a completed and signed application for services and the pertinent records used to determine eligibility and need, as applicable, in accordance with article 3 of this subchapter.

 (c) The family data file shall also include the following:

 (1) Documentation of a child’s disability, if applicable;

 (2) Applicable Notice(s) of Action as required in sections 17782, 17783, and 17784.

 (3) The family data file shall contain all child health and current emergency information required by California Code of Regulations (CCR), title 22, Social Security, division 12, Community Care Facilities Licensing Regulations.

 (4) Documentation of the notification to the parent of their requirement to report when the family’s income exceeds the income threshold as described in section 17755.

(5) Documentation of family residency as required by section 17774, if applicable.

NOTE: Authority cited: Sections 8261, 8261.5, 8263 and 8269, Education Code. Reference: Sections 8261, 8263 and 8269, Education Code; and Sections 16500.5 and 16506, Welfare and Institutions Code.

### Article 2. Requirements for Income Calculation

#### § 17759. Income Calculation.

 (a) To calculate a family’s adjusted monthly income for purposes of determining income eligibility and/or calculating a family fee, the calculation shall be done by the use of an income calculation worksheet, and shall be calculated as provided for in subsections (b) and (c).

 (b) When a family’s income is regular and steady, use the income calculation worksheet that specifies:

 (1) The frequency of the pay periods;

 (2) The gross amount of the payroll check stubs; and

 (3) All other sources of countable income to determine the adjusted monthly income pursuant to section 17700, as either:

 (A) Weekly for 52 pay periods;

 (B) Every two weeks for 26 pay periods;

 (C) Twice monthly for 24 pay periods; or

 (D) Monthly for 12 pay periods.

 (c) When a family’s income fluctuates because of migrant, agricultural, or seasonal work; inconsistent and/or unstable employment or self-employment; or intermittent income, as defined in section 17700, the adjusted monthly income shall be determined by averaging the total countable income from the preceding 12 months.

NOTE: Authority cited: Sections 8261, 8263 and 8263.1, Education Code. Reference: Sections 8261 and 8263, Education Code; and 45 Code of Federal Regulations Section 98.21.

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

 (a) After enrolling all families in priority order pursuant to sections 17746 and 17747, contractors may exclude, for the purposes of income eligibility, the amount of the basic allowance for housing provided to the individual pursuant to 37 United States Code section 403 for military personnel whose income is above the income eligibility threshold. This provision is only applicable when both of the following apply:

(1) The program is located on or in close proximity to a military base or base housing; and

(2) An individual counted in the family size is on federal active duty, state active duty, active duty for special work, or Active Guard and Reserve duty in the military, and the families reside on a military base or in military housing.

(b)The contractor shall obtain prior written approval from the State Superintendent of Public Instruction (SSPI) or the SSPI’s designee before waiving the basic allowance for housing.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8235, 8236, 8263 and 8263.1, Education Code.

### Article 3. Documentation Requirements

#### § 17761. Documentation and Determination of Family Size.

 (a) The parent shall obtain and provide supporting documentation regarding the number of children and parents in the family as listed on the application for services.

 (1) The number of children shall be documented by providing any one of the following documents, as applicable:

 (A) Birth certificates or other live birth records;

 (B) Court orders regarding child custody;

 (C) Adoption documents;

 (D) Records of Foster Care placements;

 (E) School or medical records;

 (F) County welfare department records; or

 (G) Other reliable documentation indicating the relationship of the child to the parent.

 (2) If only one parent has signed the application and the information provided pursuant to subsection (a)(1) indicates the child(ren) in the family has another parent whose name does not appear on the application, then the parent who has signed the application shall self-certify the presence or absence of that parent under penalty of perjury and shall not be required to submit additional information documenting the presence or absence of the second parent.

 (b) For income eligibility and family fee purposes, when a child and that child’s siblings are living in a family that does not include their biological or adoptive parent, such as, formal or informal custodial family arrangements or foster care:

 (1) Only the child and related siblings shall be counted to determine family size;

 (2) The adjusted monthly income of the child and any related siblings, which includes payments specifically for the care and well-being of the child(ren) that are made payable to and received by the adult who lives with and is responsible for the care and welfare of the child(ren), is counted to determine income eligibility; and

 (3) The adult(s) who live(s) with and has responsibility for the care and welfare of the child(ren), must meet a need criterion as specified in Education Code section 8263(a)(1)(B) to be eligible for full-day services.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code; and 45 Code of Federal Regulations Section 98.21.

#### § 17762. Documentation of Income Eligibility; Income and Family Fees.

 (a) The parent shall obtain and provide documentation of the family's total countable income for the purposes of determining whether a family is income eligible and/or assessing the appropriate family fee, as applicable. The parent(s) shall provide documentation of total countable income for all the individuals counted in the family size as follows:

 (1) If the parent is employed, the parent shall provide:

 (A) A release authorizing the contractor to contact the employer(s) that includes, to the extent known, the employer's name, address, telephone number, and usual business hours; and

 (B) Payroll check stubs, or an independent letter from the employer, or other record of wages issued by the employer from either month of the two-month window immediately preceding the initial certification, or the recertification of eligibility for services.

 (2) When the employer refuses or fails to provide requested documentation or when the parent states a request for documentation would adversely affect the parent's employment, the parent shall obtain and provide other means of verification that may include a list of clients and amounts paid, the most recently signed and completed tax returns, quarterly estimated tax statements, or other records of income to support the reported income, along with a self-certification of income.

 (3) If the parent is self-employed, the parent shall obtain and provide a combination of documentation necessary to establish current income eligibility from either month of the two-month window immediately preceding the initial certification, or the recertification of eligibility for services. Documentation shall consist of a self-certification of income as defined in section 17700, and as many of the following types of documentation as reasonably necessary to determine income:

 (A) An independent letter from the source of the income; or

 (B) A copy of the most recently signed and completed tax return with a statement of current estimated income for tax purposes; or

 (C) Other business records, such as ledgers, receipts, or business logs.

 (4) The parent shall also provide documentation of all non-wage income, which includes, self-certification of any income for which no documentation is possible, and any verified child support payments as defined in section 17700 of this chapter.

 (b) The contractor shall:

 (1) Retain copies of the documentation of total countable income and adjusted monthly income, in the family data file.

 (2) When the parent is employed, verify the parent's salary/wage; rate(s) of pay; hours and days of work; inconsistent and/or unstable hours and days of work; pay periods and frequency of pay; and the start date for the employee.

 (3) When the parent is self-employed, make a record of independent verification regarding the cost for services provided by the parent that may be obtained by contacting clients, or confirming the information in the parent's advertisements or website. If the income cannot be independently verified, the contractor shall assess whether the reported income is reasonable or consistent with the community practice for this employment.

 (4) Establish income eligibility and/or family fee by signing the application for services, certifying to the contractor's reasonable belief that the income documentation obtained and, if applicable, the self-certification of income, support the reported income, are reliable, and are consistent with all other family information and the contractor's knowledge, if applicable, of this type of employment or employer.

 (c) If the family is receiving early learning and care services because the child(ren) is/are at risk of abuse, neglect, or exploitation or receiving child protective services, and the written referral pursuant to section 17773 specifies that it is necessary to exempt the family from paying a family fee, then the parent shall not be required to provide documentation of total countable income.

 (d) Using the income calculation pursuant to this section and family size determination pursuant to section 17761, contractors shall, as applicable, assess a family fee.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8261, 8263, 8263.1, 8273 and 8273.1, Education Code.

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

 (a) Except for families eligible for services pursuant to Education Code sections 8236.3 and 8263(a)(2), families who are eligible for full-day CSPP shall document that each parent in the family, as defined in section 17700, meets at least one of the following need criteria:

 (1) The child is receiving child protective services;

 (2) The child is identified as being abused, neglected or exploited or at risk thereof;

 (3) The family is experiencing homelessness;

 (4) The parent is employed;

 (5) The parent is seeking employment;

 (6) The parent is enrolled in vocational training;

 (7) The parent is enrolled in educational programs;

 (8) The parent is incapacitated; or

 (9) The parent is seeking permanent housing for family stability;

 (b) Subsidized early learning and care services shall only be available to the extent to which:

 (1) The parent(s) meets a need criterion as specified in subsection (a) that precludes the provision of care and supervision of the family's child(ren) for any part of the day;

 (2) There is no parent in the family available and capable of providing care for the family's child(ren) during the time care is requested; and

 (3) Supervision of the family's child(ren) is(are) not otherwise being provided by:

 (A) Scheduled time in a public educational program;

 (B) A private school in which the child(ren) is(are) enrolled and attending; or

 (C) A time when a child(ren) is(are) receiving any other early learning and care services.

 (c) At any time during the 12-month certification period, a parent may request an increase to the certified schedule based on provided documentation of need.

 (d) At any time during the 12-month certification period, a parent may request to decrease the certified schedule based on provided documentation of need. Requests for decrease in hours shall be provided in writing. In such a case, the contractor shall inform the family of the right to maintain the current certified schedule.

 (e) A family may receive services based on more than one need criterion at any one time, provided that applicable documentation has been collected.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8235, 8237, 8261 and 8263, Education Code.

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

 (a) If the basis of need as stated on the application for services is employment of the parent, the documentation of the parent's employment shall include the days and hours of employment. If the total number of hours worked each week is consistent, but the days and hours of employment vary, the documentation shall support the total number of hours worked each week.

 (b) If the parent has an employer, the parent shall obtain and provide documentation of need based on employment that consists of one of the following:

 (1) Pay stubs that indicate the days and hours of employment; or

 (2) Pay stubs that indicate the total hours of employment per pay period, as long as the hours generally correlate with the parent’s requested number of hours needed each week.

 (3) When the pay stubs do not meet the criteria of either subsections (1) or (2) above, the contractor shall verify the days and hours, or the total number of hours, of employment each week by doing one of the following:

 (A) Secure an independent written statement from the employer indicating the days and hours of employment using the release authorization pursuant to section 17762; or

 (B) Telephone the employer to verify the days and hours of employment and maintain a record of the verified information;

 (4) If the parent's employment precludes the contractor from verifying a specific number of hours per week, the contractor shall use the provided documentation from either month of the two-month window immediately preceding the initial certification or recertification and identify the highest number of actual hours worked within any given week and use that as the basis for approving the certified schedule on the application for services.

 (5) If at the time of initial certification or recertification the parent does not have a work history, the contractor shall establish the certified schedule based on the verified days and hours or the highest number of total hours per week the employer expects the parent to work.

 (6) If the employer refuses or is non-responsive in providing the requested information, the contractor shall record the attempts to contact the employer and specify in the family data file the reasonableness of the days and hours of employment based on the description of the employment and community practice;

 (7) If the parent asserts in a declaration signed under penalty of perjury that a request for employer documentation would adversely affect the parent's employment, the contractor shall review the declaration and determine whether the days and hours of employment based on the parent’s description of the employment and community practice are reasonable and include the declaration and determination of reasonableness in the family data file; or

 (8) When the employed parent does not have pay stubs or other record of wages from the employer and has provided a self-certification of income, as defined in section 17700, the contractor shall assess the reasonableness of the days and hours of employment, based on the description of the employment and the documentation provided pursuant to section 17762, and authorize only the time determined to be reasonable.

 (c) If the parent is self-employed, the parent shall obtain and provide documentation of employment consisting of the following:

 (1) A declaration of need under penalty of perjury that includes a description of the employment and an estimate of the days and hours worked per week; and

 (2) As many of the following documents needed to support the days and hours of employment:

 (A) Appointment logs, client receipts, job logs, mileage logs, a list of clients with contact information, or similar records; or

 (B) As applicable, a copy of a business license, a workspace lease, or a workspace rental agreement.

 (d) If additional services are requested for travel time and/or sleep time to support employment, the time authorized shall be calculated as follows:

 (1) Travel time to and from the location at which services are provided and the place of employment, not to exceed half of the daily hours authorized for employment, to a maximum of four hours per day;

 (2) Sleep time, if the parent is employed anytime between 10:00 p.m. and 6:00 a.m., not to exceed the number of hours authorized for employment and travel between those hours.

 (3) Sleep time shall not be provided when:

 (A) There is a parent in the family available and capable of providing care for the family's child(ren) during the time care is requested; or

 (B) Supervision of the family's child(ren) is(are) otherwise being provided by:

 (i) Scheduled time in a public educational program;

 (ii) A private school in which the child(ren) is(are) enrolled and attending; or

 (iii) A time when a child(ren) is(are) receiving any other early learning and care services.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

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

 (a) The requirements of this section are in addition to those stated in section 17764.

 (b) If the parent's employment is in the family's home or on property that includes the family's home, the parent must provide justification for requesting subsidized early learning and care services based on the type of work being done and its requirements, the age of the family's child for whom services are sought, and, if the child is more than five years old, the specific child care needs. The contractor shall determine and document whether the parent's employment and the identified child care needs preclude the supervision of the family's child.

 (c) If the parent is a licensed family child care home provider pursuant to Health and Safety Code section 1596.78 or an individual license-exempt provider pursuant to Health and Safety Code section 1596.792, subsections (d) or (f), the parent is not eligible for subsidized services during the parent's business hours because the parent's employment does not preclude the supervision of that parent’s own child.

 (d) If the parent is employed as an assistant in a licensed large family child care home, pursuant to Health and Safety Code section 1596.78(b), and is requesting services for the family's child in the same family child care home, the parent shall provide documentation that substantiates all of the following:

 (1) A copy of the family child care home license indicating it is licensed as a large family day care home;

 (2) A signed statement from the licensee stating that the parent is the assistant, pursuant to the staffing ratio requirement of CCR, title 22, section 102416.5;

 (3) Proof that the parent's fingerprints are associated with that licensed family child care home as its assistant, which the contractor may verify with the local community care licensing office; and

 (4) Payroll deductions withheld for the assistant by the licensee, which may be a pay stub.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

#### § 17766. Documentation of Need for Full-Day CSPP: Seeking Employment; Service Limitations.

 (a) If the basis of need as stated on the application for services is seeking employment, the following shall apply:

 (1) Services as requested by the parent shall occur on no more than five days per week and for less than 30 hours per week.

 (2) The parent's period of eligibility for early learning and care services shall be for not less than 12 months and the parent shall receive services for not less than 12 months before having eligibility and need recertified.

 (b) Documentation of seeking employment shall include a written parental declaration signed under penalty of perjury stating that the parent is seeking employment. The declaration shall include the parent's general plan to secure, change, or increase employment and services shall occur as requested by the parent pursuant to subsection (a)(1) above.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

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

 (a) If the basis of need as stated on the application for services is educational programs as defined in section 17700, early learning and care services shall be limited in total to six years from the initiation of services based on enrollment in educational programs.

 (b) The parent shall obtain and provide to the contractor documentation of enrollment in either:

 (1) Classes or courses for English language learner (ELL) or English as a Second Language (ESL); or

 (2) Classes or courses to attain a high school diploma, a General Education Development (GED), or a High School Equivalency (HSE) certificate.

 (c) The parent shall provide documentation of the days and hours of enrollment in an educational program, which shall include:

 (1) The name of the institution that is providing the instruction;

 (2) The parent’s current class schedule that is either an electronic print-out from the educational program or, if unavailable, a document that includes all of the following:

 (A) The classes in which the parent is currently enrolled;

 (B) The days of the week and times of day of the classes; and

 (C) A registration confirmation from the educational program.

 (d) The contractor shall determine the days and hours needed per week based on the provided documentation.

 (e) Online or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation as applicable. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.

 (f) When the parent requests study time, travel time, or both, the contractor shall determine the amount of service time needed based on the documentation provided by the parent.

 (1) Study time shall be determined based on the following:

 (A) When the educational program, on-line, or televised instructional classes are based on academic units, study time is determined at two hours per week per academic unit in which the parent is enrolled. Additional time for studying may be approved by the contractor, on a case-by-case basis, if the parent provides a declaration signed under penalty of perjury as to why the additional time is needed for the specified course(s). Additional time, if approved, shall not exceed one hour per week per academic unit for the specified course(s) in which the parent is enrolled.

 (B) When the educational program is not based on academic units, the contractor shall determine the hours approved for study time but in no case may the number of study hours exceed the number of class hours per week.

 (2) Travel time shall be determined based on the location where the early learning and care services are provided and the location of the educational program, based on actual travel time needed, not to exceed a maximum of four hours per day.

 (g) Pursuant to section 17756, a parent may voluntarily request changes at any time.

 (h) At recertification, the continuation of services in an educational program is contingent upon the parent making adequate progress. To document adequate progress for the last enrolled quarter, semester, or training period, as applicable, the parent shall provide documentation from the educational program for which subsidized care is provided demonstrating the following:

 (1) In a graded program, achievement of a minimum 2.0 grade point average for the last enrolled quarter, semester, or academic enrollment period; or

 (2) In a non-graded program, passing the program's requirements in at least 50 percent of the classes or meeting the educational institution's standards for making adequate progress.

 (i) If at recertification the parent has made adequate progress based on the provided documentation, the certified schedule may be established pursuant to subsections (c), (d), (e), and (f).

 (j) If at recertification the parent has not made adequate progress pursuant to subsection (h), the parent shall be recertified to receive services for another 12 months. At the conclusion of this 12-month certification period, the parent shall have made adequate progress pursuant to subsection (h) to be recertified for services based on enrollment in an educational program. If the parent has not made adequate progress pursuant to subsection (h), and cannot establish another basis of need for services, the family shall be:

 (1) Disenrolled from services; and

 (2) Once disenrolled, the parent shall be ineligible to be certified for services based on enrollment in educational programs for six months from the date of disenrollment.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

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

 (a) If the basis of need as stated on the application for services is vocational training as defined in section 17700, early learning and care services shall be limited in total, to whichever occurs first:

 (1) Six years from the initiation of services based on need for vocational training; or

 (2) Twenty-four semester units, or the equivalent, after the attainment of a Bachelor's Degree.

 (b) The service limitations specified in subsection (a) shall not apply in the following instances:

 (1) When a parent is receiving services from a program operating pursuant to Education Code section 66060;

 (2) When a parent is attending vocational training and is participating in rehabilitation services through the California Department of Rehabilitation; or

 (3) When a parent is attending retraining services available through the California Employment Development Department or its contractors due to a business closure or mass layoff.

 (c) The parent shall provide documentation of the days and hours of vocational training, which shall include:

 (1) The name of the training institution that is providing the vocational training;

 (2) The parent’s current class schedule that is either an electronic print-out from the training institution or, if unavailable, a document that includes all of the following:

 (A) The classes in which the parent is currently enrolled;

 (B) The days of the week and times of day of the classes; and

 (C) The signature or stamp of the training institution's registrar.

 (d) The contractor shall determine the days and hours needed per week based on the provided documentation. The contractor may request that the parent provide additional information from the training institution describing the classes.

 (e) On-line or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation, as applicable. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.

 (f) When a parent requests study time, travel time, or both, the contractor shall determine the amount of service~~s~~ time needed based on the documentation provided by the parent.

 (1) Study time shall be determined by the following:

 (A) When the vocational training, on-line, or televised instructional classes are based on academic units, study time is determined at two hours per week per academic unit in which the parent is enrolled. Additional time for studying may be approved by the contractor, on a case-by-case basis, if the parent provides a declaration signed under penalty of perjury as to why the additional time is needed for the specified course(s). Additional time, if approved, shall not exceed one hour per week per academic unit for the specified course(s) in which the parent is enrolled.

 (B) When the vocational training is not based on academic units, the contractor shall determine the hours approved for study time but in no case may the study hours exceed the number of class hours per week.

 (2) Travel time shall be determined based on the location where the early learning and care services are provided and the training location, of the vocational program, based on actual travel time needed, not to exceed a maximum of four hours per day.

 (g) Pursuant to section 17756, a parent may voluntarily request changes at any time.

 (h) At recertification, the continuation of services for vocational training is contingent upon the parent making adequate progress. To document adequate progress for the last enrolled quarter, semester, or training period, as applicable, the parent shall provide documentation from the college classes, technical school, or apprenticeship for which subsidized care is provided demonstrating the following:

 (1) In a graded program, achievement of a minimum 2.0 grade point average for the last enrolled quarter, semester, or academic enrollment period; or

 (2) In a non-graded program, passing the program's requirements in at least 50 percent of the classes or meeting the training institution's standard for making adequate progress.

 (i) If at recertification the parent has made adequate progress based on the provided documentation, the certified schedule may be established pursuant to subsections (c), (d), (e), and (f).

 (j) If at recertification the parent has not made adequate progress pursuant to subsection (h), the parent shall be recertified for services for another 12 months. At the conclusion of this 12-month certification period, the parent shall have made adequate progress pursuant to subsection (h). If the parent has not made adequate progress pursuant to subsection (h), and cannot establish another basis of need for services, the family shall be:

 (1) Disenrolled from services; and

 (2) Once disenrolled, the parent shall be ineligible to be certified for services based on participation in vocational training for six months from the date of disenrollment.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

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

 (a) If the basis of need as stated on the application for services is parental incapacity, the following shall apply:

 (1) The certified schedule for early learning and care services shall not exceed 50 hours per week.

 (2) The parent’s period of eligibility for early learning and care services shall be for no less than 12 months and the parent shall receive services for not less than 12 months before having eligibility and need recertified.

 (b) Documentation of parental incapacity shall include a release signed by the incapacitated parent authorizing a legally qualified health professional to disclose information necessary to establish that the parent meets the definition of parental incapacity, pursuant to section 17700, and needs services.

 (c) The documentation of incapacitation provided by the legally qualified health professional shall include:

 (1) A statement that the parent is incapacitated and that the parent is incapable of providing care or supervision for the child for part of the day;

 (2) The days and hours per week that services are recommended to accommodate the incapacitation, taking into account the age of the child and the child’s care needs. This may include time for the parent's regularly scheduled medical or mental health appointments;

 (3) The name, business address, telephone number, professional license number, and signature of the legally qualified health professional who is rendering the opinion of incapacitation; and

 (4) If applicable, the name of the health organization with which the professional is associated.

 (d) The contractor may contact the legally qualified health professional for verification, or clarification of the provided statement.

 (e) The contractor shall determine the days and hours of the certified schedule based on the parent’s requested days and hours and the recommendation of the health professional, consistent with the provisions of this article.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8261 and 8263, Education Code.

#### § 17770. Documentation of Child’s Disability.

The family data file shall contain documentation of the child's disability if the contractor is claiming adjustment factors pursuant to Education Code section 8265.5(c)(3) or (c)(4). The documentation of the child’s disability shall include:

 (a) A copy of the portion of the active individual family service plan (IFSP) or the individualized education program (IEP) that includes the information as specified in Education Code section 56026 and CCR, title 5, sections 3030 and 3031; and

 (b) A statement signed by a legally qualified professional that:

 (1) The child requires the special attention of adults in a child care setting; and

 (2) Includes the name, address, license number, and telephone number of the legally qualified professional who is rendering the opinion.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8208, 8250, 8261, 8263 and 56026, Education Code.

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

A family experiencing homelessness may establish both eligibility and need as follows:

 (a) In order to meet the eligibility requirements for a family experiencing homelessness, the family must obtain and provide documentation which includes either of the following:

 (1) A written referral dated within three months prior to the application for services, from one of the following entities, which identifies the child as experiencing homelessness:

 (A) A legal, medical, or social services agency;

 (B) A local educational agency liaison for children and youth experiencing homelessness;

 (C) A Head Start program; or

 (D) An emergency or transitional shelter.

 (2) A written parental declaration, signed under penalty of perjury, that the family is experiencing homelessness

 (b) The referral described in subsection (a)(1) above shall contain:

 (1) The name of the identifying entity;

 (2) Physical address;

 (3) Telephone number; and

 (4) Title and signature of the person identifying the family as experiencing homelessness.

 (c) To meet the need requirementsfor receiving services on the basis that the family is experiencing homelessness, the parent shall comply with one of the following:

 (1) If the basis of eligibility is established pursuant to subsection (a)(1) above, no additional documentation of need is required.

 (2) If the basis of eligibility is established by parental declaration pursuant to subsection (a)(2) above, the parent shall provide documentation to establish a need in accordance with Education Code section 8263(a)(1)(B).

 (d) If the basis of need is a family experiencing homelessness, services shall be as requested by the parent and shall occur on no more than five days per week and for less than 30 hours per week.

 (e) The contractor shall permit the enrollment of children to begin immediately upon the parent signing the application for services when the basis for eligibility is family experiencing homelessness. The parent shall provide all required documentation, including immunization records, within 30 days from the date the application for services is signed.

 (f) The contractor shall approve or deny services and issue a Notice of Action in accordance with section 17782.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

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

 (a) If the basis of need as stated on the application for services is the parent seeking permanent housing for family stability, the following shall apply:

 (1) Services, as requested by the parent, shall occur on no more than five days per week and for less than 30 hours per week.

 (2) The parent’s period of eligibility for early learning and care services shall be for no less than 12 months and the parent shall receive services for not less than 12 months before having eligibility and need recertified.

 (b) Documentation of seeking permanent housing shall include a written parental declaration signed under penalty of perjury that the family is seeking permanent housing. The declaration shall include the parent's general search plan to secure a fixed, regular, and adequate residence. If the family is residing in a shelter, services shall also be provided while the parent attends appointments or activities necessary to comply with the shelter participation requirements within the certified schedule.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

#### § 17773. Documentation of Child Protective Services.

(a) If eligibility and need as specified in Education Code sections 8263(a)(1)(A) and (B) are based on child protective services, the family data file shall contain a written referral, dated within the six months immediately preceding the date of application for services, from a legal, medical, social service agency or emergency shelter. The written referral shall include either:

 (1) A statement from the local county welfare department, child protective services unit certifying that the child is receiving child protective services and that early learning and care services are a necessary component of the child protective services plan; or

 (2) A statement by a legally qualified professional that the child is at risk of abuse or neglect and the early learning and care services are needed to reduce or eliminate that risk; and

 (b) The probable duration of the child protective service plan or the at-risk situation; and

 (c) The name, address, telephone number and signature of the legally qualified professional who is making the referral.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

#### § 17774. Documentation of Family Residency for FRPM Eligibility.

(a) Families enrolling pursuant to Education Code section 8236.3(a)(4) must provide proof of residency within the attendance boundaries of the same qualified FRPM elementary school as the early learning and care program to be eligible for enrollment in a CSPP FRPM site.

(b) Acceptable documentation for proof of residency may include any of the following with one or more parents’ names on the documentation:

(1) Current utility bill;

(2) Current property tax bill;

(3) Current rental or lease agreement with Landlord’s information;

(4) Current voter registration;

(5) Current government agency letter;

(6) Current employment pay stub; or

(7) Any documentation that a contractor reasonably relies upon to prove a family’s residency.

NOTE: Authority cited: Sections 8236 and 8261, Education Code. Reference: Section 8236.3, Education Code.

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

### Article 1. Health and Safety Requirements

#### § 17775. General Provisions.

 (a) The regulations in subchapter 8 apply only to local educational agencies (LEAs) operating part-day or full-day California State Preschool Program (CSPP) that choose to be exempt from California Code of Regulations (CCR), title 22, pursuant to Health and Safety Code section 1596.792(o).

 (b) LEAs operating part-day or full-day CSPP classrooms may choose for any or all classrooms to be exempt from CCR, title 22 licensing requirements as long as they continue to meet all legal and contractual requirements of the CSPP, which includes adequate standards of Program Quality, pursuant to subchapter 2 of this chapter, as well as meet the following conditions:

 (1) The LEA has a contract to perform CSPP services and performs those services directly, and not as a subcontract for early learning and care services;

 (2) The LEA is performing such services in a school building, as defined by Education Code section 17283, and the school building in which the services are performed has been determined to be compliant with the provisions of the Field Act, pursuant to title 1, division 1, part 10.5, chapter 3, articles 3 and 6 of the Education Code, according to the Division of the State Architect;

 (3) The school building in which services are performed is maintained in good repair as defined by Education Code section 17002 and is subject to a yearly facility inspection pursuant to Education Code section 1240 and the information is included on the LEA's School Accountability Report Card.

 (4) The LEA facility meets the requirements for kindergarten classrooms in accordance with chapter 13 (commencing with section 14000) of division 1 of CCR, title 5.

 (c) Any LEA operating a CSPP classroom pursuant to this article may only serve four-year-old children as defined in Education Code section 8208 in the exempted classrooms. CSPP classrooms with any child younger than four years of age shall meet CCR, title 22 licensing requirements.

 (d) The California Department of Education (CDE) shall make a determination whether an LEA meets the requirements of this article at the time of initial funding and thereafter yearly as part of the continued funding process. At any time, the CDE may make a finding that an LEA does not meet the requirements for license exemption and shall notify the LEA of such finding. The LEA may appeal this finding pursuant to section 17833.

 (e) The CDE shall immediately notify the California Department of Social Services, Community Care Licensing Division, regarding any change in the licensing status of an LEA and/or if a determination is made that an LEA does not meet the requirements of Health and Safety Code section 1596.792(o) and this subchapter and should be subject to licensing.

NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 8208, Education Code; and Sections 1596.792 and 1596.7925, Health and Safety Code.

#### § 17776. Visual Supervision.

 (a) Visual supervision of children shall be provided by an adult program staff at all times, including during napping, toileting, and in all locations where children are present, whether inside or outside.

 (b) Children shall be monitored for behavior and wellness throughout the period of attendance and any unusual behavior, injury, or sign of illness requiring assessment and/or administration of first aid by staff shall be reported to the child's authorized parent or guardian and recorded in the family data file.

 (c) There shall be direct visual supervision of a child that is ill.

NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 1596.7925, Health and Safety Code.

#### § 17777. Indoor Space.

Indoor space shall be sufficient for the number of children using the space at any given time and meet the following requirements:

 (a) If a new or existing permanent structure, meet the requirements for kindergarten classrooms in accordance with chapter 13 (commencing with section 14000) of division 1 of CCR, title 5.

 (b) Be maintained in a safe and sanitary condition;

 (c) Include a variety of age-appropriate equipment, toys and materials in good condition and in sufficient quantity to allow children present to fully participate in planned activities; and

 (d) Include materials and surfaces accessible to children, including toys and supplies, that are free of toxic substances.

NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002, Education Code; and Section 1596.7925, Health and Safety Code.

#### § 17778. Outdoor Space.

 (a) Outdoor space shall be sufficient for the number of children using the space at any given time and meet the following additional requirements:

 (1) Include adequate shade to protect preschool children from harmful sun exposure. Safe shade may be created in the outdoor space with the use of natural landscape or trees or through the use of shade structures, tarps, or umbrellas, so long as these items are in good repair and do not pose a safety hazard for preschool children; and

 (2) Be accessible only to preschool, transitional kindergarten, and kindergarten-age children.

 (b) Outdoor space shall be enclosed by a fence or other protective barrier to protect children and to keep them in the outdoor activity area. The fence or barrier shall be at least four feet high.

 (c) Equipment and activity areas shall be arranged so that there is no hazard from conflicting activities. All fixed play equipment should have a minimum of six feet use zone (clearance space) from walkways, buildings, and other structures that are not used as part of play activities.

 (d) Playground equipment shall be age-appropriate and securely anchored to the ground unless it is portable by design.

 (e) The areas around and under climbing equipment, swings, slides and other similar play equipment shall be surrounded by a shock-absorbing surface which extends at least six feet beyond the perimeter of the stationary equipment.

NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002, Education Code; and Section 1596.7925, Health and Safety Code.

#### § 17779. Restroom Facilities.

 (a) Children's restroom facilities shall meet the following requirements:

 (1) Be self-contained within the classroom or preschool complex and accessible only to preschool, transitional kindergarten, and kindergarten-age children. Restroom facilities designated for preschool children shall not be used by adults;

 (2) Be accessible to enrolled children during the entire school day;

 (3) Contain one toilet and one sink for every 15 preschool children, or fraction thereof, which shall be sized for use by preschool aged children; and

 (4) Provide additional aids and/or conveniences as needed to accommodate children with a disability and/or developmental delays.

 (b) Hot water temperature at sinks that are used for handwashing, or where the hot water will be in direct contact with children, shall be set at a temperature that prevents scalding.

 (c) Soiled garments shall be stored in an air-tight container, inaccessible to children, that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents. The container shall be taken home the same day by the parent or guardian.

NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002 Education Code; and Section 1596.7925, Health and Safety Code.

#### § 177780. Drinking Water.

 (a) Clean and safe drinking water must be accessible and readily available throughout the day by way of a drinking fountain, water cooler with cups, or a similar water dispensing device so long as accessible to children.

 (b) If a drinking fountain, water cooler, or other water-dispensing device is too high for preschool children to access, anchored steps or a safe broad-based platform shall be provided to make it accessible.

 (c) Drinking fountains, if available, shall be maintained in a manner that assures that it is clean, safe, and functional.

NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002, Education Code; and Section 1596.7925, Health and Safety Code.

#### § 177781. Uniform Complaint Procedure.

Contractors must comply with all Uniform Complaint Procedure regulations in CCR, title 5, chapter 5.1, subchapter 1, article 10, Complaints Regarding State Preschool Health and Safety Issues in LEAs Exempt from Licensing.

NOTE: Authority cited: Sections 8235.5 and 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 8235.5, Education Code and Section 1596.7925, Health and Safety Code.

### Subchapter 9. Due Process

### Article 1. Notice of Action.

#### §17782. Notice of Action, Application for Services.

 (a) The contractor's decision to approve or deny services at initial certification shall be communicated to the applicant through a written statement referred to as a Notice of Action, Application for Services. The contractor shall maintain copies of the Notice of Action, Application for Services in the family data file. The written statement may be communicated to the applicant through electronic means.

(b) The contractor shall send the Notice of Action, Application for Services to the parent(s) within 30 calendar days from the date the application is signed by the parent(s) in accordance with sections 17782 and 17783 of this chapter. The statement should be transmitted to the parent in the manner requested by the parent in the Application for Services.

(c) The contractor must make all attempts to provide the family with a Notice of Action, Application for Services in the parent’s primary language.

(d) The Notice of Action, Application for Services shall include:

 (1) The applicant's name and address;

 (2) The contractor's name and address;

 (3) The name, telephone number, and email address of the contractor's authorized representative who made the decision;

 (4) The date of the notice; and

 (5) The method of distribution of the notice.

 (e) If services are approved, the notice shall contain:

 (1) Basis of eligibility;

 (2) Monthly family fee, if applicable, including the income used to calculate the family fee, and an explanation of how the fee was calculated;

 (3) Duration of the eligibility, which must be no less than 12 months for full-day California State Preschool Program (CSPP), and through the end of the program year for part-day CSPP;

 (4) Names of children approved to receive services; and

 (5) Hours of service approved for each day;

 (f) If the services are denied, the Notice of Action, Application for Services shall contain the specific basis for the denial of services and shall provide:

 (1) Detailed information sufficient for the family to understand the reason for the action being taken and to decide whether to appeal the Notice of Action.

 (2) Instructions for the parent(s) on how to request a hearing if they do not agree with the contractor's decision as stated in the Notice of Action, Application for Services in accordance with procedures specified in sections 17784 and 17785 of this chapter.

 (g) If the family has applied for CSPP services through a family child care home provider, the provider shall be sent a copy of the Notice of Action, Application for Services at the same time the family is sent the notice.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

#### § 17783. Notice of Action, Recipient of Services.

 (a) The Notice of Action, Recipient of Services is used when there is any change to the service agreement including, but not limited to:

(1) The contractor determining, at recertification, that the need or eligibility requirements are not met;

(2) The contractor modifying the family fee or the amount of service; or

(3) The contractor terminating services.

(b) The contractor shall notify the family through a written, Notice of Action, Recipient of Services in accordance with subsection (f) below. The contractor shall maintain copies of all Notices of Action, Recipient of Services in the family data file. The Notice of Action, Recipient of Services should be sent to the parent in the manner requested by the parent in the Application for Services.

(c) The contractor must make all attempts to provide the family with a Notice of Action, Recipient of Services in the parent’s primary language.

(d) With the exception of the changes set forth in subsection (e) below, the effective date of any changes to the service agreement must be no sooner than the following, depending upon method of service:

 (1) At least 14 days prior to the effective date of the action if the Notice of Action, Recipient of Services is:

(A) Given personally to the parent; or

(B) Sent through electronic methods such as email or facsimile or similar instantaneous electronic methods.

(2) At least 15 days prior to the effective date of the action if the Notice of Application, Recipient of Services is sent via overnight delivery;

(3) At least 19 days prior to the effective date of the action if the Notice of Action, Recipient of Services is mailed

(e) If a Notice of Action, Recipient of Services provides only for a reduction in a family fee or an increase in the amount of services, the effective date of the action should be immediate.

(f) The Notice of Action must provide detailed information sufficient for the family to determine what the issue is, to understand the reason for the action being taken, and to decide whether to appeal the Notice of Action. The Notice of Action, Recipient of Services shall include:

 (1) The type of action being taken;

 (2) The effective date of the action;

 (3) The name and address of the recipient;

 (4) The name and address of the contractor;

 (5) The name, telephone number, and email address of the contractor's authorized representative who is taking the action;

 (6) The date the notice is mailed, emailed, or given to the recipient;

 (7) The method of distribution to the recipient;

 (8) A description of the action;

 (9) A statement of the specific fact(s) that support the proposed changes; and

 (10) Instructions for the parent(s) on how to request a hearing if they do not agree with the contractor's decisions as stated in the Notice of Action, Recipient of Services in accordance with procedures specified in sections 17784 and 17785 of this chapter. These instructions shall inform parents how to request a hearing from the contractor and, if necessary, from the Early Learning and Care Division as described in sections 17784 and 17785 of this chapter.

 (g) If the family receives CSPP services through a family child care home provider, the provider shall be sent a copy of the Notice of Action, Recipient of Services at the same time the family is sent the notice.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

### Article 2. Due Process Requirements

#### § 17784. Parents Request for a Hearing; Rules and Procedures.

 (a) If the parent disagrees with an action, taken by a contractor in a Notice of Action, Application for Services or Notice of Action, Recipient of Services, the parent(s) may file a request for a hearing with the contractor within 14 calendar days of the date the Notice of Action was received. A Notice of Action is deemed to be received by the family on: the date it was provided to the family, if personally served or served by electronic means; the day after it was served, if served via overnight delivery service; or five days after the date it was mailed to the family, if the Notice of Action was mailed. The contractor shall document the method of delivery and date the Notice of Action was sent to the parent.

 (b) Upon the filing of a request for hearing, the intended action shall be suspended until the administrative appeal process has been completed. The process is complete when the administrative appeal process has been exhausted or when the parent(s) abandons the appeal process.

 (c) Within 10 calendar days following the receipt of the request for a hearing, the contractor shall notify the parent(s) of the time and place of the hearing. The time and place of the hearing shall, to the extent possible, be convenient for the parent(s).

 (d) The hearing shall be conducted by an administrative staff person who shall be referred to as “the hearing officer.” The hearing officer shall be at a staff level higher in authority than the staff person who made the contested decision and should not have participated in making the decision being contested.

 (e) The parent(s) or an authorized representative designated by the parent is required to attend the hearing. If the parent or the parent's authorized representative fails to appear at the hearing, the parent will be deemed to have abandoned his or her appeal unless the parent can demonstrate to the contractor that they had good cause for their failure to appear, in which case the hearing shall be rescheduled.

 (f) Only persons directly affected by the hearing shall be allowed to attend.

 (g) The contractor shall arrange for the presence of an interpreter at the hearing, if one is requested by the parent(s), at no cost to the parent.

 (h) The hearing officer shall explain to the parent(s) the legal, regulatory, or policy basis for the intended action.

 (i) During the hearing, the parent(s) shall have an opportunity to explain the reason(s) they believe the contractor's decision was incorrect. The contractor's staff shall present any material facts omitted by the parent(s) and the parent(s) shall have the right to respond.

 (j) The hearing officer shall mail or deliver to the parent(s) a written decision within 10 calendar days after the conclusion of the hearing.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

 (a) If the parent disagrees with the written decision from the contractor, the parent has 14 calendar days from the date the decision was received by the parent in which to appeal to the Early Learning and Care Division. A decision is deemed to be received by the parent on the day the parent was personally served with the decision or the date the decision was electronically transmitted to the parent, on the date following the sending of the letter if sent via overnight delivery service or five days following the mailing of the decision, if the letter was mailed to the parent(s). The contractor shall document the method of delivery and date the decision was sent to the parent.

 (b) If the parent(s) do(es) not submit an appeal request to the Early Learning and Care Division within 14 calendar days from the receipt of the decision, the parents' appeal process shall be deemed abandoned and the contractor may implement the intended action.

 (c) The parent(s) shall specify in the appeal request the reason(s) why they believe the contractor's decision was incorrect and provide any documentation or evidence to support the parent(s) position.

 (d) A copy of the contractor's notice of intended action and written decision shall be submitted by the parent(s) with the appeal request.

 (e) Upon receipt of an appeal request, the Early Learning and Care Division may request copies of the family data file and other relevant materials from the contractor as well as may request additional information from the parent(s). The Early Learning and Care Division may also conduct any investigations, interviews or mediation that it believes are necessary to resolve the appeal. Any mediation of the appeal shall be conducted with the consent of both the parent(s) and the contractor.

 (f) The decision of the Early Learning and Care Division shall be sent to the parent(s) and to the contractor within 30 calendar days after receipt of the appeal request.

(g) The Early Learning and Care Division shall send the appeal decision in the delivery method preferred by the parent.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

 (a) The contractor shall comply with the decision of the Early Learning and Care Division immediately upon receipt thereof.

 (b) The contractor shall be reimbursed for early learning and care services delivered to the family during the appeal process.

 (c) If a contractor's determination that a family is ineligible is upheld by the Early Learning and Care Division, services to the family shall cease upon receipt of the Early Learning and Care Division's decision by the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

### Subchapter 10. General Fiscal Requirements

### Article 1. General Provisions.

#### § 17787. Notification of Address Change.

(a) Contractors shall notify the Early Learning and Care Division in writing of any change in mailing address for communication regarding the contract 30 calendar days prior to the address change.

(b) Contractors shall notify the Early Learning and Care Division in writing of any proposed change in operating facility address(es) at least 30 calendar days in advance of the change unless such change is required by an emergency such as fire, flood or earthquake.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

#### § 17788. Materials Developed with Contract Funds.

(a) If the contractor receives income from materials developed with contract funds, the use of the income shall be restricted to the early learning and care program.

(b) If the materials were developed in part with contract funds, a portion of the income from the sale of the materials shall be used in the early learning and care program and be computed in direct proportion to the share of contract funds used in development of the materials.

 (c) Materials developed with contract funds shall contain:

 (1) An acknowledgement of the use of state funds in the development of materials;

 (2) A disclaimer that the contents do not necessarily reflect the position or policy of the California Department of Education (CDE).

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8261, Education Code.

#### § 17789. Prohibition Against Religious Instruction or Worship.

The contractor shall not provide nor be reimbursed for early learning and care services which include religious instruction or worship.

NOTE: Authority cited: Section 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

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

Except for external payroll services, private contractors:

 (a) Shall not use any presigned, preauthorized, or pre-stamped checks, without the prior written approval of the Early Learning and Care Division; and

 (b) Shall require two authorized signatures on all checks unless:

 (1) The contractor has a policy approved by its governing board requiring dual signatures only on checks above a specified dollar amount; and

 (2) The annual audit verifies that appropriate internal controls are maintained.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8261, Education Code.

#### § 17791. Prohibition Against Loans and Advances.

 (a) Contractors shall not loan contract funds to individuals, corporations, organizations, public agencies or private agencies.

 (b) Contractors shall not advance unearned salary to employees.

 (c) Contractors shall not make advance payments to subcontractors and shall compensate subcontractors after services are rendered or goods are received except for:

 (1) Subcontractors providing early learning and care services; and

 (2) Subcontractors with subcontracts exempt from the provisions of article 2 of this subchapter as specified in section 17797.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8261, Education Code.

#### § 17792. Compliance with Title 22 California Code of Regulations.

Except as otherwise provided for in Health Safety & Safety Code section 1596.792(o), contractors with facilities which are exempt by statute or otherwise exempt from licensure shall comply with health and safety regulations for childcare centers and family child care homes as specified in California Code of Regulations (CCR), title 22, Community Care Licensing Standards in order to qualify for early learning and care program contract funds.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code;

#### § 17793. Contracts with Multiple Service Areas.

 (a) A contractor with more than one service delivery area, as specified in and funded through a single contract, shall maintain service at the same level, plus or minus 10 percent of the contracted child hours or child days of enrollment, as applicable, in the individual service area(s) specified in its current contract.

 (b) The contractor may request approval from the Early Learning and Care Division to vary service levels by more than 10 percent if the contractor can demonstrate that the need for services in the designated area(s) has changed.

 (c) The Early Learning and Care Division shall approve or deny the request within 30 calendar days of receipt of the request.

 (d) If the request is denied, the contractor may appeal this decision in accordance with section 17833 of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8269, Education Code.

#### § 17794. Contract Monitoring.

 (a) Definitions for purposes of this section.

 (1) “Compliance review” means that a team of CDE staff reviews a contractor's program at the program site to determine compliance with applicable laws, regulations, and contractual provisions.

 (2) “Contract Monitoring Review (CMR)” means the monitoring and review instrument for early learning and care programs that is used to determine compliance and is contained within the Contract Monitoring Review Guide, published annually by the State Superintendent of Public Instruction.

 (b) At least once every three years and more often as resources permit, the CDE shall conduct a compliance review at the contractor's office(s) and operating facility(ies) to determine the contractor's compliance with applicable laws, regulations and contractual provisions.

 (c) The reviews shall be conducted according to the provisions of the CMR, as defined in subsection (a)(2) of this section.

 (d) The reviews shall be conducted by consultants, analysts, and/or management staff of the CDE or other State of California representatives.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

#### § 17795. Contractor’s Termination for Convenience.

 (a) A contractor may terminate the contract for any reason during the contract term.

 (b) The contractor shall notify the Early Learning and Care Division of its intent to terminate the contract at least 90 calendar days prior to the date the contractor intends to terminate the contract.

 (c) Within 15 days from the date the contractor notifies the Early Learning and Care Division of its intent to terminate the contract, the contractor shall submit:

 (1) A current inventory of equipment purchased in whole or in part with contract funds; and

 (2) The names, addresses and telephone numbers of all families served by the contract and all staff members funded by the contract.

 (3) Contractors operating through a family child care home education network shall also submit the names, addresses and telephone numbers of all family child care home providers.

 (d) Upon receipt of a notice of intent to terminate, the Early Learning and Care Division will transfer the program to another agency as soon as practicable.

 (e) The contractor is obligated to cooperatively work with the Early Learning and Care Division with the transition of families.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

#### § 17796. Title, Use, Disposition and Retention of Equipment.

 (a) When equipment is purchased with state funds, the title shall vest in the contractor only for such period of time as the contractor has a contract with the CDE.

 (b) The Early Learning and Care Division may provide written authorization for the contractor to retain the equipment for the contractor's own use if a fair compensation is paid to the state for the state's share of the cost of the equipment. Fair compensation shall be determined by the state using the state's share of original acquisition cost, less depreciation, computed on a straight-line method over the estimated useful life expectancy of the equipment.

 (c) When equipment is purchased in whole or in part with state funds, the contractor shall use the equipment exclusively in the program(s) from which funds were used to purchase the equipment. If the contractor wishes to share the use of the equipment between/among two or more programs, the cost of such equipment shall be prorated between/among the programs.

 (d) If the contractor no longer has a contract with the CDE, the contractor shall dispose of the equipment in accordance with written directions from the Early Learning and Care Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

### Article 2. Subcontracts.

#### § 17797. Subcontracts.

(a) A written subcontract is required for all service agreements, except as defined in subsection (b).

 (b) The following types of service agreements do not require a written subcontract and are not subject to the regulations contained in this article:

 (1) Employment agreements;

 (2) Facility rental or lease agreements;

 (3) Payment arrangements with family child care homes;

 (4) Medical or dental service agreements;

 (5) Bookkeeping/auditing agreements, except for section 17798;

 (6) Food services agreements;

 (7) Janitorial and ground keeping agreements;

 (8) A subcontract with a public agency; and

 (9) Subcontracts with an individual for less than $10,000.00, except for section 17798.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

 (a) Private contractors shall obtain at least three bids or estimates for subcontracts that exceed the amount stated for subcontract bid requirements in the annual early learning and care contract.

 (b) The subcontract shall be awarded to the lowest responsible bidder.

 (c) If three bids or estimates cannot be obtained, the private contractor shall maintain documents in its records that establish:

 (1) The reasons why three bids or estimates could not be obtained; and

 (2) The reasonableness of the proposed expenditure without three bids or estimates.

 (d) The contractor shall not split subcontracts to avoid competitive bidding requirements.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

Contractors shall obtain prior written approval from the Early Learning and Care Division for subcontracts that:

 (a) Are not excluded from the provisions in section 17797 of this chapter; and

 (b) Exceed the amount stated for subcontract approval in the annual early learning and care contract.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

The contractor shall submit the following documents to the Early Learning and Care Division before entering into any agreement with a proposed subcontractor covered by section 17799 and before any work begins pursuant to the proposed subcontract:

 (a) A copy of each bid or estimate;

 (b) If applicable, the documents required to be maintained under section 17798(c) of this chapter;

 (c) Identification of the lowest responsible bidder selected by the contractor;

 (d) For capital outlay subcontracts, documents showing that the bidder selected by the contractor has obtained a payment bond in an amount not less than one-half the amount of the proposed subcontract; and

 (e) Two copies of the proposed subcontract, including a proposed line-item budget which shows the costs of the services to be performed. The budget for a proposed subcontract for renovation and repair shall show the total cost of labor and the total cost of materials.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

 (a) The Early Learning and Care Division shall approve or disapprove a proposed subcontract submitted for prior approval within 30 calendar days following the receipt of all required documents.

 (b) Upon approval or disapproval, the Early Learning and Care Division shall return a copy of the approved subcontract or a copy of the disapproved subcontract to the contractor.

 (c) A disapproved contract will include a statement of the reason(s) for not approving the subcontract.

 (d) If the request for approval of a subcontract is denied, the contractor may appeal the decision in accordance with instructions specified in Section 17833 of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

#### § 17802. Required Subcontract Provisions.

With the exception of subcontracts excluded pursuant to section 17797, every subcontract shall be in writing and specify:

 (a) The dates within which the subcontractor is to perform the contract. The time for subcontractor performance shall not begin prior to, nor shall the time extend beyond, the time period of the contract between the contractor and the state.

 (b) The dollar amount of the subcontract or specify an amount not to exceed a maximum dollar amount.

 (c) The service(s) to be provided under the subcontract.

 (d) The responsibilities of each party under the subcontract.

 (e) That the subcontractor, and the agents and employees of the subcontractor, in the performance of the subcontract, are acting in an independent capacity and not as officers or employees or agents of the State of California.

 (f) That modifications of the subcontract shall be in writing, and that for subcontracts in excess of the amount stated in the annual early learning and care contract, prior written Early Learning and Care Division approval is required unless the subcontract is otherwise exempt from prior Early Learning and Care Division approval.

 (g) That the subcontract is the complete and exclusive statement of the mutual understanding of the parties and that the subcontract supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of the subcontract.

 (h) Remedies, in case of a breach of contract, for subcontracts in excess of $10,000.00.

 (i) That the State of California retains title to any equipment or supplies purchased with state funds and that the equipment shall be returned to the contractor upon termination of the subcontract. The subcontract shall also specify that the subcontractor shall obtain prior written approval from the contractor and the Early Learning and Care Division for any unit of equipment that costs in excess of the amount stated in the annual early learning and care contract.

 (j) That the subcontractor shall be reimbursed for travel and per diem expenses only at rates that do not exceed the rates paid to the majority of CDE's represented employees computed in accordance with State Department of Personnel Administration regulations, CCR, title 2, subchapter 1.

 (k) That the subcontractor agrees to indemnify and hold harmless the State of California, its officers, agents and employees from any and all claims and losses occurring or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of the subcontract, and from any and all claims and losses occurring or resulting to any person, firm or corporation that may be injured or damaged by the subcontractor in the performance of the subcontract.

 (l) That for those subcontracts requiring Early Learning and Care Division prior approval, the subcontractor shall maintain records for program review, evaluation, audit and/or other purposes and make the records available to agents of the state for a period of five years.

 (m) Contain provisions of the “Nondiscrimination Clause” included in the prime contract as specified in CCR, title 2, chapter 5, section 8107.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

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

 (a) Subcontracts for the operation of one or more of a contractor's early learning and care programs shall be audited in accordance with CDE Audit Guidelines.

 (b) The cost of the audit shall be reimbursable and shall be borne by the contractor either directly or as an allowance in the subcontract.

 (c) The audit of the subcontract shall be submitted to the CDE as follows:

 (1) School districts, county offices of education and community colleges shall submit the audit of the subcontract by the 15th day of the fifth month following the fiscal year in which the subcontracted services were performed;

 (2) All other contractors shall submit the subcontract audit along with the contractor's audit as specified in section 17823 of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8448, Education Code.

### Article 3. Costs

#### § 17804. General Standards.

Contractors will be reimbursed for actual costs that are reasonable and necessary to the performance of the contract as defined in section 17700 of this chapter. Whether costs are reasonable and necessary to the performance of the contract shall be determined in conjunction with requirements set forth in the federal Uniform Guidance, 2 Code of Federal Regulations part 200 et. seq.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8265 and 8275, Education Code.

#### § 17805. Specific Items of Reimbursable Costs.

Reimbursable costs include, but are not limited to, the following:

 (a) Start-up costs specified in Education Code section 8275, not to exceed 15 percent of the annual contract amount.

 (b) Administrative costs, not to exceed 15 percent of net reimbursable program costs. Such costs include activities that do not provide a direct benefit to the children, parents, or providers.

 (c) Employee compensation, including fringe benefits, and personal service contracts.

 (d) Equipment and equipment replacement with prior Early Learning and Care Division approval if required in the annual early learning and care contract.

 (e) Improvement of sites and adjacent grounds to meet or continue to meet CCR, title 22, Community Care Licensing Standards. Reimbursable improvements are those that:

 (1) Do not unnecessarily increase the value as defined in section 17700 of this chapter of a facility; and

 (2) The contractor has obtained prior Early Learning and Care Division approval if required in the annual early learning and care contract.

 (f) Taxes, insurance, and maintenance for buildings and/or equipment.

 (g) Depreciation based on the useful life of an asset using a straight-line method from the original date of acquisition. Depreciation shall not be claimed on land, donated assets or assets purchased with public funds.

 (h) A use allowance for buildings and improvements, computed at annual rate not to exceed 2 percent of acquisition costs. A use allowance for equipment computed at an annual rate not to exceed 6 2/3 percent of acquisition costs. A use allowance shall not be claimed on assets purchased with contract funds or on land, and shall not be claimed for assets for which depreciation has been claimed.

 (i) Travel and per diem expenses, including approved out-of-state travel, at rates not to exceed those rates paid to the majority of CDE’s represented employees computed in accordance with State Department of Personnel Administration regulations, CCR, title 2, subchapter 1. The Early Learning and Care Division shall notify the contractor of a change in expense rates within 30 calendar days after the Early Learning and Care Division has received notification of a change in rates from the State Department of Personnel Administration.

 (j) An indirect cost rate based on an approved cost allocation plan, not to exceed the rate specified in the annual early learning and care contract.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261, 8269 and 8276.7, Education Code.

#### § 17806. Nonreimbursable Costs.

The following costs shall not be reimbursable under the early learning and care contract:

 (a) Bad debts, including losses arising from uncollectible accounts and any related legal costs. Uncollected parent fees are not considered to be bad debts if sufficient documentation of collection attempts exists;

 (b) Contributions;

 (c) Costs of amusement or entertainment;

 (d) Costs of fines or penalties;

 (e) Costs of idle facilities unless those costs are related to a partial year program and the costs of the idle facilities have been approved by the Early Learning and Care Division;

 (f) Costs incurred after the contract has been terminated;

 (g) Fund raising costs except as specified in section 17707 of this chapter;

 (h) Consumer interest except:

 (1) Interest on borrowed funds when apportionments are withheld because of a delay or error attributable to the state and the amount of interest claimed is approved by the Early Learning and Care Division; or

 (2) When interest is part of a lease purchase agreement.

 (i) Investment management costs;

 (j) Costs of organization of a nonprofit corporation such as incorporation fees or consultant fees;

 (k) Public relations consultant fees;

 (l) Costs of legal, consulting and accounting services incurred in prosecution of claims against the state;

 (m) State and federal income taxes;

 (n) Costs for the acquisition of sites and buildings except through depreciation;

 (o) Bonuses unless part of a collective bargaining agreement;

 (p) Compensation to the members of the board of directors except for:

 (1) Reimbursement, computed in accordance with section 17805 of this chapter, for travel and/or per diem incurred while the members are conducting business for the organization; and

 (2) As provided in the Corporation Code section 5227 et seq.

 (q) Costs of subcontracts which increase the contractor's cost or subcontracts which contain a provision for reimbursement for cost-plus a percentage-of-costs.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8208 and 8269, Education Code.

#### § 17807. Charging of Expenditures.

Reimbursement for net reimbursable program costs shall meet the following criteria:

 (a) Costs must be incurred during the contract period.

 (b) Contractors shall not use current year contract funds to pay prior or future year obligations.

 (c) The cost of the annual independent audit may be claimed either in the contract period which was the subject of the audit or during the contract period in which the audit is completed.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

#### § 17808. Recoupment of Advanced Contract Funds.

 (a) The CDE shall recoup any payments made for costs which were not reasonable and necessary. The amount that is recouped shall be the excess payment over the reasonable or fair market value, or 100 percent of the cost, if the cost was not necessary.

 (b) The CDE may elect to recover any costs of recoupment, including collection services and attorney fees.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8269, Education Code.

#### § 17809. Use of Subsidized Family Fees.

 (a) Fees received from subsidized families are to be expended and earned by the contractor before contract funds shall be claimed for reimbursement.

 (b) Such family fees shall be expended on reimbursable costs and earned by providing child days/hours of enrollment beyond the minimum required by the contract at a rate equal to the lesser of the daily/hourly contract rate or the actual cost.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

#### § 17810. Prior Approval for Certain Capital Outlay Expenditures.

 (a) When expenditures for equipment, equipment replacement and improvements exceed the level specified in the annual early learning and care contract, private contractors shall obtain at least three bids or estimates;

 (1) Award shall be made to the lowest responsible bidder;

 (2) If three bids or estimates cannot be obtained, the contractor shall maintain documentation that specifies the reason(s) why three bids or estimates could not be obtained and establishes the reasonableness of the cost without three bids or estimates;

 (b) When expenditures for equipment, equipment replacement and improvements exceed the level specified in the annual early learning and care contract, the contractor shall request prior written approval from the Early Learning and Care Division.

 (c) The Early Learning and Care Division shall approve or deny the request for the capital outlay expenditure within 30 calendar days of the receipt of the request;

 (d) If the request is denied, the contractor may appeal the decision in accordance with instructions specified in section 17827 of this chapter.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

#### § 17811. Prior Approval for Out-of-State Travel

 (a) Contractors shall be reimbursed for out-of-state travel expenses only with prior written approval from the Early Learning and Care Division. The Early Learning and Care Division shall not approve out-of-state travel expenses:

 (1) For more than one employee per contract per year;

 (2) For contractors with delinquent accounts payable which are delinquent more than 90 calendar days after the date of the original invoice;

 (3) For contractors on conditional status;

 (4) When there is no clear benefit to the state;

 (5) When the benefit to the state can be obtained within California; or

(6) When any state travel restrictions are imposed by law.

 (b) The Early Learning and Care Division shall approve or deny the request for out-of-state travel within 30 calendar days of the receipt of the request;

 (c) If the request is denied, the contractor may appeal the decision in accordance with instructions specified in section 17833 of this chapter.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

### Article 4. Determination of Reimbursement

#### § 17812. Determination of Reimbursable Amount.

All contractors shall be reimbursed for an audited claim that is the least of the following:

 (a) The maximum reimbursable amount as stated in the annual early learning and care contract; or

 (b) The net reimbursable program costs; or

 (c) The product of the adjusted child days of enrollment for certified children, times the contract rate per child day of enrollment, times the actual percentage of attendance plus 5 percent, but in no case to exceed 100 percent of enrollment;

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8265, Education Code.

#### § 17813. Minimum Days of Operation.

If the contractor fails to operate at least 98 percent of the minimum days of operation required in its contract, ceases operation or the contract is terminated prior to the end of the contract period, the maximum reimbursable amount shall be reduced in proportion to the percentage of the contract minimum days of operation that the contractor was not in operation.

NOTE: Authority cited: Section 8269, Education Code. Reference: Section 8269, Education Code.

#### § 17814. Reduction, Withholding, and Cancelling Apportionments to Contractors.

 (a) The CDE shall reduce, withhold or cancel any scheduled apportionment when one or more of the following conditions exist:

 (1) The contractor has not submitted an acceptable audit for any prior year of operation on or before the date due.

 (2) The contractor has not submitted the reports or requests for data required by sections 17821, 17822, 17823, 17824 and 17825 of this chapter, if applicable, or any other reports or requests for data required by the early learning and care contract, on or before the date due.

 (3) The contractor will not earn the full contract amount based on the current year projected and the prior year actual net reimbursable programs costs as determined by the CDE, Fiscal and Administrative Services Division.

 (4) A creditor of the contractor has placed a lien on the contractor's scheduled apportionments.

 (5) The contractor has accounts payable which are:

 (A) More than 90 days delinquent to the CDE; and

 (B) Not under appeal as specified in either section 17826 or section 17833 of this chapter.

 (b) If any apportionment is to be reduced, withheld or cancelled, the CDE shall provide the contractor prior written notice of the intended action.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

#### § 17815. Order of Expenditure.

Expenditure from the Child Development Fund shall occur in the following order:

 (a) Fees collected from parents of certified children shall be first in and first out.

 (b) State or federal contract funds apportioned by the CDE shall be second in and second out.

 (c) Interest received on advanced CDE funds shall be last in and last out.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

### Article 5. Accounting and Reporting Requirements

#### § 17816. General Provisions.

Contractors shall report expenditures on an accrual basis.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8448, Education Code.

#### § 17817. Child Development Fund; Interest Bearing Accounts.

 (a) All contractors shall establish a fund to be known as the “Child Development Fund” as specified in Education Code section 8328, except that private contractors shall establish the fund in a federally insured banking institution located in California.

 (b) Contractors with multiple fund sources shall establish separate program cost accounts for each source of funds.

 (c) If a contractor places advanced contract funds in an interest-bearing account, the interest-bearing account shall be a separate account within the Child Development Fund.

 (d) Interest earned shall be retained by the contractor if it is expended on reimbursable costs.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8328, Education Code.

#### § 17818. Enrollment and Attendance Accounting.

 (a) Contractors shall use daily sign-in/sign-out sheets as a primary source document for audit and reimbursement purposes.

 (b) One of the following persons shall enter the time of arrival and departure on a sign-in/sign-out sheet and, except as specified in subsection (c) below, shall sign the sheet using their full signature:

 (1) The parent or other adult authorized by the parent to drop off/pick up a child; or

 (2) The staff person designated by the contractor as the person responsible for entering the times of arrival and departure if the child is not dropped off/picked up by a parent or other adult authorized by the parent.

 (c) First and last initials of the contractor's authorized representative along with a notation of the time are required to document when a school-age child departs for and returns from school during the day.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

#### § 17819. Verification of Excused Absence; Policies.

 (a) If the absence is claimed by the contractor as an excused absence as defined in Education Code section 8208(d), the attendance accounting records shall contain verification that includes:

 (1) The name of the child;

 (2) The date(s) of absence;

 (3) The specific reason for the absence; and

 (4) The signature of the parent or the contractor's authorized representative if verification is made by telephone.

 (b) If an excused absence is based on time spent with a parent or other relative as required by a court of law, the family data file shall contain a copy of the Court Order.

 (c) Contractors shall adopt reasonable policies delineating circumstances that would constitute an excused absence for “family emergency” and “in the best interest of the child.”

 (d) Contractors shall also adopt a policy governing unexcused absences which may include reasonable limitations, if any.

 (e) Contractors shall inform parents of these policies.

 (f) Excused absences “in the best interest of the child” shall be limited to 10 days during the contract period.

 (g) Excused absences “in the best interest of the child” for children who are recipients of protective services or at risk of abuse or neglect, are not limited during the contract period.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8208, 8261 and 8263, Education Code.

#### § 17820. General Recordkeeping Requirements.

 (a) All paper and electronic records shall be retained for a minimum period of five years.

 (b) Claims for reimbursement shall not be paid unless there are documents to support the claims. The contractor has the burden of supporting claims for reimbursement.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

#### § 17821. Attendance and Expenditure Reports.

 (a) Contractors shall submit reports containing the following information for each contract to the CDE at intervals specified in the annual early learning and care contract:

 (1) Days/hours of enrollment and attendance for all children served in the program in the current reporting period and year to date;

 (2) Total days of operation in the current reporting period and year to date;

 (3) The report shall include all services, revenues and expenditures for both subsidized and nonsubsidized children if nonsubsidized and subsidized children are receiving commingled early learning and care services as defined in section 17700 of this chapter;

 (4) Amount and sources of all revenues other than advanced contract funds and those specified in subsection (b) for the current reporting period and the year to date; restricted and unrestricted income shall be reported as follows:

 (A) Restricted income expended during the contract period shall be reported as “restricted;” restricted income that is not expended during the contract period remains restricted and shall be considered “deferred revenue;”

 (B) All unrestricted income shall be reported as “unrestricted”;

 (5) Total expenditures, other than those specified in subsection (b) related to the program operation for the current reporting period and the year to date, including all expenses for specific purposes as designated by restricted income and all non-reimbursable expenses.

(b) Contractors should not report Child Nutrition Program revenue received from the CDE if the associated expenses for the Child Nutrition Program(s) are not claimed to the early learning and care contract.

 (c) Reports not received by the due dates shall be considered delinquent. Penalties for delinquent reporting are specified in section 17814 of this chapter.

 (d) Contractors on conditional or provisional status shall report monthly.

NOTE: Authority cited: Section 8269, Education Code. Reference: Section 8269, Education Code.

#### § 17822. Report Data.

 (a) Contractors shall submit statistical, cost and program data as requested by the CDE in order for the CDE to prepare various legislatively mandated reports, to meet state and federal reporting requirements, and for the effective administration of early learning and care programs.

 (b) Contractors shall submit the data to the CDE by the date specified in the CDE's request for this information.

 (c) Reports not received by the required due date shall be considered delinquent. Penalties for delinquent reporting are specified in section 17814 of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261.5 and 8280, Education Code; and Section 1798.24, Civil Code.

#### § 17823. Audits and Auditors.

 (a) Contractors shall annually submit to the CDE Audits and Investigations Division an acceptable annual financial and compliance audit.

 (b) All audits shall be performed by:

 (1) A Certified Public Accountant who possesses a valid license to practice within the State of California;

 (2) A Public Accountant licensed on or before December 31, 1970 and currently certified and licensed by the State of California; or

 (3) A member of the CDE staff of auditors.

 (c) Non-school district contractors shall submit the audit by the 15th day of the fifth month following the end of the contract period or earlier if specified by the CDE.

 (d) The audits for school districts and county offices of education shall be submitted to the State Controller by November 15, or by December 31 if an extension has been approved by the applicable county superintendent of schools.

 (e) If, for any reason, the contract is terminated during the contract period, the audit shall cover the period from the beginning of the contract through the date of termination.

 (f) Public agencies may have their audits prepared by in-house auditors if the public contractor has internal audit staff that performs auditing functions and meets the tests of independence found in Standards for Audits of Governmental Organization, Programs, Activities, and Functions issued by the Comptroller General of the United States.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261, 8448, 33420 and 41020.5, Education Code.

#### § 17824. Review of Audit by the California Department of Education Audits and Investigations Division.

 (a) The CDE Audits and Investigations Division shall conduct a review of the audit to determine whether the audit is acceptable and to determine the contractor's net reimbursable program costs. The Audits and Investigation Division's determination of earnings shall be the final accounting of any amount payable to or receivable from the contractor pursuant to the contract.

 (b) The contractor may appeal the Audits and Investigations Division's findings according to the procedures specified in section 17826 of this chapter if the amount of the demand for remittance meets or exceeds the threshold specified in Education Code section 8402(a)(3).

(c) The Audits and Investigations Division will not accept audit report submissions more than two years past the due date.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261, 8402 and 8448, Education Code.

#### § 17825. Delinquent Audits; One-Time Extension; Unsubmitted Audits.

 (a) If an audit is not received on or before the required due date and an extension has not been granted, the audit shall be considered delinquent and all apportionments shall be withheld as specified in section 17814 of this chapter.

 (b) Except for contractors on conditional status, the CDE Audits and Investigations Division may grant a contractor a one-time only, 30-calendar day extension of the audit due date provided the inability of the contractor to submit the audit by the due date was beyond the fault and control of the contractor.

 (c) If the contractor fails to produce or submit an acceptable audit within one year of the due date as specified in section 17823 of this chapter, the CDE may bill the contractor for 100 percent of the early learning and care funding received by the contractor for that fiscal year.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8448, Education Code.

### Subchapter 11. Appeal and Dispute Resolution Procedures.

#### § 17826. Termination, Suspension, and Major Reductions in Contract.

 (a) Pursuant to the requirements of Education Code sections 8400 through 8409, an independent appeal procedure shall be available to any contractor whose contract is:

(1) Terminated, either immediately or upon 90 days’ notice;

(2) Suspended;

(3) Reduced by 4 percent of the agency’s total contract or $25,000, whichever is less; or

(4) Demanded for remittance of an overpayment of more than 4 percent of an agency’s contract or $25,000, whichever is less.

 (b) Such appeals shall be preceded by a written notice to the contractor setting forth the specific reasons for the action and the steps by which the contractor may take to appeal the action, in accordance with any applicable requirements of the Administrative Procedures Act.

 (c) If a contractor timely requests an appeal, an appeal shall be heard by independent hearing officers in accordance with procedures established by the Office of Administrative Hearings as specified in California Code of Regulations, title 1, sections 201 through 207.

 (d) Termination upon 90 days’ notice or temporary suspension of a contract during the contract period may occur when:

 (1) A contractor fails to correct items of fiscal or programmatic noncompliance within six months of receiving a conditional contract which includes an addendum stating the specific items of noncompliance and the corrective actions necessary to come into compliance; or

 (2) There is evidence of serious fiscal or programmatic noncompliance by the contractor; or

 (3) A contractor fails or refuses to make available for examination or copying by an authorized employee of the California Department of Education (CDE) any records or documents that the contractor is required to retain pursuant to this chapter, upon a request by that employee to examine or copy such records or documents; or

 (4) A contractor refuses to permit an authorized employee of the CDE to enter a facility operated by the contractor during the days and/or hours of operation on file with the CDE, for the purpose of reviewing administrative operations of the contractor or for observing early learning and care services provided by the contractor pursuant to this chapter.

 (e) Immediate termination actions may be taken for any reasons set forth in Education Code section 8406.7 or 8406.9.

 (f) Except in instances when the contractor has been immediately terminated or temporarily suspended, the contractor may continue to operate during the appeal process.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8400, 8401, 8401.5, 8403, 8404, 8405, 8406, 8406.6, 8406.7, 8406.9, 8407, 8408 and 8409, Education Code.

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

After receiving notice of the Early Learning and Care Division's decision to terminate the contract or to make no offer of continued funding, the contractor shall submit copies to or make available for copying by the Early Learning and Care Division all of the following:

 (a) A current inventory of equipment purchased in whole or in part with contract funds;

 (b) The names, addresses and telephone numbers of all families served by the contract, all staff members funded by the contract;

 (c) Monthly enrollment and attendance reports until the contract is actually terminated or until the final month for which the contractor retains a contract; and

 (d) The names, addresses and telephone numbers for all family child care home providers serving families under the contract if the contract operates through a Family child care home education network

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8402, Education Code.

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

 (a) Contract performance shall be reviewed at least annually by Early Learning and Care Division staff who shall determine by April 1 of each year whether to offer continued funding on a clear contract, continued funding on a conditional basis or to make no offer of continued funding.

 (b) If the staff recommends conditional status or no offer of continued funding, the contractor shall be notified in writing of the reasons for the proposed change in contract status by April 7. The notice of proposed action shall be sufficiently specific to allow the contractor to respond to the factual basis for the proposed action.

 (c) If the contractor disagrees with the proposed action, the contractor can appeal by preparing a response as follows:

 (1) The contractor's response shall be received by the Early Learning and Care Division within 10 calendar days of receipt of the notice of proposed action;

 (2) The contractor's response shall include any written materials in support of its position; and

 (3) If the contractor intends to make an oral presentation, the response shall so specify.

 (d) If the action is being appealed, the staff recommendation and the contractor's response shall be reviewed by an administrative review panel convened by the Director of the Early Learning and Care Division. The review panel will consist of representatives of Early Learning and Care Division management and the CDE’s Fiscal and Administrative Services Division, Legal Office, Audits and Investigations Division, and Contracts Office and a representative from another California State Preschool Program contractor. All of these panel members shall be unbiased and shall not have been involved in either monitoring the contractor or making the decision to take the action. The panel members may request additional documentation or submit written questions to either the agency or Early Learning and Care Division staff, as may be necessary. Parties will be given an opportunity to respond to any additional information.

 (e) If a hearing has not been requested, the panel will review the written submissions and issue a decision to either uphold the proposed change in contract status, modify the proposed change in contract status or not make any changes to the contract status.

(f) If an oral presentation has been requested, the contractor will be notified by telephone of the time and place of the presentation, which may be conducted virtually. The oral presentation will be scheduled no later than 14 calendar days from receipt of the contractor's response.

 (g) At the oral presentation, the contractor or the contractor's representative will have an opportunity to explain any material submitted in its response. While the contractor may present any information or arguments that are relevant to the proposed action, the review panel may set reasonable limits on the scope of the presentation. The panel members may ask questions of the contractor or the contractor’s representative as well as any CDE staff members present at the hearing that were involved in taking the action against the contractor.

 (h) Within seven calendar days after the oral presentation, the review panel shall issue and mail to the contractor a decision upholding, reversing or modifying the proposed change in contract status. The decision shall set forth the reasoning for the administrative review panel’s findings.

 (i) The decision of the review panel shall be the final action of the CDE with regard to that contract.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8406 and 8406.6, Education Code.

#### § 17829. Conditional Status Imposed During the Contract Period.

 (a) If the contractor demonstrates fiscal or programmatic noncompliance during the contract period, based on such information as an annual audit report, a contract compliance review, a program quality review, or a change in licensing status, the Early Learning and Care Division may place the contract on conditional contract status for the remainder of the contract period.

 (b) The contractor shall receive notice and may request an administrative review of the proposed action as set forth in section 17828 of this chapter, in the event such a change in contract status is recommended by staff of the Early Learning and Care Division.

 (c) If the contract is placed on conditional status during the last 90 days of the contract period and the contractor is offered continued funding, the contract for the subsequent contract period will also be on conditional status.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

#### § 17830. Conditional Status Addendum.

 (a) A conditional status contract shall contain a bill of particulars specified in Education Code section 8406.6 called a Conditional Status Addendum explaining the contract conditions. The Addendum shall include the following:

 (1) The specific item(s) of noncompliance which the contractor must correct;

 (2) The specific corrective action(s) which must be taken;

 (3) The time period within which the contractor must complete the corrections; and

 (4) Notice that failure to make required corrections may result in termination of the contract or no offer of continued funding.

(b) If the contractor is placed on conditional status during the contract period:

 (1) A Conditional Status Addendum will be issued by the California Department of Education and

(2) The Conditional Status Addendum shall be considered a part of the annual early learning and care contract and binding on the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

#### § 17831. Monthly Reports; Inventory of Equipment.

A contractor on conditional contract status shall submit:

 (a) Monthly enrollment and attendance reports to the CDE, Fiscal and Administrative Services Division.

 (b) The first monthly report shall include a current inventory of equipment purchased in whole or in part with contract funds.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

#### § 17832. Duration of Conditional Contract Status.

 (a) A contractor shall remain on conditional contract status until the contractor has been notified by Early Learning and Care Division that deficiencies identified in the Conditional Status Addendum have been corrected and their status as a conditional contractor has been cleared.

 (b) A contractor with a repayment plan shall remain on conditional contract status until full repayment is made.

 (c) A contractor may request written verification from the Early Learning and Care Division that some of the deficiencies have been corrected even if the contractor will not be removed from conditional contract status.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

#### § 17833. Resolution of Contract Administration Disputes.

 (a) The procedure specified in this section shall be used to resolve disputes between contractors and the CDE that may arise regarding the interpretation and application of any term or condition of a contract, including, but not limited to, requests for waivers, approval of subcontracts or expenditures requiring approval, requests for reimbursement rate adjustments, or reductions in the total amount of contract reimbursement that are not appealable under section 17826 of this chapter.

 (b) The contractor shall attempt to resolve contract disputes at the lowest staff level within the CDE.

 (c) If the dispute is not resolved at the lowest staff level, the contractor may appeal the decision by submitting a written description of the issues and the basis for the dispute to the Regional Administrator of the Early Learning and Care Division having jurisdiction over the contractor's service delivery area. The Regional Administrator shall make a determination and shall send a written notification of the decision to the contractor, together with the reasons for the decision within 30 calendar days of the receipt of the appeal by the Regional Administrator.

 (d) The contractor may appeal the decision of the Regional Administrator to the Associate Director of the Early Learning and Care Division by submitting a written description of the issues in the dispute and a copy of the Regional Administrators decision. The Associate Director of the Early Learning and Care Division shall send notification of the decision to the contractor and shall specify the reason(s) for the decision within 30 calendar days of the receipt of the appeal by the Associate Director. The decision of the Associate Director of the Early Learning and Care Division shall be the final administrative action afforded the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8445, Education Code.

## ~~Chapter 19. Child Care and Development Programs~~

## ~~Subchapter 4. State Preschool Program~~

### ~~Article 1. Scope of Change~~

#### ~~§ 18130. Scope of Chapter: Applicable Regulations.~~

 ~~(a) The regulations contained in this Chapter shall apply only to contractors funded for the State Preschool Program.~~

 ~~(b) Except as otherwise provided in this Chapter, contractors funded for the State Preschool program shall also comply with regulations contained in Chapters 1, 2, 12, 14 and 15 in whole, and Sections 18077, 18078 (a)(d)(h)(1), 18081 (a)(b)(1), 18082, 18083 (a)(b)(h)(i)(j), 18084, 18094, 18095, 18100, 18105, 18107, 18117 and 18118 through 18122 of Chapter 3 and Section 18290(c)€ of Chapter 13 of this Division.~~

~~NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8235, Education Code.~~

### ~~Article 2. Enrollment Policies~~

#### ~~§ 18131. Enrollment Priorities for State Preschool Programs.~~

 ~~(a) The first priority for services shall be given to four-year-old or three-year-old neglected or abused children who are recipients of child protective services or recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency, without regard to income.~~

 ~~(b) The second priority shall be given to eligible four-year-old children in the following order:~~

 ~~(1) Children who were enrolled in the State Preschool Program as a three-year-old, without regard to income ranking.~~

 ~~(2) Children whose families have the lowest income ranking based on the most recent income ranking schedule adopted by the State Superintendent of Public Instruction (SSPI) at the time of enrollment. The Child Care and Development Income Rankings (revised 12/2007) is hereby incorporated by reference.~~

 ~~(3) When two or more families have the same income ranking, according to the most recent income ranking schedule, the child with exceptional needs as defined in Education Code section 8208(l) shall be admitted first.~~

 ~~(4) If there are no families with children with exceptional needs, the contractor may establish the following priorities in an order determined by the contractor.~~

 ~~(A) Children who are identified as limited English or non-English proficient.~~

 ~~(B) Children from families whose special circumstances may diminish the children's opportunities for normal development.~~

 ~~(c) After all eligible four-year-old children are enrolled, three-year-old children may be enrolled based on the priorities described in subdivision 18131(b)(2) through (4).~~

 ~~(d) The family data file shall include documentation to support the determination that the child meets the priority for service. If the priority for service is the child's exceptional need, the family data file shall include documentation as specified in section 18089(f) of this division.~~

~~NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235, 8236, 8263 and 56443, Education Code.~~

#### ~~§ 18131.1. Collaborative Full-Day Services.~~

 ~~(a) When collaborative full-day services are provided with State Preschool contract funds, when the State Preschool contractor is also a Head Start grantee or delegate agency or has a signed collaboration agreement with a Head Start grantee or delegate agency, the State Preschool contractor shall:~~

 ~~(1) Search the county centralized eligibility list (CEL) for eligible children whose family income is at or below the Head Start income guidelines, who need full-day services, and, if the information is included in the CEL, the Head Start enrollment priorities;~~

 ~~(2) Give first priority for services to eligible children based on section 18131(a); and~~

 ~~(3) Give second priority for services to children drawn from the CEL search and any other eligible children from families with incomes not to exceed the exceptions specified in section 18133, who meet Head Start enrollment priorities, as these children shall be deemed as meeting the priorities specified in section 18131(b) and (c).~~

~~Note: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8235 and 56443, Education Code.~~

#### ~~§ 18132. Certification of Eligibility; Waiting List.~~

 ~~(a) The contractor shall certify eligibility no more than thirty (30) calendar days prior to the first day of the beginning of the new preschool year.~~

 ~~(b) After full enrollment is attained, the contractor shall prepare a waiting list based on the enrollment priorities set forth in Section 18131 of this Division.~~

~~NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8235 and 8263, Education Code.~~

#### ~~§ 18133. Exceptions to Enrollment Priorities; Ten Percent (10%) Limitation.~~

 ~~(a) If no eligible children are on the waiting list, the contractor may enroll children who are not otherwise eligible for participation. This includes children who exceed the age limitations and children from families whose income exceeds the current income ceiling issued by the Child Development Division by fifteen percent (15%) or less of the adjusted monthly income for income eligible families of the same size.~~

 ~~(b) Children enrolled pursuant to subsection (a) above shall comprise a maximum of ten percent (10%) of the total enrollment.~~

 ~~(c) The contractor shall maintain the following information in the basic data file of children enrolled pursuant to this section:~~

~~(1) Evidence that shows the contractor has made a diligent search for eligible children;~~

~~(2) The child's family income; and~~

 ~~(3) The specific reason(s) for enrolling each child.~~

~~(d) To the greatest extent possible, the contractor shall assign children enrolled pursuant to this section to all of the State Preschool program classes within the contractor's jurisdiction.~~

~~NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8235 and 8263, Education Code.~~

#### ~~§ 18134. Exceptions to Calculation of Adjusted Monthly Income (as Defined in Section 18078) for Military Personnel.~~

~~Program vacancies shall be filled first by children pursuant to all statutorily mandated priorities. For programs located on or in close proximity to a military base or base housing, for purposes of determining eligibility and income ranking for families when an individual counted in the family size is on federal active duty, state active duty, active duty for special work, or Active Guard and Reserve duty in the military, and the families reside on a military base or in military housing, the contractor may, with prior written approval from the State Superintendent of Public Instruction or his or her designee, exclude the amount of the basic allowance for housing provided to the individual pursuant to 37 USC 403.~~

~~NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8235, 8236, 8263 and 8263.1, Education Code.~~

### ~~Article 3. Other Requirements~~

#### ~~§ 18135. Volunteers; Staffing Ratios.~~

~~If the contractor cannot recruit a sufficient number of parents or volunteers, the contractor shall hire teacher aides for each class to the extent required to meet adult/child ratios as set forth in Section 18290 of this Division.~~

~~NOTE: Authority cited: Section 8287, Education Code. Reference: Sections 8235 and 8288, Education Code.~~

#### ~~§ 18136. Minimum Hours and Days of Operation.~~

~~The contractor shall operate classes a minimum of three (3) hours per day, excluding home-to-school transportation time, for a minimum of 175 days per year, unless the child development contract specified a lower minimum days of operation.~~

~~NOTE: Authority cited: Sections 8261, Education Code. Reference: Sections 8235 and 8265, Education Code.~~

### ~~Article 4. Local Educational Agencies Exemption from Licensing Regulations~~

### ~~§ 18140. General Provisions.~~

 ~~(a) The regulations in article 4 apply only to Local Educational Agencies (LEAs) operating part-day or full-day California State Preschool Programs (CSPPs) that choose to be exempt from title 22 of California Code of Regulations (22 CCR) pursuant to Health and Safety Code section 1596.792(o).~~

 ~~(b) LEAs operating part-day or full-day CSPP classrooms may choose for any or all classrooms to be exempt from 22 CCR licensing requirements as long as they continue to meet all legal and contractual requirements of the CSPP, which includes adequate standards of Program Quality, pursuant to subchapter 12 of chapter 19, of this division, as well as meet the following conditions:~~

 ~~(1) The LEA has a contract to perform CSPP services and performs those services directly, and not through a subcontractor;~~

 ~~(2) The LEA is performing such services in a school building, as defined by Education Code section 17283, and the school building in which the services are performed has been determined to be compliant with the provisions of the Field Act, pursuant to title 1, division 1, part 10.5, chapter 3, articles 3 and 6 of the Education Code, according to the Division of the State Architect;~~

 ~~(3) The school building in which services are performed is maintained in good repair as defined by Education Code section 17002 and is subject to a yearly facility inspection pursuant to Education Code section 1240 and the information is included on the LEA's School Accountability Report Card.~~

 ~~(4) The LEA facility meets the requirements for kindergarten classrooms in accordance with chapter 13 (commencing with section 14000) of division 1 of title 5 of the California Code of Regulations (5 CCR).~~

 ~~(c) Any LEA operating a CSPP classroom pursuant to this article may only serve four-year-old children as defined in Education Code section 8208 in the exempted classrooms. CSPP classrooms with any child younger than four years of age shall meet 22 CCR licensing requirements.~~

 ~~(d) The California Department of Education (CDE) shall make a determination whether an LEA meets the requirements of this article at the time of initial funding and thereafter yearly as part of the continued funding process. At any time, the CDE may make a finding that an LEA does not meet the requirements for license exemption and shall notify the LEA of such finding. The LEA may appeal this finding pursuant to 5 CCR section 18308.~~

 ~~(e) The CDE shall immediately notify the California Department of Social Services, Community Care Licensing Division, regarding any change in the licensing status of an LEA and/or if a determination is made that an LEA does not meet the requirements of Health and Safety Code section 1596.792(o) and this article and should be subject to licensing.~~

~~NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 8208, Education Code; and Sections 1596.792 and 1596.7925, Health and Safety Code.~~

### ~~§ 18145. Visual Supervision.~~

 ~~(a) Visual supervision of children shall be provided by an adult program staff at all times, including during napping, toileting, and in all locations where children are present, whether inside or outside.~~

 ~~(b) Children shall be monitored for behavior and wellness throughout the period of attendance and any unusual behavior, injury, or sign of illness requiring assessment and/or administration of first aid by staff shall be reported to the child's authorized parent or guardian and recorded in the child's family data file.~~

 ~~(c) There shall be direct visual supervision of a child that is ill.~~

~~Note: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 1596.7925, Health and Safety Code.~~

### ~~§ 18150. Indoor Space.~~

~~Indoor space shall be sufficient for the number of children using the space at any given time and meet the following requirements:~~

 ~~(a) If a new or existing permanent structure, meet the requirements for kindergarten classrooms in accordance with chapter 13 (commencing with section 14000) of division 1 of 5 CCR.~~

 ~~(b) Be maintained in a safe and sanitary condition;~~

 ~~(c) Include a variety of age-appropriate equipment, toys and materials in good condition and in sufficient quantity to allow children present to fully participate in planned activities; and~~

 ~~(d) Include materials and surfaces accessible to children, including toys and supplies, that are free of toxic substances.~~

~~NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002, Education Code; and Section 1596.7925, Health and Safety Code.~~

### ~~§ 18155. Outdoor Space.~~

 ~~(a) Outdoor space shall be sufficient for the number of children using the space at any given time and meet the following additional requirements:~~

 ~~(1) Include adequate shade to protect preschool children from harmful sun exposure. Safe shade may be created in the outdoor space with the use of natural landscape or trees or through the use of shade structures, tarps, or umbrellas, so long as these items are in good repair and do not pose a safety hazard for preschool children; and~~

 ~~(2) Be accessible only to preschool, Transitional Kindergarten, and Kindergarten-age children.~~

 ~~(b) Outdoor space shall be enclosed by a fence or other protective barrier to protect children and to keep them in the outdoor activity area. The fence or barrier shall be at least four feet high.~~

 ~~(c) Equipment and activity areas shall be arranged so that there is no hazard from conflicting activities. All fixed play equipment should have a minimum of six feet use zone (clearance space) from walkways, buildings, and other structures that are not used as part of play activities.~~

 ~~(d) Playground equipment shall be age-appropriate and securely anchored to the ground unless it is portable by design.~~

 ~~(e) The areas around and under climbing equipment, swings, slides and other similar play equipment shall be surrounded by a shock-absorbing surface which extends at least six feet beyond the perimeter of the stationary equipment.~~

~~NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002, Education Code; and Section 1596.7925, Health and Safety Code.~~

### ~~§ 18160. Restroom Facilities.~~

 ~~(a) Children's restroom facilities shall meet the following requirements:~~

 ~~(1) Be self-contained within the classroom or preschool complex and accessible only to preschool, Transitional Kindergarten, and Kindergarten-age children. Restroom facilities designated for preschool children shall not be used by adults;~~

 ~~(2) Be accessible to enrolled children during the entire school day;~~

~~(3) Contain one toilet and one sink for every 15 preschool children, or fraction thereof, which shall be sized for use by preschool aged children; and~~

 ~~(4) Provide additional aids and/or conveniences as needed to accommodate children with exceptional needs and/or developmental delays.~~

 ~~(b) Hot water temperature at sinks that are used for handwashing, or where the hot water will be in direct contact with children, shall be set at a temperature that prevents scalding.~~

 ~~(c) Soiled garments shall be stored in an air-tight container, inaccessible to children, that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents. The container shall be taken home the same day by the parent or guardian.~~

~~NOTE: Authority cited: Section 8261, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002 Education Code; and Section 1596.7925, Health and Safety Code.~~

### ~~§ 18165. Drinking Water.~~

 ~~(a) Clean and safe drinking water must be accessible and readily available throughout the day by way of a drinking fountain, water cooler with cups, or a similar water dispensing device so long as accessible to children.~~

~~(b) If a drinking fountain, water cooler, or other water-dispensing device is too high for preschool children to access, anchored steps or a safe broad-based platform shall be provided to make it accessible.~~

~~(c) Drinking fountains, if available, shall be maintained in a manner that assures that it is clean, safe, and functional.~~

~~NOTE: Authority cited: Sections 8261 and 17002, Education Code; and Section 1596.7925, Health and Safety Code. Reference: Section 17002, Education Code; and Section 1596.7925, Health and Safety Code.~~

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