

REGULAR

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED
IN THE OFFICE OF

2014 JAN 28 PM 3:40

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2013-1001-02	REGULATORY ACTION NUMBER 2013-1213-065	EMERGENCY NUMBER
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2013 DEC 13 PM 4:32

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
Department of Rehabilitation

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	14. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2013, 412	PUBLICATION DATE 10/11/2013	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Client Assistance Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26; if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPTED 7005.5
AMENDED 7005
TITLE(S) 9
REPEAL 7144, 7145, 7146, 7147

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code § 11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§ 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, § 44 and Gov. Code § 11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, § 100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code § 11343.4(a))

Effective on filing with Secretary of State

§ 100 Changes Without Regulatory Effect

Effective other (Specify) Pursuant to Gov. Code Sec 11343.4(b)(3)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM § 6660)

Fair Political Practices Commission

State Fire Marshal

Other (Specify) _____

7. CONTACT PERSON Shelly Risbry	TELEPHONE NUMBER 916-445-4466	FAX NUMBER (Optional) 916-558-5826	E-MAIL ADDRESS (Optional) srisbry@dor.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Anthony Tony P. Sauer</i>	DATE 12/11/13
TYPED NAME AND TITLE OF SIGNATORY Anthony Tony P. Sauer, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 28 2014

Office of Administrative Law

TEXT OF REGULATIONS

Amend California Code of Regulations, title 9, sections 7005, 7005.5, 7144, 7145, 7146, and 7147 as follows:

§ 7005. Client. [Repealed]

“Client” or “Consumer” means an individual receiving services under the Act, as defined in 34 CFR Section 370.6(b)

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR Section 370.6 ~~Sections 19006 and 19016, Welfare and Institutions Code.~~

§ 7005.5 Client Assistance Program.

“Client Assistance Program” or “CAP” means the designated public or private agency that provides the services to clients and applicants described in 34 CFR Section 370.4.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR Sections 370.1, 370.2, 370.4 and 370.6; and Sections 19010 and 19011, Welfare and Institutions Code.

§ 7144. Definitions and Terms.

~~(a) For the purposes of this chapter, the following definitions shall apply:~~

~~(1) "Act" means the Rehabilitation Act of 1973, 29 U.S.C. Section 701 et seq., as amended.~~

~~(2) "CAP" means the Department of Rehabilitation's Client Assistance Program.~~

~~(3) "CAP Administrator" means the individual employed by the Department to administer the Client Assistance Program.~~

~~(4) "CAP Advocate" means an individual employed by a Contractor to provide CAP services to clients and applicants.~~

~~(5) "CAP Post-Appeal Review Panel" means a panel consisting of three CAP Contractors who serve on a rotational basis and who review requests by clients or applicants for funding by the CAP of legal services in connection with court review of Rehabilitation Appeals Board decisions.~~

~~(6) "CAP services" means services provided by the CAP Advocate as described in 34 CFR 370.4.~~

~~(7) "Client or applicant" means an individual receiving or seeking services under the Act, as defined in 34 CFR 370.6(b).~~

~~(8) "Contractor" means an entity with whom the Department contracts for the provision of CAP services to clients and applicants within a specified geographic area.~~

~~(9) "Department" means the Department of Rehabilitation.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR Sections 370.1, 370.2, 370.4 and 370.6; and Sections 19010 and 19011, Welfare and Institutions Code.

§ 7145. Provision of CAP Services.

~~(a) The Department's Client Assistance Program Section (CAP) is responsible for the provision of CAP services. The CAP shall enter into contracts with Contractors to provide CAP services within a designated geographic area. Contractors shall be selected through a competitive request for proposal (RFP) process.~~

~~(b) The Contractor is responsible for assuring that funds provided under the contract are utilized only for the purposes set forth in 34 CFR 370.4. The Contractor shall be familiar with and comply with all applicable requirements of federal and state law.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR Sections 76.51, 76.700, 370.1, 370.2, 370.4 and 370.5; and Sections 19010 and 19011, Welfare and Institutions Code.

§ 7146. CAP Service Areas; Transfer.

~~(a) A client or applicant who requests CAP services shall be referred to the Contractor selected as set forth in section 7145(a) to provide CAP services in the geographic area in which the client or applicant is receiving or has applied for services under the Act.~~

~~(b) A client or applicant may request that his or her request for CAP services be transferred from the Contractor responsible for providing CAP services in the geographic area in which the client or applicant is receiving or has applied for services under the Act to the Contractor responsible for another geographic area.~~

~~(c) Notwithstanding sections (a) and (b), a Contractor responsible for providing CAP services shall have discretion to provide CAP services to a client or applicant who has requested such services, including but not limited to discretion to provide CAP services to a client or applicant who has requested a transfer to a different Contractor pursuant to section (b). In exercising its discretion, the Contractor shall consider whether the provision of CAP services is necessary to ensure the protection of the rights of the client or applicant under the Act, the available resources of the Contractor, whether the client or applicant has cooperated in the provision of the CAP services, and other factors reasonably related to the efficient~~

~~and rational allocation of CAP services among the clients and applicants requesting such services.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR Sections 370.1, 370.2, 370.4 and 370.40; and ~~Sections 19006 and 19016, Welfare and Institutions Code.~~

§ 7147. Funding of Legal Services Through Post-Appeal Review.

~~(a) A client or applicant who is dissatisfied with the decision of the Rehabilitation Appeals Board ("Board") regarding his or her appeal, and who wishes to seek court review of the decision pursuant to Section 19709 of the Welfare and Institutions Code and Section 1094.5 of the California Code of Civil Procedure, may, but is not required to, request funding from the Department for legal services in connection with such court review.~~

~~(1) The client or applicant must submit a written request for such funding to the CAP administrator. The written request must be postmarked no later than fifteen (15) calendar days after the date the Board's decision is mailed to the client or applicant.~~

~~(2) Within three (3) working days after receipt of a written request for funding, the CAP Administrator shall request that the Board prepare the record of the Board proceedings. The record shall be prepared and~~

~~provided to the CAP Administrator within forty (40) calendar days following the request for preparation of the record.~~

~~(3) Within five (5) working days of receiving the record, the CAP Administrator shall forward copies of the record to the members of the CAP Post-Appeal Review Panel for their review.~~

~~(4) Within twenty (20) calendar days of the mailing of the record, the CAP Post-Appeal Review Panel shall decide by majority vote whether the CAP shall provide the requested funding for legal services. In making its decision, the CAP Post-Appeal Review Panel shall not consider any documents or evidence other than the record of the Board proceedings. The decision whether to provide CAP funding for legal services is within the discretion of the CAP Post-Appeal Review Panel, based upon whether court review is necessary to ensure the protection of the rights of the client or applicant under the Act, the availability of funds and the competing demands for such funds. The CAP Post-Appeal Review Panel shall notify the client or applicant and the CAP Administrator in writing of its decision.~~

~~(5) If the decision of the CAP Post-Appeal Review Panel is that the CAP shall provide funding for legal services, the Contractor providing CAP services to the client or applicant shall enter into a contract for legal services, utilizing a Standard Contract form acceptable to the CAP~~

~~Administrator, with the attorney selected by the client or applicant. No Contractor or employee of the Contractor may be selected as an attorney under such a contract if a CAP Advocate employed by the Contractor participated as a member of the CAP Post-Appeal Review Panel that approved the funding of such contract. The contract shall provide for the provision of legal services to the client or applicant in connection with court review of the Board's decision, and shall require itemized invoices for services rendered pursuant to the contract to be submitted to the Contractor for approval. Upon approval of the Contractor, the invoices shall be submitted to the CAP Administrator for payment by the Department, with total payment by the Department pursuant to the contract not to exceed \$5,000. The CAP Administrator shall provide the attorney with a copy of the record of the Board proceedings.~~

~~(6) If the decision by the CAP Post-Appeal Review Panel is that the CAP shall not provide funding of legal services, such decision does not preclude the client or applicant from seeking court review of the Board's decision or applying to the court for attorneys' fees pursuant to Welfare and Institutions Code Section 19709, nor does such decision prevent the funding of such legal services by a Contractor.~~

~~(b) The time for filing a petition for writ in the Superior Court for review of the Board's decision shall not be extended or otherwise affected by the request to the CAP Post-Appeal Review Panel for funding of legal services.~~

~~(c) Contractors shall serve on the CAP Post-Appeal Review Panel, with three Contractors assigned each month according to an annual schedule created by the CAP Administrator. The schedule shall designate one of the three members to coordinate communications among the Panel members and to communicate the Panel's decision to the client or applicant and the CAP Administrator. A Contractor may not serve as a member of the CAP Post-Appeal Review Panel in connection with any matter in which the Contractor has provided CAP services to the client or applicant. The schedule will also provide for a fourth Contractor to serve as an alternate each month. The alternate member shall serve whenever a member scheduled to serve is not able to serve.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR Sections 370.1 and 370.4; Section 19709, Welfare and Institutions Code; and Section 1094.5, California Code of Civil Procedure.