

OFFICE OF ADMINISTRATIVE LAW

Title 1, California Code of Regulations

§100. Publication of “Changes Without Regulatory Effect.”

(a) Subject to the approval of OAL as provided in subsections (c) and (d), an agency may add to, revise or delete text published in the California Code of Regulations without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Subject to the approval of OAL, the Department of Social Services may add to, revise or delete text published in the department Manual of Policies and Procedures (MPP) without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of the MPP. The addition, revision or deletion is a “change without regulatory effect.” Changes without regulatory effect include, but are not limited to:

(1) renumbering, reordering, or relocating a regulatory provision;

(2) deleting a regulatory provision for which all statutory or constitutional authority has been repealed;

(3) deleting a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, a United States District Court located in the State of California, the United States Court of Appeals for the Ninth Circuit, or the United States Supreme Court; however, OAL shall not approve any proposed change without regulatory effect if the change is based on a superior court decision which invalidated the regulatory provision solely on the grounds that the underlying statute was unconstitutional;

(4) revising structure, syntax, cross-reference, grammar, or punctuation;

(5) changing an “authority” or “reference” citation for a regulation; and,

(6) making a regulatory provision consistent with a changed California statute if both of the following conditions are met:

(A) the regulatory provision is inconsistent with and superseded by the changed statute, and

(B) the adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

(b) In submitting a change without regulatory effect to OAL for review the agency shall:

(1) submit seven copies of the regulations with an addition shown in underline or italics and a deletion shown in strike-out; and

(2) attach to each copy a completed Form 400, with at least one Form 400 bearing an original signature; and

(3) submit a written statement explaining why the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

(c) OAL shall determine whether a change submitted is a change without regulatory effect within 30 working days of its receipt. OAL shall send written notification of the determination to the agency which submitted the changes.

(d) If OAL determines that the submitted change is a change without regulatory effect, OAL shall file it with the Secretary of State and have it published in the California Code of Regulations. If the change without regulatory effect is a change to the MPP, OAL shall file the change with the Secretary of State and the Department of Social Services shall publish the change in the MPP.

NOTE: Authority cited: Sections 11342.4 and 11349.1(c), Government Code. Reference: Sections 11342.600, 11343.8, 11344.6 and 11346, Government Code; and Article III, Section 3.5, California Constitution.

(Amended 10/2002)