# **DEPARTMENT OF REHABILITATION**

**NOTICE FILED NOVEMBER 25, 2022**

**AMENDED NOTICE OF PROPOSED RULEMAKING**

**Preferred Method of Delivery for Appeal Documents**

The California Department of Rehabilitation (hereinafter “Department”) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Department will hold a virtual public hearing on this proposed action starting at 9:30 a.m. on January 25, 2023, via Zoom meeting. At the meeting, any person may present statements or arguments, orally or in writing, relevant to the proposed action. The Board respectfully requests that any person who makes an oral comment also submits a written copy of their comment, as well. All information on how to connect to this virtual meeting will be posted at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs> three days before the hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

Department of Rehabilitation

Office of Legal Affairs and Regulations

Attention: Michele Welz, Regulations Analyst

721 Capitol Mall

Sacramento, California 95814

Comments may also be submitted by facsimile to (916) 558-5806 or email to Legal@dor.ca.gov.

**The written comment period closes at 5:00 p.m. on January 25, 2023.** The Department will consider only comments received at the Department by that time. The Department respectfully requests that any person submitting comments include reference to the regulation section commented on. For example, “My comment is in relation to Section 7352.”

**AUTHORITY**

Welfare and Institutions Code sections 19006 and 19016 authorize the Department to adopt these proposed regulations.

**REFERENCE**

The proposed regulations implement, interpret, and make specific the following federal and state laws and regulations: 29 United States Code section 722(c); 34 Code of Federal Regulations section 361.57; Welfare and Institutions Code sections 19013.5, 19704, and 19705.

**INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

This rulemaking action modifies how the Department transmits documents to individuals involved in the administrative review, mediation, and fair hearing processes.

The Department’s current regulations allow individuals involved in the administrative review, mediation, and fair hearing process to identify a preferred method of communication to receive documents related to their appeal. However, if an individual does not identify a preferred method of communication, the Department’s regulations identify mail as the default delivery standard for all documents related to the administrative review, mediation, and fair hearing process. Further, the Department’s current regulations require three documents in the administrative review, mediation, and fair hearing process to be sent by certified mail. The Department and its contractor for the mediation and fair hearing process currently transmit documents by both mail or certified mail, depending on the document, and electronically if an email address is provided. As most individuals provide an email address, this regulation unnecessarily creates duplicative transmission of documents and does not increase access to the documents.

The regulations proposed in this rulemaking action would change the default delivery standard to electronic for all documents related to the administrative review, mediation, and fair hearing process if the individual does not identify a preferred method of communication. The proposed amendments will also remove the requirement to send any documents by certified mail; instead, the documents will be sent in the individual’s preferred method of communication or electronically if the individual does not identify a preferred method of delivery. If preferred, an individual may select certified mail as their preferred method of delivery.

Anticipated Benefits of the Proposed Regulation

The broad objective of the regulations is to provide individuals timely and more individualized access and reduce unnecessary and duplicative transmission of documents in the administrative review, mediation, and fair hearing process. The specific benefits include increased openness, transparency, and active participation of individuals participating in the administrative review, mediation, and fair hearing processes. By transmitting documents to individuals in their preferred mode of communication, individuals will be more likely to anticipate the arrival of these documents and will reduce the unnecessary duplicative transmission of documents. Identifying electronic communication as the standard mode of communication will allow individuals to receive important case-related documents in a timely manner and wherever they establish access to the Internet.

Determination of Inconsistency and Incompatibility with Existing State Regulations

The Department has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulation that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the method of delivery for documents in the Department’s administrative review, mediation, and fair hearing process.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Department has made the following initial determinations:

* Mandate imposed on local agencies or school districts: None.
* Costs to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 et seq.: None.
* Cost or savings to any state agency: $301.57 estimated savings per State Fiscal Year.
* Other nondiscretionary cost or savings imposed on local agencies: None.
* Cost or savings in federal funding to the state: $185.93 estimated savings per State Fiscal Year.
* Significant effect on housing costs: None.
* Significant statewide adverse economic impact directly affecting businesses, including ability to compete: None.

Results of the Economic Impact Analysis or Assessment

The Department concludes that it is: (1) unlikely that the proposed regulations will create or eliminate jobs within California, (2) unlikely that the proposed regulations will create new businesses or eliminate existing businesses within California, and (3) unlikely that the proposed regulations will result in the expansion of businesses currently doing business with the State.

Benefits of the Proposed Action: The proposed regulation will benefit California residents who file an administrative review, mediation, or fair hearing request with the Department by increasing timely and more tailored access for individuals to documents involved in the administrative review, mediation, and fair hearing process. The proposed regulation will also benefit the environment as­­ fewer documents will be printed and sent by mail or certified mail, reducing the use of paper and resources to deliver the documents. There are no anticipated effects on worker safety.

Costs Impacts on representative Person or Business

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business Determination

The Department has determined that these proposed regulations will not affect small businesses, as the regulations relate only to documents provided from the Department to an individual citizen related to the administrative review, mediation, and fair hearing process. Small businesses are not involved in the Department’s administrative review, mediation, and fair hearing process.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, 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 the law.

The Department invites interested people to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

**DISABILITY ACCOMODATION STATEMENT**

The Department shall provide, upon request, a narrative description of the proposed changes included in the proposed action, in the manner provided by Government Code section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law. Providing the description of proposed changes may require extending the period of public comment on the proposed action for the requesting party.

**CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Department of Rehabilitation

Office of Legal Affairs and Regulations

Attention: Michele Welz, Regulations Analyst

721 Capitol Mall

Sacramento, California 95814

Telephone: (916) 558-5825

Facsimile: (916) 558-5806

Email: Legal@dor.ca.gov

The backup contact person for these inquiries is:

Department of Rehabilitation

Office of Legal Affairs and Regulations

Attention: Elizabeth Colegrove, Attorney III

721 Capitol Mall

Sacramento, California 95814

Telephone: (916) 558-5825

Facsimile: (916) 558-5806

Email: Legal@dor.ca.gov

Please direct requests for copies of the Proposed Text of the Regulations Proposed Text of the Regulations with Word Cues, Initial Statement of Reasons, Modified Proposed Text of Regulations, if any, or other information upon which the rulemaking is based to Michele Welz at the address above. These documents are also available on the Department’s website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>. The Department will also provide copies of the regulation proposal in large print, braille, audiotape, compact disk, or transmit copies of the regulation proposal electronically, upon request.

**AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address by appointment and on its website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, Proposed Text of the Regulations, and Initial Statement of Reasons. The Proposed Text of Regulations with Word Cues, indicating strikeout and underline, is also available in the rulemaking file and on the Department’s website. To request copies or make an appointment to inspect the rulemaking file at the Department’s office, please contact Michele Welz at the address, email, or phone number listed above.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the public hearing, if requested, and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michele Welz at the address or email indicated above. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they were made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Michele Welz at the address or email above. The Final Statement of Reasons will also be available on the Department’s website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, Proposed Text of the Regulations with underline and strikeout, Proposed Text of Regulations with Word Cues indicating strikeout and underline, and Initial Statement of Reasons are available on the Department’s website at <https://www.dor.ca.gov/Home/ProposedRulemakingandRegs>.