

**State of California  
Office of Administrative Law**

**In re:**

**Department of Rehabilitation**

**Regulatory Action:**

**Title 9, California Code of Regulations**

**Adopt sections:**

**Amend sections: 7214.1, 7220.7, 7227.2**

**Repeal sections:**

**NOTICE OF APPROVAL OF CHANGES  
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,  
Section 100**

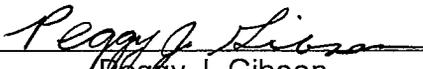
**OAL File No. 2013-1218-04 N**

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This action without regulatory effect amends three sections in Title 9 of the California Code of Regulations. The amendments correct typographical errors and correct the numbering of one section.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

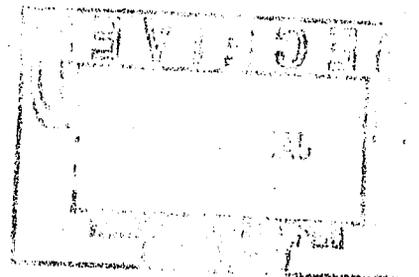
**Date: 1/14/2014**

  
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Peggy J. Gibson  
Senior Counsel

**For: DEBRA M. CORNEZ  
Director**

**Original: Anthony P. Sauer**

**Copy: Shelly Risbry**



# NON SUBSTANTIVE

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2013-1218-04N	

ENDORSED FILED IN THE OFFICE OF

2014 JAN 14 PM 3:25

*Debra Bowen*  
DEBRA BOWEN  
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

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	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER
			PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Section 100 Changes - Typographical Corrections	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!)
ADOPT
AMEND 7214:1, 7220:7 and 7227:2
REPEAL
TITLE(S) 9

3. TYPE OF FILING

<input 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 checked="" 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)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Shelly Risbry	TELEPHONE NUMBER (916) 445-4466	FAX NUMBER (Optional) (916) 558-5826	E-MAIL ADDRESS (Optional) shelly.risbry@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 P. Sauer</i>	DATE 10/11/13
TYPED NAME AND TITLE OF SIGNATORY Anthony (Tony) P. Sauer, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 14 2014

Office of Administrative Law

**Section 100 Changes**

**§ 7214.1. Application Requirements and the Application Process.**

(a) Licensees and vendors who are applying to operate a vending facility shall submit a completed a-DR 462, Vending Facility Application (Rev. 07/07), incorporated by reference herein, to the BEP. The licensee or vendor may submit an application in an alternative form, as long as the application contains all information required by the DR 462, Vending Facility Application (Rev. 07/07). The completed application may be delivered to the BEP by mail, electronic mail, facsimile, or personal delivery. Applications must be postmarked or date stamped by the Department on or before the final filing date in order to be accepted.

(b) ...(unchanged)

(c) ...(unchanged)

(1) ...(unchanged)

(2) ...(unchanged)

(d) ...(unchanged)

(1) ...(unchanged)

(2) ...(unchanged)

(3) ...(unchanged)

(4) ...(unchanged)

(5) ...(unchanged)

(6) ...(unchanged)

(e) ...(unchanged)

(1) ...(unchanged)

(2) ...(unchanged)

(f) ...(unchanged)

(g) ...(unchanged)

(1) ...(unchanged)

(2) ...(unchanged)

(3) ...(unchanged)

(4) ...(unchanged)

(5) ...(unchanged)

(h) ...(unchanged)

NOTE: Authority cited: 20 USC Section 107b(5); 34 CFR Section 395.4; and Sections 19006, 19016, and 19639, Welfare and Institutions

Code. Reference: 20 USC Sections 107, 107a(a)(5), (b), and (e), 107b(3), and 107b-1(3); 34 CFR Sections 395.1(i), 395.2, 395.3(a)(4), 395.5, 395.7, 395.9, and 395.14(b); and Sections 19011, 19625, 19629, and 19638(b), Welfare and Institutions Code.

**§ 7220.7. Vendor Incapacitated or Deceased.**

(a) ... (unchanged)

(1) ... (unchanged)

(2) ... (unchanged)

(b) ... (unchanged)

(c) ... (unchanged)

(d) ... (unchanged)

(e) If the deceased vendor's spouse does not meet the requirements of Welfare and Institutions Code section 19641, the Department shall arrange with the spouse or other legal representative of the deceased vendor for the settlement of that vendor's accounts, including the vendor's interest in any equipment and stock. Once the actions taken pursuant to this subdivision are initiated, the BEP shall announce the

vending facility as available to operated by licensees and vendors consistent with section 7214 of these regulations.

(f) ... (unchanged)

NOTE: Authority cited: 20 USC Section 107b(5); 34 CFR Section 395.4; and Sections 19006, 19016, and 19639, Welfare and Institutions Code. Reference: 20 USC Sections 107b(6) and 107d-1(a); 34 CFR Sections 395.3(a)(7), 395.6, and 395.13; and Sections 19011, 19635, and 19641, Welfare and Institutions Code.

**§ 7227.2. Full Evidentiary Hearing.**

(a) ... (unchanged)

(1) ... (unchanged)

(2) ... (unchanged)

(3) ... (unchanged)

(e**b**) The licensee or vendor shall be notified of:

(1) ... (unchanged)

(2) ... (unchanged)

(A) ... (unchanged)

(B) ...(unchanged)

(C) ...(unchanged)

(~~d~~c) Any party or the hearing officer may request a continuance of the full evidentiary hearing which may be granted at the discretion of the hearing officer. A continuance shall be granted only if good cause exists and shall not extend the date of the full evidentiary hearing for more than 20 calendar days from the original hearing date. The hearing officer shall give written notice of any continuance to all parties. The notice of continuance for good cause shall include the grounds upon which the continuance was granted. For purposes of this subsection, good cause includes, but is not limited to, the following:

(1) ...(unchanged)

(2) ...(unchanged)

(3) ...(unchanged)

(4) ...(unchanged)

(~~e~~d) The hearing officer shall voluntarily disqualify him or herself from hearing a case in which he or she cannot accord a fair and impartial consideration. Any party may request a disqualification of the hearing officer by filing an affidavit prior to the taking of evidence at the hearing,

stating with particularity the grounds by which it is believed a fair and impartial hearing may not take place. Within five working days of the filing of the affidavit, the issue shall be decided by the Director or Chief Deputy Director and a new full evidentiary hearing scheduled.

(fe) Except for properly granted continuances, the licensee or vendor shall be given one opportunity to appear at a scheduled hearing. Failure to appear occurs when the licensee or vendor is more than thirty minutes late for a hearing without good cause, as determined by the hearing officer, or has failed to give the hearing officer at least twenty-four hours notice of intent not to appear. Failure of an authorized representative to appear shall not constitute failure of the licensee or vendor to appear, provided the licensee or vendor agrees that the full evidentiary hearing shall proceed in the absence of the authorized representative. Upon the licensee's or vendor's failure to appear at a scheduled full evidentiary hearing, the hearing officer shall immediately send, by certified mail, to the licensee or vendor and the authorized representative, if any, a notice stating that the opportunity to appear has been exhausted and that a request to reschedule the full evidentiary hearing for good cause must be received by the Department within ten working days. If a response is not received within the required period, the hearing officer shall inform the

Director who may dismiss the appeal with prejudice. If the request to reschedule is received within the required period and the hearing officer finds good cause has been shown, the full evidentiary hearing shall be rescheduled within 20 calendar days of receipt of the showing of good cause.

(gf) The rules governing the full evidentiary hearing shall be as follows:

- (1) ...(unchanged)
- (2) ...(unchanged)
- (3) ...(unchanged)
- (4) ...(unchanged)
- (5) ...(unchanged)
- (6) ...(unchanged)
- (7) ...(unchanged)
- (A) ...(unchanged)
- (B) ...(unchanged)
- (C) ...(unchanged)
- (8) ...(unchanged)

(9) ... (unchanged)

(A) ... (unchanged)

(B) ... (unchanged)

(C) ... (unchanged)

(10) ... (unchanged)

(A) ... (unchanged)

(B) ... (unchanged)

1. ... (unchanged)

2. ... (unchanged)

(11) ... (unchanged)

(A) ... (unchanged)

(B) ... (unchanged)

(C) ... (unchanged)

(12) ... (unchanged)

(A) ... (unchanged)

(B) ... (unchanged)

(13) The Director shall base the final decision upon careful consideration of:

(A) ...(unchanged)

(B) ...(unchanged)

(C) ...(unchanged)

(D) Any new evidence submitted by the licensee or vendor or authorized representative in conjunction with the Department's written response or rebuttal to the new evidence.

(14) ...(unchanged)

(h~~g~~) The record of the hearing shall consist of the decision resulting from the administrative review, if that process was undertaken prior to the full evidentiary hearing, the proposed decision, the final decision, a transcript or recording of the hearing, and all exhibits, papers and reports filed in the proceeding. If requested by the licensee or vendor or the authorized representative, the record of the hearing or any part thereof shall be furnished to him or her within 30 calendar days from receipt of a written request at a cost not to exceed ten cents per page or for free if fewer than ten pages are requested.

(ih) If a licensee or vendor is dissatisfied with the decision made after a full evidentiary hearing he or she may request that an arbitration panel be convened by filing a complaint with the Secretary of the United States Department of Education pursuant to 20 United States Code section 107d-1(a).

NOTE: Authority cited: 20 USC Section 107b(5); 34 CFR Section 395.4; and Sections 19006, 19016, and 19639, Welfare and Institutions Code.

Reference: 20 USC 107b(5), 107b(6), 107d-1 and 107d-2; 34 CFR Section 395.13; and Section 19635, Welfare and Institutions Code.