

**State of California
DEPARTMENT OF DEVELOPMENTAL SERVICES**

INITIAL STATEMENT OF REASONS

**Proposed Amendments to the State Regulations
for the Early Start Program**

I. PROBLEM STATEMENT

The Department of Developmental Services (Department) is the lead agency for the Early Start program. This program provides early intervention services to infants and toddlers who have a developmental delay or have a condition that has a high probability of leading to a developmental delay or disability. Through the Department, the State receives federal funding that supports the early intervention services provided to eligible infants and toddlers and their families. As a condition of receiving this federal funding, the Department must ensure that all State policies align with the requirements of Part C of the federal Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Sec. 1431 et seq.).

Current state regulations in title 17, California Code of Regulations (CCR), sections 52000, 52082, 52109 and 52162 need to be amended to comply with federal Part C requirements. These regulations will ensure that the rights of consumers are observed and that consumers are provided with appropriate services.

Section 5200 defines “assistive technology service”. This definition ensures the appropriate services be provided to an infant or toddler acquiring an assistive technology device. The definition of “consent” ensures that obtaining the consent of a parent is completed with the parent’s full understanding, in writing, and that they can revoke their consent at any time.

Section 52082 ensures that a determination of eligibility of a child for early intervention services can be made solely on clinical opinion increasing the options under which a child can be determined eligible for early intervention services.

Section 52109 clarifies the federal requirement on non-substitution of funds ensuring that the regional center is the payor of last resort and that there should not be a delay in service provision during the period of pursuing payment for services from a public or private source.

Section 52162 ensures that a parent does not need to enroll in public or private insurance programs as a condition of receiving early intervention programs and that consent is required by parents for use of public benefits or insurance, ensuring that they can make an informed decision when using their public benefits and do not have to provide consent for its use if there would be negative consequences. If the parent does not provide consent for use of public benefits or insurance, services listed on the IFSP

must still be provided. Parental consent must be obtained before any personally identifiable information is shared with State public agencies responsible for the administration of public benefits or insurance. Parents have the right to withdraw their consent to disclosure of personally identifiable information. A parent's private insurance can be used for evaluation, assessment and early intervention services as specified in the IFSP. Parental consent is not required for the use of private insurance but must comply with Government Code section 95004(c). Services specified on the IFSP cannot be delayed and must begin as soon as possible if private insurance is going to be used.

II. BENEFITS

The proposed amendments to CCR, title 17, division 2, chapter 2 - Early Intervention Services align the State's regulations with Part C of IDEA, which is required for the State to obtain federal funding for early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

III. SPECIFIC PURPOSE AND RATIONALE FOR EACH ADOPTION, AMENDMENT OR REPEAL

The proposed amendments summarized below are required to align with federal statute and regulation.

Amend § 52000(b)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b) to change the reference from "subchapter" to the more appropriate term "chapter".

Rationale for Necessity

This change is necessary to ensure the correct terminology is used to avoid confusion. This subchapter only includes Article 1, Definitions and Article 2, Eligibility for California's Early Start Program. The definitions should apply to the entire chapter related to Early Intervention Services, which includes all subchapters 1-5.

Amend § 52000(b)(6)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6) to add the new term "assistive technology service" and definition as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

This new term is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This new term needs to be added and defined in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants,

toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52000(b)(6)(A)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6)(A) to add that the new term for “assistive technology service” includes the evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the infant’s or toddler’s customary environment as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

The inclusion of the evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the infant’s or toddler’s customary environment in the assistive technology service definition is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52000(b)(6)(B)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6)(B) to add that the new term for “assistive technology service” includes purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

The inclusion of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities in the assistive technology service definition is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52000(b)(6)(C)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6)(C) to add that the new term for “assistive technology service” includes selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

The inclusion of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices in the assistive technology service definition is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52000(b)(6)(D)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6)(D) to add that the new term for “assistive technology service” includes coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

The inclusion of coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs in the assistive technology service definition is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52000(b)(6)(E)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6)(E) to add that the new term for “assistive technology service” includes training or technical assistance for an infant or toddler with a disability

or, if appropriate, that infant's or toddler's family as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

The inclusion of training or technical assistance for an infant or toddler with a disability or, if appropriate, that infant's or toddler's family in the assistive technology service definition is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This new term needed to be added and defined in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52000(b)(6)(F)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(6)(F) to add that the new term for "assistive technology service" includes training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities as specified in the requirements of Part C of IDEA, Sec. 303.13 (b)(1)(ii).

Rationale for Necessity

The inclusion of training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities in the assistive technology service definition is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This new term needs to be added and defined in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Adopt § 52000(b)(13)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(13) to add the new term "consent" to the list of definitions as specified in the requirements of Part C of IDEA, Sec. 303.7.

Rationale for Necessity

This amendment is necessary to add and define the term “consent” to clarify the meaning and provide a clear understanding of the new term as used in this regulation. This definition aligns with federal statute and regulation.

Adopt § 52000(b)(13)(A)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(13)(A) to define “consent” to mean the parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent’s native language.

Rationale for Necessity

The requirement to ensure parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent’s native language is necessary to ensure the parent understands clearly and there is not a language barrier for understanding all of the relevant information in order to make a sound decision and for the alignment with federal statute and regulation.

Adopt § 52000(b)(13)(B)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(13)(B) to define the meaning of “consent” as the parent understands and agrees in writing to carry out of the activity for which the parent’s consent is sought, and the consent describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released.

Rationale for Necessity

This amendment is necessary to ensure the Early Start regulations align with federal statute and regulation. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52000(b)(13)(C)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(13)(C) to define the meaning of “consent” as the parent understands that the granting of consent is voluntary and may revoke it at any time. If a parent revokes consent, that revocation is not retroactive.

Rationale for Necessity

The requirement to ensure that the parent understands that the granting of consent is voluntary and may be revoked at any time is necessary so the parent choice is clearly indicated and that no actions will be administered without their consent, and consent should be voluntary. Consent may also be revoked at any time; however, it cannot apply to any action that occurred before the consent was revoked. This amendment is

necessary to ensure the Early Start regulations align with federal statute and regulation. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52000(b)(15)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(15) to add the new term “early intervention records” to the list of definitions. Early intervention records is defined as information that is directly related to an infant or toddler. These may include, but are not limited to, records relating to identification, evaluation and services.

Rationale for Necessity

This regulatory action is necessary to add and define “early intervention records” in order to clarify the meaning and to provide a clear understanding of the term as used in this regulation.

Amend § 52000(b)(23)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 1, article 1, section 52000(b)(23) to update the cross reference to the definition of the term “health services” and to more accurately define it by stating that such services also include consultation services by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

Rationale for Necessity

This amendment is necessary to ensure the regulation accurately reflects the appropriate definition number for “early intervention services” and clarifies the definition of the term “health services” by adding that it includes consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services which aligns with federal statute and regulation. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend Reference citation for § 52000

Specific Purpose

This regulatory action would amend the reference citation in title 17, division 2, chapter 2, subchapter 1, article 1, section 52000 by removing section 303.23 of Title 34 Code of Federal Regulations to accurately identify the provision of law that the regulation is implementing, interpreting, or making specific.

Rationale for Necessity

Each regulation section printed in the California Code of Regulations must have a citation to the specific statute or other provision of law that the regulation is implementing, interpreting, or making specific. It is necessary to have accurate, precise and complete reference citations printed in the California Code of Regulations for the regulation.

Amend § 52082(b)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 2, article 2, section 52082(b) to accurately identify the procedures and tools used for evaluation to determine the eligibility for an infant or toddler to receive early intervention services. Such procedures include informed clinical opinion which may be used as an independent basis to establish an infant's or toddler's eligibility to receive early intervention services.

Rationale for Necessity

This amendment is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52082(b)(1)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 2, article 2, section 52082(b)(1) to correct the grammar by amending the word "infant" plural possessive.

Rationale for Necessity

This amendment is necessary to ensure consistency throughout the Early Start regulations.

Adopt § 52082(b)(2)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 2, article 2, section 52082(b)(2) to add that the review of educational or other early intervention records must be included as a procedure in the evaluation to determine the eligibility for an infant or toddler to receive early intervention services.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This

is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Adopt § 52082(b)(3)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 2, article 2, section 52082(b)(3) to add the procedure of gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the infant's or toddler's unique strengths and needs in the evaluation to determine the eligibility for an infant or toddler to receive early intervention services.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52082(d)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 2, article 2, section 52082(d) to specify that in no event may informed clinical opinion by itself be used to negate the results of the evaluation instruments used to establish eligibility set forth in paragraph (b) of this section.

Rationale for Necessity

This amendment is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program. This language was developed in collaboration with the federal Office of Special Education Programs.

Amend § 52082(e)-(f)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 2, article 2, section 52082(e)-(f) to correct the numbering hierarchy.

Rationale for Necessity

This amendment is necessary to ensure the regulations are numbered accurately.

Amend Reference citation for § 52082

Specific Purpose

This regulatory action would amend the reference citation in title 17, division 2, chapter 2, subchapter 2, article 2, section 52082 by adding sections 303.113 and 303.321 and removing section 303.323(b) and (c) of Title 34 Code of Federal Regulations to accurately identify the provision of law that the regulation is implementing, interpreting, or making specific.

Rationale for Necessity

Each regulation section printed in the California Code of Regulations must have a citation to the specific statute or other provision of law that the regulation is implementing, interpreting, or making specific. It is necessary to have accurate, precise and complete reference citations printed in the California Code of Regulations for the regulation.

Amend § 52109(b)

Specific Purpose

This regulatory action would amend title 17, division 2, chapter 2, subchapter 3, article 2, section 52109(b) to clarify the language to emphasize that early intervention services specified on the IFSP shall begin as soon as possible by moving it to the first sentence and adding “but no later than 45 days of obtaining consent of the parent for those services.” The regulatory action also specifies that although the payor of last resort, regional centers shall use funds for early intervention services when pursuing payment for services from a public or private source. During this period, regional centers shall continue to pursue payment from all available public and private sources, including but not limited to available insurance. The amendment also removes old language that was not clear and caused confusion to the regional centers and those receiving early intervention services for infants or toddlers and their families.

Rationale for Necessity

This language supports existing regulations relating to regional centers being the payor of last resort and is necessary to clearly outline when children and families can access services funded by regional centers. By adding “but no later than 45 day of obtaining consent of the parent for those services” aligns the state regulations with current early intervention monitoring practices and removes the ambiguity associated with when services listed on the IFSP are to be provided to the child and family because services may not be delayed when pursuing payment for services from a public or private source. High quality early intervention services can change an infant’s or toddler’s developmental trajectory and improve outcomes for children, families, and communities. Intervention is likely to be more effective and less costly when it is provided as soon as possible, therefore, delays in early intervention services due to “payment” concerns should be avoided.

Amend § 52109(c)

Specific Purpose

This regulatory action would delete title 17, division 2, chapter 2, subchapter 3, article 2, section 52109(c) to remove language referencing the payment for evaluation by a family's private insurance is voluntary. The meaning of voluntary was also deleted as it no longer applicable.

Rationale for Necessity

The deletion of this provision is necessary because it caused confusion that the payment for evaluation by a family's private insurance is voluntary. The deletion is also necessary to align with the Part C IDEA program in accordance with federal requirements.

Amend Reference citation for § 52109

Specific Purpose

This regulatory action would amend the reference citation in title 17, division 2, chapter 2, subchapter 3, article 2, section 52109 by adding section 303.510 and removing section 303.521 of Title 34 Code of Federal Regulations to accurately identify the provision of law that the regulation is implementing, interpreting, or making specific.

Rationale for Necessity

Each regulation section printed in the California Code of Regulations must have a citation to the specific statute or other provision of law that the regulation is implementing, interpreting, or making specific. It is necessary to have accurate, precise and complete reference citations printed in the California Code of Regulations for the regulation.

Adopt § 52162(d)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d) to specify the requirements for regional centers to follow regarding the use of an infant's or toddler's or parent's public benefits or insurance to pay for early intervention services.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(1)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(1) to specify that regional centers may not require a parent to enroll in public benefits or insurance programs as a condition of receiving early intervention services and must obtain consent prior to using the public benefits or insurance of an infant or toddler or parent if that infant or toddler or parent is not already enrolled in such a program.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(2)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(2) to specify that regional centers must obtain consent to use an infant's or toddler's or parent's public benefits or insurance to pay for early intervention services.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(2)(A)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(2)(A) to specify that regional centers must obtain consent to use an infant's or toddler's or parent's public benefits or insurance to pay for early intervention services if that use would decrease available lifetime coverage or any other insured benefit for the infant, toddler or parent under that program.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually

to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(2)(B)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(2)(B) to specify that regional centers must obtain consent to use an infant's or toddler's or parent's public benefits or insurance to pay for early intervention services if that use would result in the infant's or toddler's parent paying for services that would otherwise be covered by the public benefits or insurance program.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(2)(C)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(2)(C) to specify that regional centers must obtain consent to use an infant's or toddler's or parent's public benefits or insurance to pay for early intervention services if that use would result in any increase in premiums or discontinuation of public benefits or insurance for that infant or toddler or parent.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(2)(D)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(2)(D) to specify that regional centers must obtain consent to use a infant's or toddler's or parent's public benefits or insurance to pay for early intervention services if that use would risk loss of eligibility for the infant or toddler or parent for home and community-based waivers based on aggregate health-related expenditures.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(d)(3)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(d)(3) to specify that regional centers must still make available those early intervention services on the IFSP to which the parent has provided consent, when the parent has not provided consent to the use of the infant's or toddler's or parent's public benefits or insurance.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(e)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(e) to specify that regional centers must provide written notification to the infant's or toddler's parents prior to using an infant's or toddler's or parent's public benefits or insurance to pay for early intervention services.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(e)(1)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(e)(1) to specify the regional centers written notification to the infant's or toddler's parents must include a statement that parental consent must be obtained before the Department of Developmental Services or any other early intervention provider discloses, for billing purposes, an infant's or toddler's personally identifiable

information to the State public agency responsible for the administration of the State's public benefits or insurance program.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(e)(2)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(e)(2) to specify the regional centers written notification to the infant's or toddler's parents must include a statement of the no-cost protection provisions in paragraph (d) of this section and that if the parent does not provide the consent under paragraph (d) of this section, the Department of Developmental Services must still make available those early intervention services on the IFSP for which the parent has provided consent.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(e)(3)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(e)(3) to specify the regional centers written notification to the infant's or toddler's parents must include a statement that the parents have the right to withdraw their consent to disclosure of personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program at any time.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(f)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(f) to specify the requirements for regional centers regarding their use of the benefits of private insurance or the benefits of a child or parent to pay for early intervention services.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(f)(1)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(f)(1) specifies that regional centers may use the infant's or toddler's or parent's private insurance to pay for evaluation, assessment, and required early intervention services to meet the infant's or toddler's needs, as specified on the infant or toddler's IFSP.

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(f)(2)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(f)(2) to require that regional centers do not need to obtain parental consent prior to using the infant's or toddler's or parent's private insurance and that the use of the infant's or toddler's or parent's private insurance shall comply with Government Code section 95004(c).

Rationale for Necessity

This adoption is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

Adopt § 52162(f)(3)

Specific Purpose

This regulatory action would adopt title 17, division 2, chapter 2, subchapter 5, article 1, section 52162(f)(3) to require that regional centers must not delay the provision of early intervention services specified in the IFSP, on account of utilizing the infant's or toddler's or parent's private insurance and that early intervention services specified on the IFSP must begin as soon as possible.

Rationale for Necessity

This amendment is necessary to ensure the Early Start regulations align with federal statute and regulation and the requirements of Part C of IDEA. This is necessary in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

IV. NECESSITY

The proposed amendments are needed to align the State's regulations with the requirements of Part C of IDEA. These amendments are needed in order to operate the Part C IDEA program in accordance with federal requirements. This is also necessary to maintain the approximately \$54 million the State receives annually to fund early intervention services for eligible infants, toddlers, and their families who are in the Early Start program.

V. TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The proposed amendments are required to align the State's regulations with the requirements of Part C of IDEA, specifically with the following sections:

[Sec. 303.13 \(b\) \(1\) \(ii\)](#)

[Sec. 303.16 \(b\) \(2\)](#)

[Sec. 303.321](#)

[Sec. 303.510](#)

[Sec. 303.520 \(a\)](#)

VI. ECONOMIC IMPACT ASSESSMENT/ANALYSIS

In accordance with Government Code section 11346.3(b), the Department has made the following assessments regarding the proposed regulations. The proposed amendments do not represent any policy shift in administering the Early Start program for the State. Therefore, the Department forecasts no economic impact and concludes that it is:

(1) unlikely that the proposal will eliminate any jobs for the Early Start program service providers,

(2) unlikely that the proposal will create an unknown number of jobs for service providers,

(3) unlikely that the proposal will create an unknown number of new businesses providing services in the Early Start program,

(4) unlikely that the proposal will eliminate any existing businesses, and

(5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed amendments will indirectly impact the health and welfare of the infants and toddlers in the Early Start program as the proposed amendment ensures the continuity of the federal grant which sustains these services.

Additionally, the proposed amendments do not impose any new impact on worker safety and the State's environment.

VII. EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department finds that the proposed changes present no significant adverse economic impact and is unlikely to affect businesses statewide, including small businesses, because the small businesses and vendors that provide services for individuals with disabilities in the state already provide these services under the definitions specified in provisions of law.

VIII. REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ACTIVITIES

The Department has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of DDS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. To maintain federal funding for the Early Start program, the Department is required to demonstrate that state policies align with federal statute and regulation. Since regulations are utilized by the Department to implement statute governing the Early Start program, no other alternatives were considered.

IX. DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

There is no known conflict with federal regulations.