# INITIAL STATEMENT OF REASONS

Independent Study

## INTRODUCTION

Education Codesection 51749.3 provides that the Superintendent of Public Instruction shall establish rules and regulations for the purposes of implementing article 5.5, Independent Study.

## PROBLEM AGENCY INTENDS TO ADDRESS

Assembly Bill No. 130 (Stats. 2021, ch 44; passed on July 9, 2021) and Assembly Bill No.167 (Stats. 2021, ch. 252; passed on September 23, 2021) made substantive changes to independent study. The Coronavirus pandemic caused some parents to be concerned about the return to in-classroom instruction, which has led to a continued increase in the number of pupils opting for nonclassroom-based learning. Due to the statutory changes and increases in pupil participation in independent study, clarification is needed in the California Code of Regulations (CCR) for the development and implementation of independent study programs. Further, the clarification provided in the updated regulations in title 5 of the CCR will support consistent independent study implementation and equitable practices throughout the state.

In addition, the current independent study rules and regulations are being amended to address course-based independent study, which had not been established at the time the existing regulations for independent study were adopted.

## BENEFITS ANTICIPATED FROM REGULATORY ACTION

The benefits of enacting the proposed amendments to the independent study rules and regulations include the following:

1. **Consistency in independent study program practices**

In the absence of the proposed amendments, there is confusion and a difference in the statewide implementation of independent study practices resulting in inconsistent and inequitable delivery of educational services.

1. **Clarification for increased efficiency**

Clarification of areas where the law is silent and/or otherwise lacking detail will improve the use of public funds at both the state and local levels by decreasing staff time currently dedicated to trying to understand and find answers to questions from the field, parents, and other stakeholders.

1. **Increase program fidelity and decrease audit findings**

The proposed amendments, by and through consistent practices and clarification stated above, will further support the statewide fidelity of independent study programs, thereby decreasing the work and efforts of auditors and local educational agency staff through a reduction of audit findings.

1. **Equitable program services are expected to decrease the disproportionate rate at which student groups are underperforming based on demographics and/or geographic locale**

These clarifying regulations will elevate the requirements for independent study and increase the provision of equitable services across the state through consistent practices, thus enhancing the opportunities for pupils facing barriers to academic success and pupils in socio-economically disadvantaged and/or rural areas.

1. **Updating the existing regulations to ensure alignment with the current Education Code provisions**

The proposed updates will provide the necessary guidance to local educational agencies for the implementation of consistent and equitable independent study programs in compliance with Education Code.

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

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

General changes were made to the proposed regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions.

All references specific to “adult education student” and “adult education students” have been removed from each applicable section. This is necessary to avoid confusion or conflicts with the programming of the California Adult Education Program. The California Adult Education Program has its own set of laws and regulations and is not included in the Education Code sections implemented by these amended regulations.

All references specific to “district” and/or “county office of education” have been removed and replaced with the more inclusive term, “local educational agency/agency,” which is consistent with Education Code and defined in Education Code section 51745.5 .

All references specific to “written agreements” have been removed throughout the document and have been replaced with “independent study agreement” to be inclusive of the written agreement for traditional independent study, as well as the learning agreement for course-based independent study.

The “note” sections throughout the document have been changed to reflect the current and correct legal reference corresponding to the amendments. Education Code has changed since these regulations were last adopted and therefore, the citations in the “Note” sections required updating.

## SECTION 11700

**Proposed Section 11700(a)** is added to provide a definition for “course-based independent study.” This is necessary to clarify and distinguish the independent study modalities established in Education Code section 51749.5. “Course-based independent study” is a phrase already in use in the field, and this definition ensures consistency.

**Renumbered Section 11700(c)(1), formerly Section 11700(b)(1)** is amended to add “each” and “progress and participation.” This is necessary to clarify the responsibility of supervising teachers in independent study to monitor the progress and participation of all pupils.

**Renumbered Section 11700(d), formerly Section 11700(c)** is amended to add “approved” to the term course of study. This is necessary to emphasize the requirement that independent study shall be consistent with the local educational agency-approved course of study for all district pupils.

**Proposed Section 11700(e)** is added to provide a definition for “independent study agreement.” This definition is necessary to address and avoid further confusion caused by the use of various terms in the field to reference the pupil’s independent study education plan.

**Renumbered Section 11700(f), formerly Section 11700(d)** is amended to add “…that pupils shall not be assigned, required, or otherwise coerced into enrolling in an independent study program, including as part of a disciplinary matter.” This is necessary to clarify and emphasize the voluntary nature of independent study regardless of a pupil’s disciplinary referral(s) and outcome(s).

**Renumbered Section 11700(f)(1)(A), formerly Section 11700(d)(1)(A)** is amended to add “unless specifically provided by law” to the statement that school districts or county offices of education are not required to offer independent study. This is necessary to account for any subsequent changes in law that may require the offering of independent study for a designated period of time under extenuating circumstances, as occurred in the 2021–2022 school year due to the COVID-19 pandemic.

**Renumbered Section 11700(f)(2)(A), formerly Section 11700(d)(2)(A)** is amended to add “and shall always be voluntary.” This addition is necessary to provide clarity as to a pupil’s ongoing participation in independent study regardless of the time indicated in the independent study agreement. Per Education Code section 51747(g)(8), “… independent study is an optional educational alternative in which no pupil may be required to participate.”

**Proposed Section 11700(g)** is added to provide a definition for “long-term independent study.” This is necessary to clarify and distinguish long-term independent study, in which participation is for 15 or more schooldays in one school year, from short-term independent study. Education Code section 51747(g)(9) provides different requirements based on the length of independent study participation.

**Renumbered Section 11700(i), formerly Section 11700(g)** is amended to add “in accordance with provisions in the independent study agreement as provided in Education Code sections 51747(g) and 51749.6.” This is necessary to identify and clarify the direct connection between the independent study agreement and a pupil’s learning plan.

**Proposed Section 11700(k)** is added to provide a definition for “nonparticipatory.” This is necessary because this is a new term in Education Code section 51747.5(c). The definition will provide clarity and consistent application by local educational agencies across California. Ensuring clarity as to this term is important, as the documentation of each pupil’s participation or nonparticipation in live interaction and synchronous instruction is a condition of apportionment, and a local education agency could therefore be subject to a fiscal impact if the term is misunderstood.

**Proposed Section 11700(m)** is added to provide a definition for “short-term independent study.” This is necessary to clarify and distinguish independent study participation that is scheduled for less than 15 schooldays, as provided by Education Code section 51747(g)(9). Prior to the passage of Assembly Bill 130, “short-term independent study” was used by local educational agencies, often to account for a different period of time than now provided in statute. Defining the term to correspond with the differences laid out in Education Code 51747(g)(9) ensures a consistent use of the term and how it impacts the responsibilities of local educational agencies and pupils.

**Renumbered Section 11700(n), formerly Section 11700(i),** is amended to remove “to,” “as the terms,” and “on which they are,” and to add “connectivity and devices, as well as other,” “and conditions that resources are,” “in the regular classroom,” “for,” and “and conditions that resources are.” These changes are necessary to provide a clear understanding and expectation of the resources that shall be provided to pupils, as well as to properly align with Education Code sections 51747 and 57149.6.

**Proposed Section 11700(p)** is added to provide a definition for “traditional independent study.” This is necessary to clarify and distinguish between the two independent study modalities created by statute, traditional independent study and course-based independent study. “Traditional independent study” is a term that is already used, and providing a clear definition ensures a uniform understanding of the term.

**Proposed Section 11700(r)** is added to provide a definition for “virtual instruction.” This is necessary to clarify and give meaning to the term, which is already in common use. Currently, the term is not uniformly understood or used, although it is used by local educational agencies and the California Department of Education. A single, clear definition, incorporating common usage and understanding of this term, will ensure a common understanding and use of the term.

## SECTION 11701

**Section 11701 Title**. The heading is amended to remove the word “District” and add the words “Local Educational Agency.” This is necessary to align with statutory language, which uses the more inclusive “local educational agency” to reflect the application of the independent study statutes to districts, county offices of education, and charter schools.

**Section 11701(a)** is amended to remove “purposes in authorizing,” “their age peers,” and “increase, rather than decrease, the risk of their dropping out of school,” and to add “assurances to support the implementation and maintenance of,” “the minimum length of time by grade level for the delivery of daily live interaction and synchronous instruction,” and “decrease, rather than increase, a pupil’s ability to make the required satisfactory educational progress.” These changes are necessary due to statutory language in Education Code sections 51747 and 51749.5 requiring increased responsibility and accountability in independent study programs and in order to maintain consistency with statutory language.

**Proposed Section 11701(b)** is added to provide clarity, including a non-exhaustive list of examples, for local educational agencies establishing instructional methods for the provision of independent study. This is necessary to support local educational agencies in the implementation of their independent study program, and to ensure that independent study programs are implemented consistent with the law, while allowing for flexibility based on the needs and resources of the pupils attending, and the adoption of new technologies and other advancements to support student learning.

**Proposed Section 11701(b)(1)** is added to clarify the role of third-party vendors as supplemental to independent study instruction. This is necessary to further emphasize that third-part vendors shall not be the providers of independent study instruction, as they are not employees of the local educational agency. The statutory framework in Education Code sections 51747.5 and 51749.5 require that certificated employees provide the independent study instruction.

**Proposed Section 11701(c)** is added to specify that when changes are made to the original independent study agreement, a supplemental agreement must be executed to ensure that any and all changes are properly documented. Requiring the supplemental agreement to be dated and signed will ensure that the reflected changes have been agreed to when implemented. Allowing a supplemental agreement, rather than a whole new agreement, also gives flexibility to local educational agencies and will allow for a much shorter and more specific agreement to update the existing agreement rather than replacing it completely.

## SECTION 11701.5

**Section 11701.5(a)** is amended to remove “option is to be,” “in quality and in quantity,” and “classroom” and to add “shall be aligned to grade level standards,” “in-person,” and “instructional content provided through.” These changes are necessary for consistency, clarification, and alignment to statutory language in Education Code section 51747

**Section 11701.5(b)** is amended to remove “engage” and replace it with “participate.” This is necessary to align with statutory language in Education Code sections 51744-51749.6 regarding the provision of services and resources for independent study pupils.

**Section 11701.5(c)** is amended to remove “engage,” “are to,” “equality of,” “with the,” and “choose to continue in,” and is also amended to add “participate,” “shall,” “equal,” “as,” and “participate in.” These changes are necessary to align with statutory language in Education Code sections 51744-51749.6, and for clarity and consistency.

**Proposed Section 11701.5(d)** is added to ensure that pupils in independent study not making satisfactory progress are given the necessary supports to succeed, before they fall further behind and are considered for removal from independent study. This section is also to ensure that any such supports reflect the individual needs of the pupil pursuant to Education Code section 51747(d).

## SECTION 11702

**Section 11702(a)** is amended to add “unless otherwise provided by law.” This is necessary to capture any future, short-term change in statute due to emergency conditions, or other emergency order, such as those experienced with the recent pandemic.

**Proposed Section 11702(b)** is added to provide guidance for the signing of supplemental agreements. This is necessary to ensure consistency, compliance, and as a measure to confirm all parties are aware of the changes in the pupil’s learning plan. Requiring signature and dates on supplemental agreements will ensure that changes to the original agreement have been agreed to by the local educational agency and the pupil and/or the pupil’s parents or guardian.

**Proposed Section 11702(d)** is added to provide clarity about late assignments. This clarification is necessary to guide local educational agencies in their application of the assigned work toward academic credit.

**Proposed Section 11702(e)** is added to clarify a pupil’s ability to generate attendance despite a lack of participation in synchronous instruction. This is necessary to ensure statewide consistency in the practices surrounding independent study.

## SECTION 11703

**Section 11703(a)** is amended to remove “These” and to add “Pupil” and “kept” for clarity and improved understanding.

**Section 11703(b)(2)** is amended to remove “engaged,” “of those,” “and,” “those,” “and “written,” and to add “participated,” “transitional,” “through,” and “independent study.” These changes are necessary to align with statutory language in Education Code section 51747.5 and to improve understanding and sensibility.

**Section 11703(b)(3)** is amended to provide a title for this subsection for organizational and clarity purposes.

**Renumbered Section 11703(b)(3)(A), formerly Section 11703(b)(3),** is amended to remove “bearing signed or initialed and dated,” “that he or she has personally evaluated,” “that he or she has personally reviewed,” and to add “For traditional independent study,” “which may include,” “the personal evaluation of,” “the personal review of,” and “unless otherwise specified in law.” These changes are necessary to clarify the requirements for maintaining representative samples of pupil work products, to align with current law which expressly removed any requirement to sign and date work product, and to account for any subsequent changes in law.

**Proposed Section 11703(b)(3)(A)(i)-(iii)** are added to provide guidance and direction as to the selection of pupil work products for traditional independent study. This is necessary to ensure consistent practice within the local educational agency, statewide, and across pupil populations.

**Proposed Section 11703(b)(3)(B)** is added to provide and differentiate the record-keeping requirements for course-based independent study. This is necessary to ensure consistent practice within the local educational agencies statewide.

**Section 11703(b)(4)** is amended to provide a title for this subsection for organizational and clarity purposes.

**Proposed Section 11703(b)(5)** is amended to add “For traditional independent study.” This is necessary to clarify and differentiate the requirements specific to traditional independent study and for sensibility.

**Proposed Section 11703(b)(6)** is added to provide and differentiate the attendance register requirements specific to course-based independent study. This is necessary to ensure consistent practices within the local educational agencies statewide.

## Economic Impact ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

### Purpose:

The proposed regulations are necessary for state implementation of Education Code sections 51744–51749.6, inclusive, and for the effective and consistent statewide implementation and administration of independent study programs.

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

The regulations are designed to provide clarity on the administration of statutory requirements as they relate to the implementation of independent study programs. These regulations directly impact local educational agencies and do not eliminate any jobs that already exist in relation to independent study program administration and implementation. The regulations do not create any more jobs than what already exist in relation to the independent study programs of local educational agencies.

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

The regulations are designed to provide clarity on the administration of statutory requirements related to the implementation of independent study programs. Adoption of the regulations will not create new or eliminate existing businesses within the State of California; the regulations apply to and impact only local educational agencies and do not apply to or impact businesses.

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

The regulations are designed to provide clarity on the administration of statutory requirements related to the implementation of independent study programs. Adoption of the regulations will not expand or eliminate existing businesses within the State of California; the regulations apply to and impact only local educational agencies and do not apply to or impact businesses within California.

### Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment – Gov. Code Section 11346.1(b)(1):

The anticipated benefit of the regulations is the effective and consistent statewide implementation and administration of independent study programs.

These proposed regulations will have no adverse effect nor benefit on worker safety or the state’s environment.

### Reasonable Alternatives that Would Lessen the Impact on Small Businesses – Gov. Code Section 11346.2(b)(4)(B):

The proposed regulations only apply to local educational agencies and would have no impact on the private sector, including small businesses.

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

The proposed regulations would not have a significant adverse economic impact on any business because the proposed additions only affect local educational agencies, not the private sector.

## OTHER REQUIRED SHOWINGS

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

The State Superintendent of Public Instruction did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption, amendment, or repeal of these regulations.

### Reasonable Alternatives Considered or Agency’s Reasons for Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(4)(A):

No other alternatives were presented to or considered by the State Superintendent of Public Instruction.

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

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

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

An evaluation of the proposed regulations has determined they are not inconsistent/incompatible with existing regulations, pursuant to Government Code section 11346.5(a)(3)(D).

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