# Initial Statement of Reasons

Strengthening Teacher-Child Interactions and Supporting Quality Improvement in the California State Preschool Program

## Introduction

The California Department of Education (CDE) has administered subsidized early education services since the Child Care and Development Services Act (Act) was established in 1980, chapter 2 of part 6 of the Education Code (EC), starting at section 8200 et seq. The intent of the Act is that qualified subsidized early education services be provided to children and families meeting the eligibility criteria established under the Act. This became known as the Early Education Act in 2021.

The California State Preschool Program (CSPP) as established by EC section 8207, provides three- and four-year-old children with a developmentally appropriate program designed to facilitate their transition to kindergarten.[[1]](#footnote-1) This program includes education, development, health services, social services, nutritional services, parent education and participation, evaluation, and staff development.

Provision 102 of Item 6100-001-0001, Provision 6 of Item 6100-194-0001 and Provision 6 of Item 6100-196-0001 of the Budget Act of 2023 (AB 102 [chapter 38, statutes of 2023]) appropriated funding for the CDE to support implementation of the Classroom Assessment Scoring System (CLASS®). Additionally, section 106 of SB 114 (chapter 48, statutes of 2023) required that the CDE issue guidance through management bulletins or similar letters of instruction on how the tool for strengthening teacher-child interactions and supporting quality improvement (i.e., CLASS®), funded through the above-referenced sections of the Budget Act shall be implemented at the local level for the California State Preschool Program and included in monitoring processes. It further provided that the guidance also included changes to the Environment Rating Scale (ERS) as required by section 17711 of title 5 of the California Code of Regulations (CCR). Management Bulletin 23-10 provides interim guidance to contractors until these regulations are promulgated. Further, this bill required that CDE initiate a rulemaking package for this purpose no later than December 31, 2024.

## Problem Agency Intends to Address

In accordance with 5 CCR section 17711, an Environmental Rating Scale (ERS) is to be completed on each CSPP classroom to measure program quality. 5 CCR section 17700 requires CSPP contractors to use and complete the Early Childhood Environment Rating Scale - Revised (ECERS-R) edition of the ERS for each subsidized classroom as part of the annual Program Self-Evaluation (PSE). However, the ECERS-R is over 20 years old and is no longer supported by its developers, the Environment Rating Scale Institute (ERSI), and consequently can no longer be supported in California. Therefore, a new tool to assess program quality is needed to take its place.

The CDE elevated concerns about continued use of the ECERS-R to the Legislature and the Department of Finance and proposed use of an alternative tool that assesses educator and child interactions along with the environment to support quality improvement in CSPP and strengthen the educator-child interactions. In response to the need to replace the outdated and unsupported tool that is currently in regulations, the Legislature provided funds and a directive for the CDE to develop guidance, and ultimately promulgate regulations, to implement the new tool.

The Classroom Assessment Scoring System (CLASS®) is an observation instrument, used nationwide in the federal Head Start program, that assesses the quality of teacher-child interactions and the physical learning environment in early education classrooms and is an empirically validated system that has been shown to produce gains in children’s math, literacy, social, emotional, and cognitive abilities. The purpose of conducting a CLASS® observation is to gather the data needed to support continuous quality improvement and coach classroom staff in responsive teaching practices that are grounded in relationships which align with the requirements to implement high-quality programs as set forth in ECsections 8201, 8202, and 8203.

There are a few areas of the environment that were previously monitored in the ERS tool that will no longer be monitored for CSPPs due to this change to use CLASS® and CLASS® Environment; therefore, a new section of regulation is proposed in these regulations to address the missing environment requirements that will no longer be monitored by ERS.

## Benefits Anticipated from Regulatory Action

The CLASS® instrument is fully supported and provides many avenues for professional development, training, and materials. The CLASS® scores provide contractors and the CDE with important data that will then be utilized to create professional development and coaching plans to improve overall program quality. With this data and resulting action plans for each program, the CDE will be able to provide additional support, resources, and training and technical assistance that may be needed to ensure each program meets high quality standards. The data from the CLASS® tool will provide a quantitative measurement of the level of quality within the CSPP programs. This will inform public policy and ensure the CDE, Legislature, Administration, external partners, and researchers have the data necessary to identify areas where changes can be made to ensure school readiness, which remains a top priority in California.

## 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, updated citations to the Education Code, and renumbering and/or re-lettering to reflect deletions or additions.

### Section 17700 Definitions.

**Proposed section 17700(m)** is added to include a definition of “CSPP Classroom”. This is necessary to have a clear understanding of what is considered a CSPP Classroom as many contractors may have multiple types of classrooms funded in addition to classrooms funded through their CSPP contract and there are various ways for contractors to combine or braid other funding with CSPP funding to support a whole classroom. This definition provides clarity for contractors to determine which of their classrooms are CSPP Classrooms.

**Proposed section 17700(p)** is added to include a definition of “Certified Observer”. This definition is necessary to ensure that contractors have clear guidance on the additional training requirements an observer must complete in order to conduct CLASS® and CLASS® Environment observations for the CSPP. The additional trainings are intended to reduce bias for observers and increase understanding of all children that are served in CSPP. These additional trainings are not required by Teachstone for someone to be considered a certified observer; therefore, this clarification is necessary in these regulations for CSPP contractors.

**Proposed section 17700(s)** is added to include a definition of “CLASS® Environment Observation”. This is necessary to clarify the tool that will be used to complete a CLASS® Environment Observation.

**Proposed section 17700(t)** is added to include a definition of “CLASS® Observation”. This is necessary to clarify the tool that will be used to complete a CLASS® Observation.

**Proposed section 17700(x)** is added to include a definition of “cycle”. This is necessary to clarify how long each observation period and scoring period must be for a CLASS® Observation.

**Renumbered section 17700(ab)** is amended to remove “environment rating scale” from the definition of Desired Results System. This is necessary because SB 114 requires that these proposed regulations remove the requirement for contractors to use the Environment Rating Scale; therefore, it will no longer be used as part of the Desired Results System for CSPP contractors.

**Previous section 17700(ac)** is deleted because these proposed regulations remove the requirement for CSPP contractors to use the Environment Rating Scale. This is necessary to provide clear guidance to contractors.

**Proposed section 17700(ar)** is added to include a definition of “License exempt classroom”. This is necessary to ensure it is clear for contractors which classrooms are considered license exempt since these regulations require that contractors prioritize license exempt classrooms when phasing in the CLASS® Environment Observation.

**Proposed section 17700(au)** is added to include a definition of “MyTeachstone”. This is necessary to ensure that contractors are clear about where CLASS® Observation and CLASS® Environment Observation data will be reported to.

**Proposed section 17700(bo)** is added to include a definition of “teaching team”. This is necessary for clarity because in a CSPP classroom there may be adults who are not employed by the program present to meet the ratio (such as parents or volunteers), however, those other adults should not be considered part of the “teaching team” for the purposes of these regulations.

**Proposed section 17700(bp)** is added to include a definition of “Teachstone”. This is necessary to clarify the corporation that developed the CLASS® Observation and CLASS® Environment Observation tools, trainings, and certifications.

### Section 17704 Staff Professional Development Program.

**Section 17704 (e)** is amended to require contractors to link staff development topics to CLASS® Observation and CLASS® Environment Observation data. This is necessary to clarify that contractors must use the data collected from these observations to inform continuous quality improvement by providing staff professional development linked to the results of the observations.

### Section 17709 Program Self-Evaluation Process.

**Section 17709(b)(4)** is amended to replace the environment rating scales with the CLASS® Environment Observations and CLASS® Observations as part of the program self-evaluation process. This is necessary because these proposed regulations remove the requirement for the environment rating scales and replace those requirements with the CLASS® Environment Observations and add in the requirement to assess educator and child interactions through the CLASS® tool. This change will provide clarity and consistency in these regulations.

### Proposed Section 17710.5 Educator and Child Interaction Assessment.

**Proposed section 17710.5(a)** is added to include the requirement that CLASS® Observations are completed on each CSPP classroom annually and includes a phase-in schedule for contractors to meet this requirement. This is necessary because contractors and the local quality system need time to build capacity for certified observers that can complete CLASS® Observations for CSPP classrooms and to train teaching teams on CLASS®. Including the phase-in schedule in these regulations is necessary to ensure all CSPP contractors are clear about the required percentage of CSPP classrooms needing to be observed each year prior to full implementation.

**Proposed section 17710.5(b)** is added to explain additional requirements for CLASS® Observations including that observations need to be completed by certified observers, that each CLASS® Observation consists of three cycles to be completed in one day, clarification for what to do if a cycle is interrupted, clarification on who in the classroom is included during an observation, and how long a teacher must be the teacher of record before they can have a CLASS® Observation completed in their classroom. These requirements provide additional clarity for common questions that occur for CLASS® observations. To reduce bias, the clarification is made that the observer may not be the teacher being observed or a teacher employed within the same site as the classroom being observed. The CDE has determined the use of three cycles is sufficient, even though not aligned with Teachstone’s recommendation for best practices of four cycles, because it will provide enough observation time to adequately observe the educator/child interactions while reducing the burden on contractors that would occur with observing an additional cycle. The CDE has aligned the requirement of what to do if an observation is interrupted by a non-scorable activity, which may include recess, testing, or a routine interruption such as a fire drill, with the guidance provided by Teachstone to observers. The CDE has clarified that all children and adults, including those children not enrolled in CSPP and those adults not employed by the program, be observed as well because CSPP classrooms can be commingled with children funded through a different program and parent volunteers may be present in CSPP classrooms to meet ratio requirements. These proposed regulations differ from Teachstone guidance to observers by requiring teachers be in place in the classroom for at least 30 calendar days (Teachstone requires 10 days) because the goal is to use CLASS® Observations for continuous quality improvement rather than a punitive measure; therefore, it is important to see interactions when the children and teaching team are more comfortable. This is necessary to provide clarity to contractors in areas where there were not clear expectations on how CLASS® Observations must be conducted to meet the annual requirement.

**Proposed section 17710.5(c)** is added to require that when a CLASS® Observation is completed by a certified observer not employed by the CSPP, it must be used to meet the annual observation requirements. This is necessary because on-site monitoring visits by the CDE are typically only conducted every 4 years and not every classroom is observed as part of the monitoring process; therefore, this will ensure that when an unbiased outside certified observer is available to conduct the observation, those scores will be reported to MyTeachstone.

**Proposed section 17710.5(d)** is added to ensure that the site supervisor and teaching team are provided the scores from the CLASS® Observation within a reasonable amount of time. This is necessary to ensure that teaching teams and their supervisors receive feedback from the observations which can be used for continuous quality improvement.

**Proposed section 17710.5(e)** is added to require contractors to ensure that the CLASS® Observation data is reported into MyTeachstone within 30 days of the contractor receiving the results. This clarification is necessary because the CLASS® Observations can be completed by certified observers in various ways. Most often the certified observers will input the data into MyTeachstone, and in those cases the contractor will just need to log in to MyTeachstone and confirm the results have been reported; however, in other instances, the certified observer may not have access to MyTeachstone or the observer is an employee of the contractor, in which cases the contractor is responsible for inputting the data into MyTeachstone.

**Proposed section 17710.5(f)** is added to require contractors to use data from CLASS® Observations to inform continuous quality improvement. This clarification is necessary because the purpose of using CLASS® in CSPP is to get data on quality in the CSPP that can be used to support higher quality interactions between children and educators and the development of teaching teams.

**Proposed section 17710.5(g)** is added to ensure that contractors are not using CLASS® Observations as a punitive tool to assess staff. This is necessary because the CLASS® tool is not intended, and it is not CDE’s intention, to be used as a punitive tool, but rather the intent of the tool is to guide continuous quality improvement in CSPPs.

### Section 17711 Classroom Environment Assessment.

The title of this section has been amended from “Environment Rating Scale” to “Classroom Environment Assessment” to align with the changes proposed in this section.

**Previous sections 17711(a) and (b)** are deleted because the use of the Environment Rating Scale has been removed from these proposed regulations pursuant to SB 114. This is necessary to ensure the requirements for the CSPP are clear for contractors.

**Proposed section 17711(a)** is added to include the requirement that CLASS® Environment Observations are completed on CSPP classrooms annually and includes a phase-in schedule for contractors to meet this requirement. This is necessary because contractors and the local quality system need time to build capacity for certified observers who can complete CLASS® Environment Observations for CSPP classrooms and to train teaching teams on CLASS® Environment. Including the phase-in schedule in these regulations is necessary to ensure all CSPP contractors are clear about the required percentage of CSPP classrooms needing to be observed each year prior to full implementation.

**Proposed section 17711(b)** is added to require contractors that operate license exempt classrooms to implement CLASS® Environment Observations on license exempt classrooms prior to licensed classrooms. This is necessary to ensure that license exempt classrooms are being reviewed for health and safety environment requirements sooner in the absence of an annual licensing visit and the previously required annual Environment Rating Scale.

**Proposed section 17711(c)** is added to require that CLASS® Environment Observations be completed by a certified observer as defined in these regulations. To reduce bias, the clarification is made that the observer may not be the teacher assigned to the classroom being observed or a teacher employed within the same site as the classroom being observed. This is necessary to provide clarity about who can complete a CLASS® Environment Observation.

**Proposed section 17711(d)** is added to require that when a CLASS® Environment Observation is completed by a certified observer not employed by the CSPP, it must be used to meet the annual observation requirements. This is necessary because on-site monitoring visits by the CDE are typically only conducted every 4 years and not every classroom is observed as part of the monitoring process; therefore, this will ensure that when an unbiased outside certified observer is available to conduct the observation, those scores will be reported to the CDE.

**Proposed section 17711(e)** is added to ensure that the site supervisor and teaching team are provided the scores from the CLASS® Environment Observation within a reasonable amount of time. This is necessary to ensure that teaching teams and their supervisors receive feedback from the observations which can be used for continuous quality improvement.

**Proposed section 17711(f)** is added to require contractors to ensure that the CLASS® Environment Observation data is reported into MyTeachstone within 30 days of the contractor receiving the results. This clarification is necessary because the CLASS® Environment Observations can be completed by certified observers in various ways, including, but not limited to, through the local quality initiatives, the CSPP contractor’s staff, CLASS® Environment Observations as required from other funding sources, and observations completed by certified observers contracted directly by the CSPP contractor. Most often the certified observers will input the data into MyTeachstone, and in those cases the contractor will only need to log in to MyTeachstone and confirm the results have been reported; however, in other instances, the certified observer may not have access to MyTeachstone or the observer is an employee of the contractor, in which cases the contractor is responsible for inputting the data into MyTeachstone.

**Proposed section 17711(g)** is added to require contractors to use data from CLASS® Environment Observations to inform continuous quality improvement. This clarification is necessary because the purpose of using CLASS® Environment in CSPP is to get data on quality in the CSPP that can be used to support high quality environments that promote high quality interactions.

**Proposed section 17711(h)** is added to ensure that contractors are not using CLASS® Environment Observations as a punitive tool to assess staff performance. This is necessary because the CLASS® Environment tool is not intended, and it is not CDE’s intention, to be used as a punitive tool, but rather the intent of the tool is to guide continuous quality improvement in CSPPs.

### Proposed Section 17711.1 Additional Environment Requirements.

**Proposed section 17711.1(a)** is added to require contractors to develop classroom daily schedules that include a variety of play activities, both gross motor and less active play opportunities and require at least one outdoor play period. Within these requirements additional clarification was needed to ensure equity across the state; therefore, clarification was made that play activities have to include child directed, educator guided, and educator directed opportunities and the outdoor play periods for part-day programs (those that operate fewer than four hours per day) will be required to schedule at least 30 minutes of outdoor play time, and full-day programs (those that operate 4 hours or more per day) are required to schedule at least 60 minutes of outdoor play, safety and weather permitting. Child directed activities mean the educator observes, reflects and ensures the availability of time, space, and materials that are responsive to children's interests; educator guided means the educator uses opportunities to play with children to incorporate targeted skill development into their play (e.g. supporting math skills by introducing pretend money into children's grocery store play); and educator directed means the educator engages children in prescribed activities with rules designed to facilitate specific skill development, usually in literacy and math (e.g. matching games, dice games, or word games). The clarification “safety and weather permitting” was made to ensure that programs have flexibility for circumstances that often happen due to extreme heat and air quality or school safety, for example some of the reasons programs would not take children outside are when a program is on lock-down for a safety issue, or if the weather is too hot to safely use any of the playground equipment, or if the air quality is so bad that it is not safe for children to be outside.

**Proposed section 17711.1(b)** is added to require contractors to post and follow visual and written handwashing procedures. While written handwashing procedures would likely be adequate for most adults, many children in CSPP do not know how to read yet; therefore, visual handwashing procedures are more effective for preschool children still learning how to wash their hands. This is necessary to promote health and safety by having adults and children wash their hands correctly.

**Proposed section 17711.1(c)** is added to require contractors to post and follow written and visual toileting procedures. While many children in CSPP will have been toilet trained prior to entry, it is developmentally appropriate for children of preschool age to still be working on this skill. Therefore, it is necessary to have non-punitive toileting procedures that are written and visual to assist adults and the children who are still learning these skills. This is necessary to promote health and safety by ensuring a sanitary and non-punitive procedure for toileting is followed.

**Proposed section 17711.1(d)** is added to require contractors to post and follow written and visual diapering procedures. While many children in CSPP will have been toilet trained prior to entry, it may be developmentally appropriate for some children enrolled in CSPP to still be using diapers. Therefore, it is necessary to have both diapering and toileting procedures that are written and visual to assist adults and the children who are still learning these skills. This is necessary to promote health and safety by ensuring a sanitary and non-punitive procedure for diapering is followed.

**Proposed section 17711.1(e)** is added to ensure that a nap period is scheduled for a CSPP that operates four or more hours per day. It is developmentally appropriate for many of the children in CSPP to still need a nap to participate fully in the program; therefore, it is important that the opportunity is available for those that need it. This is necessary to provide clarity for when contractors are required to provide a regularly scheduled nap period.

**Proposed section 17711.1(e)** is added to provide more specific information about the scheduled nap period including the required distance between cots or mats, to ensure napping is provided in a clean and sanitary manner, that visual supervision is always maintained, the environment is conducive to resting, and requires contractors to have a policy for children that do not nap. These clarifications are necessary to ensure contractors provide a nap period that promotes health and safety by ensuring visual supervision and sanitary practices, and that the nap period is beneficial to the children that need a nap while also supporting the needs of children that do not nap.

**Proposed section 17711.1(f)** is added to ensure that staff have a place to securely store belongings. While this requirement promotes wellbeing of staff, it also promotes health and safety by ensuring that children do not have access to staff personal belongings.

**Proposed section 17711.1(g)** is added to ensure that a policy is put in place to support staff for work-related tasks. While this requirement promotes wellbeing of staff, it also promotes health and safety; staff that are completing work related tasks such as having a parent conference or a meeting, or even a personal break, are unable to provide adequate supervision to children in the classroom. Therefore, this is necessary to ensure that there is a policy in place for where and/or when those tasks can take place that does not compromise the health and safety of the children in the program.

### Section 17742 Collaborative Transitional Kindergarten Programs.

**Proposed section 17742(b)(3)** is added to include a CLASS® Observation as a requirement for CSPP classrooms that are commingled with TK classrooms. This is necessary to clarify the requirements that apply to CSPP classrooms that also commingle with TK.

**Renumbered section 17742(b)(4)** is amended to remove reference to the Environment Rating Scale and replace it with the CLASS® Environment Observation. This is necessary to ensure clarity on the requirements for CSPP classrooms that commingle with Transitional Kindergarten (TK).

### Section 17777 Indoor Space.

**Proposed section 17777(b)** is added to require license exempt classrooms to follow the requirements for napping equipment pursuant to the California Code of Regulations, Title 22, Section 101239.1. While the CDE could have copied the regulations from section 101239.1 in 22 CCR, the CDE determined it was best to cross reference regulations to reduce duplication. While the CDE is directing license exempt classrooms to follow health and safety standards for napping equipment developed by Community Care Licensing, this regulation in no way requires the contractor to become licensed. This is necessary to ensure those classrooms not licensed and required to offer scheduled napping period have health and safety standards to follow for napping equipment.

# Economic Impact Assessment per Gov. Code Section 11346.3(b)

## Purpose:

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

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

There is no evidence that the proposed regulations will either create or eliminate jobs within California. These proposed regulations are designed to provide clear and consistent guidance for contractors operating a CSPP. These activities are being performed by existing staff and local quality partners already completing them. Therefore, no jobs in California will be created or eliminated.

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

There is no evidence that the proposed regulations will either create or eliminate businesses within California. These proposed regulations are designed to provide clear and consistent guidance for contractors operating a CSPP. Since these regulations only impact contractors operating CSPPs, no businesses in California will be created or eliminated.

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

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

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

These proposed regulations will benefit children in California by strengthening educator-child interactions in California State Preschool Programs throughout the State.

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

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

The proposed regulations would not have a significant adverse economic impact on any business because to ensure the requirements of these regulations could be met without undue financial burden on CSPP contractors, the CDE developed the Achieving Success in Positive Interactions, Relationships, and Environments (ASPIRE) Program to support the implementation of the CLASS® and CLASS® Environment requirements. The ASPIRE program is funded by Provision 6 of Item 6100-194-0001 and Provision 6 of Item 6100-196-0001 of the Budget Act of 2023 (Assembly Bill (AB) 102, [Chapter 38, Statutes of 2023]). According to AB 102, a total of $1,075,000 was allocated to the CDE on an ongoing basis to support the use of CLASS® as a tool to strengthen teacher-child interactions and to support continuous quality improvement.

## Incorporated by Reference

Pursuant to title 1 of the California Code of Regulations section 20, the following documents are hereby incorporated by reference:

* Classroom Assessment Scoring System Observation Field Guide, Second Edition, 2023
* Classroom Assessment Scoring System Environment Manual, 2022

The CDE determined that it would be impractical to publish these documents in 5 CCR due to their size. In addition, these documents are available for the public to view upon request to the CDE and are available to purchase through Teachstone, Inc.

## Other Required Showings

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

The SSPI 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 SSPI because Provision 102 of Item 6100-001-0001, of the Budget Act of 2023 (AB 102 [Chapter 38, Statutes of 2023] specifies the use of the CLASS® tool.

### 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).

2024-12-02 [California Department of Education]

1. Pursuant to Senate Bill 163 (Chapter 73, Statutes of 2024), starting July 1, 2024 through June 30, 2027, eligible two-year old children will be allowed in CSPP. [↑](#footnote-ref-1)