**CALIFORNIA DEPARTMENT OF EDUCATION**

TONY THURMOND

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

December 18, 2023

# 15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS REGARDING INDEPENDENT STUDY

Pursuant to the requirements of Government Code section 11346.8(c), and California Code of Regulations, title 1, section 44, the State Superintendent of Public Instruction (SSPI) is providing notice of changes made to the above-referenced proposed regulation text which was the subject of a regulatory hearing on August 1, 2023.

## Changes to the Text

General changes were made to the regulations to include grammatical/spelling edits and renumbering and/or re-lettering to reflect deletions or additions. The words “Section” and “Sections” were changed to lowercase “section” and “sections” throughout these regulations for consistency. The words “Education Code” were added to the front of the Education Code sections cited within the regulation sections for consistency. Terminology changes were made throughout these regulations to add the words “independent study” in front of the word “agreement,” as applicable, to read “independent study agreement.” This was done in response to comments seeking consistency and clarity throughout the document and to be inclusive of the written agreement for traditional independent study, as well as the learning agreement for course-based independent study, as applicable.

**After the 45-day comment period, the following changes were made to the proposed text of the regulations and sent out for a 15-day comment period:**

### Section 11700. Definitions

**Proposed Section 11700(a)** is added to provide a definition for a contracted vendor to clarify that they are a third-party service and can only supplement the curriculum.

**Section 11700(g)(1)(A) and (B),** **formerly Section 11700(f)(1)(A) and (B),** are amended to remove the phrase “school districts or county offices of education” and to add “local educational agencies.” This was done to clarify that charter schools are not required to provide independent study.

### Section 11701. Local Educational Agency Responsibilities

**Title of Section 11701** is amended to “Local Educational Agency.” By replacing the word “District” with “Local Educational Agency”, the title of section will indicate that these regulations apply to all three types of local educational agencies, i.e., school districts, county offices of education and charter schools.

**Section 11701(a)** is amended to remove “the minimum length of time by grade level for the delivery of daily live interaction and synchronous instruction, and.” This section is also amended to add “and the provision of opportunities for live interaction and synchronous instruction pursuant to Education Code section 51747 by grade level, as applicable.” This is necessary to clarify that all local educational agencies offering independent study, including nonclassroom based charter schools, are required to offer opportunities for synchronous instruction and live interaction, dependent on grade level, pursuant to Education Code sections 51747(e) and 51749.5(a)(4)(C), but local educational agencies do not need to set a minimum time by grade level in their policy.

**Section 11701(b)** is amended to remove the word “may” and replace it with “shall,” remove the word “should” and replace it with “are encouraged to,” and add the word “may” before “include, but are not limited to…” This section is also amended to add “as determined by the local educational agency.” These changes are necessary to clarify statutory language as to the responsibilities of the local educational agency.

**Section 11701(b)(1)** is amended to add section 11700(a) that defines what contracted vendors are and changed the word “instruction” to “curriculum” to be consistent with the definition. It is also amended to remove the words “be the primary provider of the independent study instruction. This supplemental instruction shall not be counted as synchronous instruction” and replace them with “provide general supervision as defined in section 11700(d) and Education Code section 51747.5 or 51749.5.” This change is necessary to clarify that the general supervision of a pupil’s independent study instruction is the role of the certificated employee of the local educational agency and not of the contracted vendor.

**Section 11701(c)** is amended to remove the words “consult with” and replace it with “notify.” In addition, the words “legal” and “caregiver” are added to be consistent with the language used in Education Code. This section is also amended to add, “The manner in which notification is made shall be at the discretion of the local educational agency.” These changes are necessary to ensure that the pupil’s parent, guardian, or caregiver is made aware of adjustments to the pupil’s independent study agreement, as well as to clarify the local educational agency’s discretion regarding how the parent/guardian/caregiver notification is made.

**Section 11701(c)(1)** is added to exclude the requirements of section 11701(c) for supplemental independent study agreements that are referenced in the original independent study agreement at the time of signing. This is necessary to allow local educational agencies with known changes to the pupil’s education plan to include them as supplemental independent study agreements in the original agreement and not have to duplicate the work of notifying and obtaining signatures from all parties.

### Section 11702. Requirements for Independent Study Agreements

**Section 11702(b)(1)** is added to clarify that supplemental independent study agreements shall become effective on a date agreed upon by the pupil’s parent, legal guardian, or caregiver and the supervising teacher. This is necessary to add accountability on behalf of the parties and to ensure that all parties are aware of the changes and their start date.

**Section 11702(b)(2)** is added to clarify that supplemental independent study agreements shall be signed within 10 school days of the parent, legal guardian, or caregiver being notified of the change(s), except as provided in section 11701(c)(1). This is necessary to allow the instructor and pupil to continue the instruction with little to no interruption, while the required signatures are being obtained.

**Section 11702(d)** is amended to clarify this section only pertains to traditional independent study and not to course-based independent study.

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

15-Day Notice, the SSPI will accept written comments between December 18, 2023, and January 2, 2024, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-322-2549, emailed to regcomments@cde.ca.gov, or mailed and received at the following address prior to or on January 2, 2024, and addressed to:

Lorie Adame, Regulations Coordinator

Administrative Support and Regulations Adoption Unit

Legal, Audits and Charters Branch

California Department of Education

1430 N Street, Suite 5319

Sacramento, CA 95814

All written comments received prior to or on January 2, 2024, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

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

11-16-2023 [California Department of Education]