

# RESUBMITTAL

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 <b>Z-2015-0608-02</b>	REGULATORY ACTION NUMBER <b>2016-0524-02SR</b>	EMERGENCY NUMBER
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**ENDORSED - FILED**  
 in the office of the Secretary of State  
 of the State of California

**MAY 31 2016**

*3:18 PM*

For use by Office of Administrative Law (OAL) only

**2016 MAY 24 A 9:39**

**OFFICE OF ADMINISTRATIVE LAW**

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY Department of Rehabilitation	AGENCY FILE NUMBER (if any)
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**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)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <b>2015-25-2</b>
			PUBLICATION DATE <b>6/19/2015</b>

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

1a. SUBJECT OF REGULATION(S) Streamlined Eligibility and Medical Services	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2016-0125-02S
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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 7006.5 AMEND 7019.1, 7020, 7024, 7029.9, 7054, 7055, 7060, 7062, 7062.3, 7122, 7143, 7157, 7164, 7164.4, 7194 and 7198 REPEAL 7004.3, 7019.2, 7022, and 7029.3
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 type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" 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)  
 5/7/16-5/23/16

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

<input checked="" 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 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 checked="" 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>Kelly Hargreaves</i>	DATE <b>5-24-16</b>
TYPED NAME AND TITLE OF SIGNATORY Kelly Hargreaves, Chief Counsel	

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**ENDORSED APPROVED**

**MAY 31 2016**

**Office of Administrative Law**

## TEXT OF REGULATIONS

### Title 9. Rehabilitative and Developmental Services Division 3. Department of Rehabilitation

#### **§ 7004.3. Chief Medical Consultant. [Repealed]**

~~“Chief Medical Consultant” means a licensed physician and surgeon employed by the Department to provide statewide technical supervision of medical services, including recommendations in the formulation of medical policies and procedures.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: Sections 19006 and 19016, Welfare and Institutions Code.

#### **§ 7006.5. Consulting Psychologist.**

“Consulting Psychologist” means a licensed psychologist employed by the Department.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: Sections 19006 and 19016, Welfare and Institutions Code.

#### **§ 7019.1. Medical Consultant.**

~~“Medical Consultant” means a licensed physician and surgeon who is either employed by the Department or under contract with the Department as a staff member and who is administratively responsible to the District Administrator while under the technical supervision of the Chief Medical Consultant. He or she functions to interpret medical information, provide consultation and appropriate medical recommendations, give training to Counselors in the medical aspects of the rehabilitation process, and establish cooperative relationships with the medical community.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: Sections 19006 and 19016, Welfare and Institutions Code.

**§ 7019.2. Medical Services Officer. [Repealed]**

~~“Medical Services Officer” means a Rehabilitation Supervisor who is administratively responsible to the District Administrator and has the responsibility for coordinating the provision of medical services in the district. He or she communicates frequently with the Chief Medical Consultant and his or her staff to ensure statewide uniformity in the provisions of medical services.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: Sections 19006 and 19016, Welfare and Institutions Code.

**§ 7020. Physical and Mental Restoration Services.**

(a) “Physical and Mental Restoration Services” means ---

(1) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

(2) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;

(3) Dentistry;

(4) Nursing services;

(5) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(6) Drugs and supplies;

(7) Prosthetic and orthotic devices;

(8) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with State licensure laws;

(9) Podiatry;

(10) Physical therapy;

(11) Occupational therapy;

(12) Speech or hearing therapy;

(13) Mental health services;

(14) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment;

(15) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(16) Other medical or medically-related rehabilitation services, ~~including wheelchairs and hearing aids.~~

(b) Physical and mental restoration services may be provided only to the extent that financial support is not readily available from a source other than the Department (such as through health insurance or a comparable service and benefit as defined in Section 7006 of these regulations).

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC 723(a)(6); 34 CFR Sections 361.5(b)(40) and 361.48(e); and Section 19011, Welfare and Institutions Code.

**§ 7022. Psychiatric Consultant. [Repealed]**

~~“Psychiatric Consultant” means a licensed physician and surgeon who is either employed by the Department or under contract with the Department as a staff member and who is administratively responsible to the District Administrator while under the technical supervision of the Chief Medical Consultant. He or she functions to interpret medical information which is primarily psychiatric, to provide consultation and training to Counselors in aspects of psychiatry, and to establish cooperative relationships with the psychiatric community.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: Sections 19006 and 19016, Welfare and Institutions Code.

**§ 7024. Rehabilitation Counselor.**

“Rehabilitation Counselor” means an employee of the Department who:

- (a) Provides information, counseling, and referral services to individuals with disabilities in accordance with Sections 7035, 7037 and 7038 of these regulations;
- (b) Determines an applicant’s eligibility and ~~priority for services~~ under conditions specified in Section 7062 of these regulations;
- (c) Determines ~~Assesses~~ an eligible individual’s ~~level of significance of disability (LSOD) priority category~~ in accordance with Section 7062.354 for the purposes of an Order of Selection implemented pursuant to Section 7053 of these regulations;
- (d) Assists an eligible individual to develop the Individualized Plan for Employment (IPE), as appropriate, evaluates the contents of the IPE, and, if appropriate, approves and signs the IPE in accordance with Chapter 2, Article 5 of these regulations;

(e) Reviews the IPE at least annually, as appropriate, to assess the eligible individual's progress toward achieving the employment outcome in the IPE under conditions specified in Section 7133 of these regulations and collaborates, as appropriate, with the individual or, as appropriate, the individual's representative to amend the IPE, as necessary, as specified in Section 7130(a)(6) and (7) of these regulations;

(f) Coordinates and facilitates all aspects of the individual's vocational rehabilitation program;

(g) Maintains the record of services in accordance with Section 7122 of these regulations;

(h) Evaluates the appropriateness of closing an individual's record of services and conducts mandatory reviews after the record of services has been closed under conditions specified in Chapter 4 of these regulations; and

(i) Assists the individual to exercise informed choice throughout the vocational rehabilitation process.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC Sections 720(a)(3)(E), 721(a)(5) and (20), 722 and 723; 34 CFR Sections 361.13, 361.36, 361.37, 361.41, 361.42, 361.43, 361.44, 361.45, 361.47, 361.48, 361.52 and 361.56; and Sections 19000(e)(9), 19011 and 19102, Welfare and Institutions Code.

### **§ 7029.3. Vocational Psychologist. [Repealed]**

~~"Vocational Psychologist" means an employee of the Department who assists Department staff by: conducting psychological testing; providing consultation and recommendations; providing training to Department staff; establishing cooperative relationships in the psychological community; and, if~~

~~licensed by the Board of Psychology, providing diagnostic evaluation within the scope of his/her licensure.~~

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC 720(a)(3)(E); and Section 19000(e)(9), Welfare and Institutions Code.

**§ 7029.9. Responsibilities of Individuals with Disabilities; Applicants; Eligible Individuals.**

(a) Any individual with a disability who wishes to receive vocational rehabilitation services from the Department is responsible for completing the application process in accordance with the requirements of Section 7041 of these regulations.

(b) Any applicant or eligible individual, as appropriate, shall have the responsibility to:

(1) Participate and cooperate in obtaining and providing the information needed by the Department to:

(A) Determine eligibility and priority for services in accordance with Section 7062 of these regulations;

(B) ~~Determine level of significance of disability (LSOD)~~priority category for the purposes of an Order of Selection in accordance with Section 7062.354 of these regulations;

(C) Determine whether the individual's chosen employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests;

(D) Determine the nature and scope of vocational rehabilitation services to be included in the Individualized Plan for Employment (IPE) in accordance with Section 7130.5 of these regulations; and

(E) Make any other determinations that are required by or consistent with federal or state statutes and regulations.

(2) Be an active and full partner in the vocational rehabilitation process and exercise informed choice throughout the vocational rehabilitation process, with assistance from the Rehabilitation Counselor as appropriate, by engaging in the following activities to the extent possible:

(A) Gathering and evaluating information and participating in planning and problem solving and decisions related to the assessment process, selection of the employment outcome and settings in which employment occurs, vocational rehabilitation services, service providers, settings in which services will be provided, and methods for procuring services;

(B) Seeking or identifying needed resources;

(C) Evaluating the consequences of the various options;

(D) Making decisions in ways that reflect the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests; and

(E) Taking personal responsibility for implementing the chosen options and achievement of the employment outcome the individual selected.

(3) Report any changes in circumstances that may affect:

(A) Eligibility for vocational rehabilitation services;

(B) Priority category under an Order of Selection;

(C) The services and/or the employment outcome specified in the Individualized Plan for Employment (IPE); and

(D) The Department's ability to contact the individual.

(4) Cooperate in the assessment process and in developing and meeting the objectives identified in the IPE including, but not limited to, active participation, reasonable effort, regular attendance at scheduled appointments and training, and regular communication with the Rehabilitation Counselor regarding progress

toward achievement of the employment outcome. Failure to cooperate, make reasonable effort, lack of regular attendance, or failure to maintain regular communication may result in loss of further services and closure of the record of services.

(5) Participate in the cost of services under conditions specified in Chapter 5, Article 1 of these regulations.

(6) Apply for, secure and use comparable services and benefits to the extent to which the individual is eligible for such benefits in accordance with Chapter 5, Article 3 of these regulations.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC Sections 701(c), 720, 721(a)(5) and (8) and 722; 34 CFR Sections 361.13, 361.36, 361.38, 361.41(b), 361.42, 361.45, 361.46, 361.48, 361.53 and 361.54; Section 1798.15, Civil Code; and Sections 19011, 19018, 19102 and 19150(b), Welfare and Institutions Code.

**§ 7054. 7062.3. Assessment for Determining Priority Category in Order of Selection Level of Significance of Disability.**

(a) Assessing the level of significance of disability shall be Determining an eligible individual's "priority category" as defined in Section 7051(a)(6) when the Department is operating under an Order of Selection pursuant to Section 7053 of these regulations shall be:

(1) a collaborative effort on the part of Departmental staff and the individual with a disability and, as appropriate, his or /her family, or advocates, or designated representative; and

- (2) based on information collected from a wide variety of sources; and
- (3) based on a review of the individual's daily life, including community, home, school, and work, considering an individual's ability to participate in major life activities, as they impact an employment outcome; and
- (4) a consideration of the impact of an individual's impairment/s in each of the functional capacity areas (communication, interpersonal skills, mobility, self-care, work skills and work tolerance).
- (5) based on a review of the data that was developed under 7062(g) and 7062(h) to make the eligibility determination; and
- (6) based on an assessment of additional data, including data developed under 7062(i), to the extent necessary; and
- (7) based on an assessment in the most integrated setting possible and consistent with the individual's needs and informed choice.

(b) ~~When assessing the functional impact of the disability, Departmental staff shall, in collaboration with the individual and/or the individual's representative, complete a form DR 213A, Significance of Disability Instrument (New-06/01), incorporated herein by reference, indicating The record of services shall include determination of whether any serious limitations in terms of an employment outcome exists in each of the functional capacity areas.~~

The following factors are to be considered in determining if a serious limitation in terms of an employment outcome exists in each functional capacity area. The factors listed below ~~and on the form DR 213A, Significance of Disability Instrument (New-06/01)~~ for each of the functional capacity areas are not considered to be all-inclusive or fully comprehensive.

(1) A serious limitation in terms of an employment outcome is indicated in the area of communication when, as a result of the physical and/or mental impairment:

per agency request 1.J.E., 05-31-2016

(A) The individual requires accommodation to use, give and/or receive verbal/auditory information; or

(B) The individual requires accommodation to use, give and/or receive visual information.

(2) A serious limitation in terms of an employment outcome is indicated in the area of mobility when, as a result of the physical and/or mental impairment:

(A) The individual requires accommodation to move from place to place; or

(B) The individual is limited in terms of distance and/or terrain that can be traveled.

(3) A serious limitation in terms of an employment outcome is indicated in the area of interpersonal skills when, as a result of the physical and/or mental impairment, the individual requires accommodation to establish and/or maintain appropriate interactions with others.

(4) A serious limitation in terms of an employment outcome is indicated in the area of self-care when, as a result of the physical and/or mental impairment, the individual requires accommodation to plan and/or perform activities of daily living.

(5) A serious limitation in terms of an employment outcome is indicated in the area of work skills when, as a result of the physical and/or mental impairment:

(A) The individual requires accommodation to learn and/or perform work functions; or

(B) The individual requires accommodation to plan, problem solve and/or organize work functions.

(6) A serious limitation in terms of an employment outcome is indicated in the area of work tolerance when, as a result of the physical and/or mental impairment:

(A) The individual requires accommodation to sustain the required level of work function; or

(B) The individual is restricted from working in certain work environments which may include, but are not limited to, cold, heat and noise.

(c) The assessment also includes whether the number of "multiple vocational rehabilitation services" as defined in Section 7051(a)(5) are needed over an "extended period of time" as defined in Section 7051(a)(3): ~~individual shall receive a copy of form DR 213, Significance of Disability Determination (Rev. 07/01), incorporated by reference herein, within 30 days of determination of the level of significance of disability. The individual, or the individual's designated representative, and the counselor shall sign the form and it shall be included in the individual's record of services.~~

(d) The Department shall provide the individual with a copy of the priority category along with the notice of eligibility and priority for services as referenced in Section 7062(j).

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC Sections 705(21) and 721(a)(5); 34 CFR Sections 361.5(b)(30) and (31) and 361.36; and Sections 19011 and 19102, Welfare and Institutions Code.

### **§ 7055. Waiting List.**

(a) Upon a determination in accordance with Section 7052 that an Order of Selection for Vocational Rehabilitation Services must be implemented, the Department shall establish a statewide waiting list of eligible individuals in priority categories.

(b) The Department, through the local offices, shall notify each individual placed on the waiting list, or his or /her designated representative, in writing, of all of the following:

- (1) The priority category to which he or /she has been assigned.
- (2) The priority category(ies) that are currently being served.
- (3) His or /her appeal rights as specified in Sections 7350 through 7361.
- (4) His or /her right to a re-evaluation of his or /her priority category placement per Section 7055(f).

(c) ~~Ninety (90) days after an individual is placed on the waiting list and in ninety (90) day increments thereafter,~~ The Department shall contact the an individual on the waiting list, in writing, within one year of being placed on the waiting list, and at least annually thereafter to inform him or /her of the priority category to which he or /she has been assigned, the priority category(ies) that are currently being served, and his or /her waiting list status in order to determine if he or /she wishes to remain on the waiting list.

(d) If an individual does not respond within thirty (30) days of contact to the information contained in the ~~ninety (90) day~~ annual notice, the individual will be notified that his or /her case will be closed if there is no contact with the ~~Rehabilitation~~ Counselor within the next sixty (60) days. If the individual chooses, a designated representative may receive notification on his or /her behalf. If departmental staff is unable to contact the individual, or if the individual declines to remain on the waiting list, a notice of case closure letter will be sent to the individual or to his or /her designated representative.

(e) The final notice of case closure in Section 7055(d) shall contain all of the following:

- (1) the date of case closure;

- (2) the information regarding re-evaluation as stated in Section 7055(f);
- and
- (3) the individual's appeal rights as stated in Sections 7350 through 7361.
- (f) Individuals on the waiting list may request a re-evaluation of his or /her priority category placement at anytime he or /she believes that his or /her situation has changed sufficiently to place him or /her in a different priority category. The Department shall conduct a re-evaluation and notify individuals of the results within thirty (30) days of the request. If the re-evaluation takes longer than thirty (30) days, the Rehabilitation Counselor shall inform the client of the reason for the delay, and the estimated date the re-evaluation shall be completed.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: 29 U.S.C. 721(a)(5); 34 CFR 361.36; and Sections 19005 and 19102, Welfare and Institutions Code.

#### **§7060. General Provisions - Eligibility.**

- (a) ~~Once an individual has submitted an application for vocational rehabilitation services in accordance with 7041(b) of these regulations, a~~An eligibility determination must be made within 60 days of an individual submitting an application by meeting the requirements of 7041(b)(1)-(3), unless----
- (1) Exceptional and unforeseen circumstances beyond the control of the Department preclude making an eligibility determination within 60 days and the Department and the individual agree to a specific extension of time; or
- (2) Information required to make an eligibility determination must be obtained through trial work experience in accordance with Section 7062(h) or extended evaluation in accordance with Section 7062(i) of these regulations and cannot be obtained within 60 days.

(b) If the applicant does not agree to specific extension of time as specified in (a)(1) of this section, an eligibility determination shall be made based on the information available.

(1) If the applicant does not agree with the eligibility determination, the applicant and/or his or her authorized representative shall be informed of the right to appeal the determination made by the Department through administrative review, mediation, and fair hearing as provided in Chapter 12 of these regulations.

(c) Prohibited factors:

(1) The Department shall not impose, as part of determining eligibility, a duration of residence requirement that excludes from services any applicant who is present in the State.

(2) In making a determination of eligibility, the Department shall assure that---

(A) No applicant or group of applicants is excluded or found ineligible solely on the basis of the type of disability; and

(B) The eligibility requirements are applied without regard to the:

1. Age, gender, race, color, or national origin of the applicant;
2. Type of expected employment outcome;
3. Source of referral for vocational rehabilitation services; and

4. Particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC Sections 721(a)(12) and 722; 34 CFR Sections 361.41, 361.42, 361.45 and 361.57; and Sections 19009, 19011 and 19103, Welfare and Institutions Code.

**§7062. Assessment for Determining Eligibility and Priority for Services.**

In order to determine whether an individual is eligible for vocational rehabilitation services, and the individual's priority category in accordance with Section 7062.3 under an Order of Selection implemented pursuant to Section 7053 of these regulations, the Department must conduct an assessment in the most integrated setting possible, consistent with the individual's needs and informed choice, and in accordance with the following provisions.

(a) The Department's determination of an applicant's eligibility for vocational rehabilitation services must be based only on the following requirements:

(1) A determination by qualified personnel, who need not be Department employees, that the applicant has a physical or mental impairment;

(2) A determination by qualified personnel, who need not be Department employees, that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant;

(3) A determination by a Rehabilitation Counselor employed by the Department that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(4) A presumption, in accordance with (c) of this section, that the applicant can benefit from the provision of vocational rehabilitation services in terms of an employment outcome in an integrated setting.

(b) Personnel not employed by the Department who make the determination(s) specified in (a)(1) or (2) must:

(1) Possess the knowledge and expertise needed to make the determination(s); and

(2) Base the determination(s) on current information that is relevant and sufficient to support such determination(s).

(c) The Department must presume that an applicant who meets the eligibility requirements specified in (a)(1) and (2) of this section can benefit in terms of an employment outcome in an integrated setting, unless it demonstrates, based on clear and convincing evidence, that the applicant is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome in an integrated setting due to the severity of the applicant's disability.

(d) When determining the eligibility of Social Security recipients and beneficiaries the following conditions shall apply:

(1) Any applicant who has been determined by the Social Security Administration (SSA) to be eligible for Social Security benefits under Title II (Social Security Disability Insurance (SSDI)) or Title XVI (Supplemental Security Income (SSI)) of the Social Security Act (42 USC Section 401 and 1381) because the individual is blind or disabled is---

(A) Presumed eligible for vocational rehabilitation services under (a) and (c) of this section; and

(B) Considered an individual with a significant disability as defined in Section 7017.5 of these regulations.

(2) If an applicant for vocational rehabilitation services asserts that he or she is eligible for Social Security benefits under Title II or Title XVI of the Social Security Act (and therefore is presumed eligible for vocational rehabilitation services under (d)(1)(A) of this section), but is unable to provide appropriate evidence, such as an award letter to support that assertion, the Department must verify the applicant's eligibility under Title II or Title XVI of the Social Security Act

by contacting the Social Security Administration. The Department shall obtain verification within a reasonable period of time that enables the Department to determine the applicant's eligibility for vocational rehabilitation services within 60 days of the individual submitting an application for services in accordance with Section 7041(b) of these regulations.

(e) Any eligible individual, including an individual whose eligibility for vocational rehabilitation services is based on the individual being eligible for Social Security benefits under Title II or Title XVI of the Social Security Act, must intend to achieve an employment outcome that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(f) Nothing in this section, including the provisions of (d)(1), shall be construed to create an entitlement to any vocational rehabilitation service.

(g) Except as provided in (h) and (i) of this section, the Department--

(1) Must base its determination of each of the basic eligibility requirements in (a) of this section on---

(A) A review and assessment of existing data, including:

1. Rehabilitation Counselor observations including, but not limited to, observation of an obvious impairment, as in the case of loss of a limb.

2. Medical records.

3. Education records.

4. Information provided by the individual or the individual's family, particularly information used by education officials.

5. Determinations made by officials of other agencies.

(B) To the extent existing data do not describe the current functioning of the individual or are unavailable, insufficient, or inappropriate to make an eligibility determination, an assessment of additional data resulting from the provision of

vocational rehabilitation services, including trial work experiences, assistive technology devices and services, personal assistance services, and any other support services that are necessary to determine whether an individual is eligible.

(2) Must base its presumption under (d)(1) of this section that an applicant who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act satisfies each of the basic eligibility requirements in (a) of this section on determinations made by the Social Security Administration.

(h) Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome in an integrated setting due to the severity of the individual's disability, the Department must conduct trial work experience as defined in Section 7029.1 of these regulations to determine whether or not there is clear and convincing evidence to support such a determination.

(i) Under limited circumstances if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the Department is able to determine whether the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome in an integrated setting, or whether there is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome in an integrated setting due to the severity of the individual's disability, the Department must conduct an extended evaluation as defined in Section 7014 of these regulations.

~~(j) When the Department is operating under an Order of Selection implemented pursuant to Section 7053 of these regulations, the Department must base its priority category assignments on---~~

~~(1) A review of the data that was developed under (g) and (h) of this section to make the eligibility determination; and~~

~~(2) An assessment of additional data, including data developed under (i) of this section, to the extent necessary.~~

(kj) The Rehabilitation Counselor shall document the basis on which the individual's eligibility has been established in a notice of eligibility. This notice, signed and dated by the Rehabilitation Counselor, shall be provided to the individual and a copy placed in the individual's record of services.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC 722; 34 CFR Sections 361.5(b)(16), 361.13, 361.42 and 361.47; and Sections 19011 and 19100, Welfare and Institutions Code.

### **§ 7122. Content of the Record of Services.**

The Department must maintain for each applicant and eligible individual a record of services that includes, to the extent pertinent, the following documentation:

(a) If an applicant has been determined to be an eligible individual, a notice of eligibility and documentation supporting that determination in accordance with the requirements under Section 7062 of these regulations.

(b) If an applicant or eligible individual receiving services under an Individualized Plan for Employment (IPE) has been determined to be ineligible, a notice of ineligibility and documentation supporting that determination in accordance with the requirements under Section 7098 of these regulations.

(c) Documentation that describes the justification for closing an applicant's or eligible individual's record of services if that closure is based on reasons other than ineligibility.

(d) ~~Documentation supporting the level of significance of disability and priority for services category for each eligible individual in the form of the DR-213, Significance of Disability Determination (Rev. 03/04) and the DR-213A,~~

~~Significance of Disability Instrument (New 06/01), incorporated by reference herein, required~~ when the Department is under an Order of Selection pursuant to Chapter 2, Article 2 of these regulations.

(e) If an individual with a significant disability requires an exploration of abilities, capabilities, and capacity to perform in realistic work situations through the use of trial work experiences or, as appropriate, an extended evaluation to determine whether the individual is an eligible individual:

(1) Documentation supporting the need for, and the plan relating to, trial work experience or, as appropriate, extended evaluation; and

(2) Documentation regarding the periodic assessments carried out during the trial work experiences or, as appropriate, results of the extended evaluation, in accordance with Sections 7014(d), 7029.1(b)(3), and 7062(h) and (i) of these regulations.

(f) The IPE and any amendments to the IPE, consistent with the requirements of Section 7131.

(g) Documentation describing the extent to which the applicant or eligible individual exercised informed choice in the development of the IPE, consistent with Section 7029.6(b) of these regulations.

(h) In the event that an individual's IPE provides for vocational rehabilitation services in a non-integrated setting, a justification to support the need for the non-integrated setting.

(i) In the event that an individual obtains competitive employment, verification that the individual is compensated at or above the minimum wage and that the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by non-disabled individuals in accordance with Section 7006.3(b) of these regulations.

(j) In the event an individual achieves an employment outcome in which the individual is compensated in accordance with section 14(c) of the Fair Labor Standards Act (FLSA) (29 USC 214(c)), or the Department closes the record of services of an individual in extended employment on the basis that the individual is unable to achieve an employment outcome consistent with Section 7011 of these regulations, or that an eligible individual through informed choice chooses to remain in extended employment, documentation of the results of mandatory reviews after the record of services has been closed required by Section 7181.1(b) of these regulations, the individual's input into those reviews, and the individual's or, if appropriate, the individual's representative's signed acknowledgement that those reviews were conducted.

(k) Documentation concerning any action or decision resulting from a request by an individual for a review of determinations made by Department personnel in accordance with Chapter 12 of these regulations.

(l) In the event that an applicant or eligible individual requests that documentation in the record of services be amended and the documentation is not amended, documentation of the request.

(m) In the event an individual is referred to another program through the Department's information and referral system under Section 7037 of these regulations, including other components of the statewide workforce investment system, documentation on the nature and scope of services provided by the Department to the individual and on the referral itself, consistent with the requirements of Section 7037 of these regulations.

(n) In the event an individual's record of services is closed with a determination that an employment outcome has been achieved, documentation that demonstrates:

- (1) Services provided under the individual's IPE contributed to the achievement of the employment outcome; and
- (2) All of the requirements for closure of the record of services with an employment outcome have been satisfied.
  - (o) Additional documentation, as appropriate, including, but not limited to:
    - (1) Documentation and results of mandatory reviews after the record of services has been closed required by Section 7181.1(a) of these regulations and necessary when the Department determines that an applicant or an individual receiving services under an IPE is ineligible for vocational rehabilitation services based on a finding that the individual is incapable of achieving an employment outcome.
    - (2) Documentation and results of annual reviews of the Individualized Plan for Employment (IPE) conducted pursuant to Section 7133 of these regulations.
    - (3) Any personal information that the Department collects and maintains about an individual for purposes of the administration of the vocational rehabilitation program.
    - (4) Documentation of the appointment of an authorized representative, duly appointed guardian, or conservator provided by an individual or the court.
    - (5) Details of disclosure(s) of personal information about an individual made to that individual pursuant to Section 7141 or made to other persons or entities pursuant to Sections 7142 and 7143 of these regulations.
    - (6) For an individual who is reapplying for vocational rehabilitation services, copies of pertinent records from his or her previous record of services.
    - (7) The DR 222, Vocational Rehabilitation Services Application (Rev. 03/04), incorporated by reference herein.
    - (8) Documentation of referrals made to the Department by other agencies and by the Department to other agencies, including agencies that are partners in

the One-Stop service delivery system, consistent with Sections 7035, 7037, and 7038 of these regulations.

(9) Documentation that the Department has made a reasonable number of attempts to contact an applicant who declines to participate in, or is unavailable to complete, the assessment for determining eligibility and priority for services, required before closing a record of services without an eligibility determination pursuant to Section 7179 of these regulations.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 29 USC Sections 721(a)(19) and (20) and 722(a), (b) and (d); 34 CFR Sections 361.5(b)(11) and (16), 361.37, 361.38, 361.41, 361.42, 361.43, 361.44, 361.45, 361.46, 361.47, 361.48, 361.52, 361.53, 361.55 and 361.57; Section 1798 et seq., Civil Code; and Section 19011, Welfare and Institutions Code.

#### **§ 7143. Disclosures Without Written Consent.**

(a) The applicant or client shall be informed at the initial interview of the following exceptions to the regulation that no disclosure shall be made without the written consent of the applicant or client. Any disclosure made under this part shall be strictly limited to the information necessary to carry out the purposes for which the information was released.

(1) Disclosure of information in the case record may be made between or among the staff members of the Department and its medical panel.

(2) Disclosure of information in the case record may be made in order to process payment to or from the client or to purchase goods and services for the client.

(3) Disclosure of information in the case record may be made to any federal or state auditor or reviewer who has authority under federal or state law to conduct an audit or review of the Department.

(4) Disclosure of information in the case record may be made to any official of the United States Department of Education, who has authority under law to review or inspect such case records.

(5) Disclosure of information in the case record may be made to the Social Security Administration, the Disability Evaluation Division of the California Department of Social Services (DSS), ~~the Medi-Cal Division of the Department of Health Services (DHS)~~ the Department of Health Care Services (DHCS), ~~the Department of Mental Health (DMH)~~ the Department of Public Health (CDPH), the Department of State Hospitals (DSH), the Department of Developmental Services (DDS) and Regional Centers, ~~the Department of Alcohol and Drug Programs (DADP)~~, and the Employment Development Department (EDD). Information that can be released without client consent to these agencies is limited to the following:

(A) The status of the applicant/client including whether the client is in training.

(B) Information relating to the ~~IWRP~~ IPE such as employment goal, training received, changes made to the plan, etc.

(C) The projected time in plan.

(D) Whether EDD, ~~DHS~~, or DSS, or California Department of Education (CDE) purchased services will be utilized in the implementation of the plan and the information, except medical information, necessary to obtain those services.

(E) The extent of client participation in the plan.

(F) The date of employment or on-the-job training.

(G) The date the case is closed, or training is completed or ceases, and if it ceases prior to completion, the reasons therefore.

(6) Disclosure of information in the case record may be made to medical personnel, either private or governmental, when in the opinion of a member of the professional staff of the Department a medical emergency exists.

(7) Disclosure of information in the case record, except that which would disclose the results of any HIV test performed, may be made to protect the potential victim when, in the exercise of reasonable skill, knowledge and care, a member of the professional staff of the Department determines, based on reliable information, that an applicant or client poses a danger of violence to another person.

(8) Disclosure of information in the case record may be made to an employee of the Department, or a designated representative of an employee, when such employee has punitive action taken against him or /her by the Department and such action is based, or partly based, on information in a case record. Such disclosure shall be conditioned on a written agreement to protect the information from unauthorized disclosure.

(9) Disclosure of written materials and other information may be made to either of the following:

(A) An impartial hearing officer when such disclosure is necessary for the resolution of an appeal as provided in Section 7354 of these regulations.

(B) An Equal Employment Opportunity Counselor or Investigator, or the Chief, Office of Civil Rights ~~and Affirmative Action~~ when the disclosure is necessary to accomplish any of the following:

1. Review a complaint for prima facie evidence of discrimination.
2. Resolve a complaint of alleged discrimination.
3. Conduct an investigation of a complaint of alleged discrimination.

(10) Disclosure of information in the case record may be made to a prospective employer of a client of the Department without specific written consent, except medical and psychological, provided that such client has signed the general consent statement on the Application for Services.

(11) Disclosure of personal and confidential information for research purposes shall be made only at the discretion of the Department's Chief, Statistics Section, if:

(A) the research is directly connected with the vocational rehabilitation of disabled individuals;

(B) the organization or individual gives satisfactory written assurance that the information will be used only for the purpose for which it is provided;

(C) the information provided will not be released to persons not directly connected with the study under consideration;

(D) the final product of the research will not reveal any information that would tend to identify any person without the written consent of such person and the Department;

(E) the plan of the organization or individual for maintaining confidentiality of the information provided is approved by the Department prior to the initiation of the research project.

(b) The Department shall keep an accounting of those disclosures so designated by the Information ~~Privacy~~ Practices Act of 1977.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code and Section 1798.30, Civil Code. Reference: Sections 1798.24 and 1798.25, Civil Code; Sections 19000, 19013 and 14113, Welfare and Institutions Code; and 34 CFR Sections 104.7, 104.51, 104.61, 361.19 and 361.38.

### **§ 7157. On-the-Job Training.**

(a) On-the-job training programs shall be selected on the basis of the individual trainer's ability and willingness to instruct the client.

(b) Compensation paid by the trainer to the client during and/or after the on-the-job training period shall meet all legal requirements.

(c) Clients receiving on-the-job training are considered employees of the trainer and shall receive appropriate benefits and employee insurance coverage, except that the Department shall bear the full amount of any additional workers' compensation insurance premium expense incurred by the trainer during the clients' training period. The Department shall either reimburse the trainer for his or /her increased costs or purchase a policy specifically for the client.

(d) On-the-job training agreements developed in accordance with section 7157.5 are not legally binding contracts, and may be modified or terminated by the Department or trainer whenever circumstances warrant.

(e) The length of the on-the-job training shall be based upon the following factors:

(1) The usual and customary training period required for a specific occupation.

(2) The extent to which the client already qualifies for the vocational objective.

(3) The extent of both the client's:

(A) Educational background.

(B) Physical or mental impairment.

~~(f) On-the-job training shall be limited to a total expenditure of \$1500 per case unless the training is pursuant to a contractual agreement between the Department and another public agency, such as the State Personnel Board. In unusual situations, the District Administrator may waive this limitation, for example, the client lives in a remote area of the state where schools are not available, or the nature or severity of the client's disability is such that extensive training and assistance are required.~~

Note: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.  
Reference: Section 3351.5, Labor Code; Section 19150, Welfare and Institutions Code; 34 CFR Sections 361.42, 361.48 and 361.50.

#### **§ 7164. Vehicle Purchase.**

(a) A motor vehicle shall be purchased for a client only when all of the following conditions exist:

(1) The client for whom the vehicle will be purchased meets all of the following conditions:

(A) Is physically unable to use non-adapted or alternate forms of transportation.

(B) Has competitive employment as a vocational goal and one of the following conditions exist. The client:

1. Is ready for or participating in vocational training.
2. Is job ready.
3. Has been offered a job.
4. Is already employed in suitable employment.

(C) Has the financial ability to operate, maintain and replace the vehicle as determined pursuant to section 7164.2.

(2) All other modes of transportation, as well as permanent relocation, have been explored and documented and a determination has been made that vehicle purchase is the most cost effective means of obtaining transportation necessary to meet the client's specialized vocational needs.

~~(3) For a client who is a SSI/SSP recipient, the Counselor, as part of fulfilling the requirements under section 7161(b), has obtained documentation of refusal of the Social Security Administration to allow the client to establish an approved plan~~

~~for achieving self support as defined in 20 CFR sections 416.1180 through 416.1182 and sections 416.1225 through 416.1227.~~

(43) The client has been evaluated by the Department or by a Department-approved mobility evaluation program in accordance with section 7164.4, or has obtained a waiver of the mobility evaluation in accordance with section 7164.6 and one of the following conditions exist:

(A) The client has a driver's license and has obtained a waiver of the mobility evaluation.

(B) The mobility evaluation program has determined that the client has a driver's license or has the potential for obtaining a driver's license and the client agrees that:

1. All driving instruction recommended by a mobility evaluation program shall be mandatory even if the client has a current driver's license.

2. Until the unlicensed client receives a driver's license, a licensed driver who has been approved by the Counselor and who has been provided instructions regarding any modifications added to the vehicle shall be utilized at all times.

(C) The client does not have the potential to obtain a driver's license, but both of the following conditions exist:

1. A determination has been made through the mobility evaluation program or waiver process that the client meets the passenger criteria.

2. The client agrees that a licensed driver who has been approved by the Counselor and who has obtained instructions regarding any modifications added to the vehicle shall be utilized at all times.

(54) The client has signed the Issuance of Vehicle form (DR\_290A dated February, 1991) promising to abide by the following conditions while his or /her case remains open:

(A) If the client does not possess a driver's license, only the person(s) specified in (a)(43)(B)2. or (C)2. shall operate the vehicle.

(B) Manufacturers guidelines or General Service Administration's instructions contained in STD 271 (revised 8-78), which is incorporated by reference herein, regarding vehicle maintenance shall be followed.

(C) A record of both vehicle and modification maintenance shall be maintained in STD 271 and shall be reviewed annually by the Rehabilitation Counselor.

(D) The client shall provide proof of insurance in an amount at least equal to the State's legally prescribed minimum level for the vehicle being purchased.

(E) Until the case is closed, the Department shall be the legal owner of the vehicle. If the case is closed for a reason other than "rehabilitated", the vehicle shall be returned to the Department, unless the client purchases the vehicle from the Department at fair market value as determined in accordance with section 7194(c). In no instance shall any client financial participation obligation paid by the client be refunded.

(F) The client shall make no alterations to the vehicle or its adaptive equipment without the prior written approval of the Rehabilitation Counselor.

(G) The client shall obtain any recommended driver instruction and not drive the vehicle independently until all instructions recommended by the Mobility Evaluation program are completed.

(H) If the client is the driver, the client shall maintain a valid California driver's license and shall notify the Rehabilitation Counselor if his or /her license is no longer valid.

(I) The client shall notify the Rehabilitation Counselor if the vehicle is involved in an accident.

(J) The client shall notify the Rehabilitation Counselor of any reason which prevents him or /her from carrying out his or /her IWRP IPE.

(b) The least expensive vehicle which meets the client's specialized vocational needs shall be purchased.

(c) The vehicle shall be inspected and approved by the Fleet Administration Division of the Department of General Services.

Note: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.

Reference: Section 19150(a)(12), Welfare and Institutions Code; 34 CFR Sections 361.5, 361.42, and 361.48.

#### **§ 7164.4. Mobility Evaluations.**

(a) Mobility evaluations shall be accepted only if completed by a Department-approved Mobility Evaluation program which complies with the standards specified in section 7302.

(b) Prior to the authorization of a mobility evaluation, the approval of the District Administrator shall be obtained. The District Administrator's decision shall be based upon such criteria as verification that:

(1) All of the conditions in section 7164(a)(1)(A) and (C) and (2) and ~~(3)~~ are met.

(2) There is compliance with section 7161(b) and all of the requirements therein are met. For the purposes of client financial participation, the amount shall be calculated for the month in which the vehicle will be received by the client and payment shall be made to the Department at the time the client receives the vehicle.

(3) There is evidence that the client has completed or will successfully complete his or /her IWRP IPE.

(c) A mobility evaluation for clients who wish to be drivers shall include an assessment of all of the following:

(1) Physical functional abilities, including but not limited to, medical condition, strength and range of motion.

(2) Perceptual and cognitive abilities, including but not limited to, visual abilities, judgment skills and emotional stability.

(3) A behind-the-wheel assessment using the type of vehicle and equipment recommended pursuant to (f) which shall include both of the following:

(A) Stationary vehicle testing to determine the client's specific positioning needs, initial equipment needs and functional potential to operate the vehicle.

(B) A moving vehicle assessment which shall include an assessment of all of the following. The client's:

1. Physical performance in the driving set-up.

2. Integration of physical, visual and cognitive skills in varied driving environments.

3. Endurance and fatigue threshold.

(4) Potential for obtaining a driver's license.

(d) If the client has the potential to obtain a driver's license, the mobility evaluation, in addition to the items specified in (c), shall include both of the following:

(1) Specifications for adaptive driving equipment and vehicle modifications as specified in (f).

(2) An estimate of the amount and type of driver instruction needed.

(e) A mobility evaluation for clients who will be passengers shall include both of the following:

(1) An assessment of the client's:

(A) Functional abilities.

(B) Equipment needs for safety as a passenger.

(2) The appropriate recommendations specified in (f).

(f) Recommendations for the least expensive and complicated type of vehicle and assistive device which will meet the client's functional capabilities and vocational and safety needs. A van shall be the last alternative considered. Recommended vehicle modifications and assistive devices shall meet the standards specified in section 7165(d).

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: Section 19150(a)(11), Welfare and Institutions Code; 34 CFR Sections 361.5, 361.42, and 361.48.

#### **§ 7194. Department-Loaned Property.**

(a) The Department may loan equipment or other items, except items specified in (b), to a client while he or /she is participating in an IWRPIPE. The Department shall retain title to the property until one of the following occurs:

(1) The client is successfully rehabilitated. When this occurs the Rehabilitation Counselor shall determine if the property is essential to the client's employment. Upon a determination by the Rehabilitation Counselor that the property is:

(A) Essential to the client's employment, the ownership shall be transferred to the client if the client either;

1. Has no financial participation obligation, or
2. Pays the outstanding balance of his or /her financial obligation, if any, to the Department.

(B) Not essential to the client's employment, the property may be purchased by the client at a fair market value, as defined in (c). If the client does not purchase the property, it shall be returned to the Department.

(2) The client's WRPIPE is interrupted and the case is closed as not rehabilitated or the case is inactivated. When this occurs, the property shall be returned to the Department unless the client purchases it at fair market value, as defined in (c).

(b) Ownership of the following items shall be transferred to the client immediately upon receipt by the client providing he or /she has no client financial participation obligation or he or /she pays the outstanding balance of the financial participation obligation to the Department. The client has no legal right to the property until the client financial participation obligation is paid.

(1) Prosthetic, orthotic and other assistive-physical restoration devices includeing, but are not limited to, wheelchairs, hearing aids and eyeglasses.

(2) Customized equipment that has been modified to meet the individual client's needs, excluding modifications to state-owned vehicles to which the Department holds title.

(c) Fair market value shall be determined by the Rehabilitation Counselor contacting a party qualified to appraise the specific item of property, such as the party from whom the item was originally purchased. Factors to be considered shall include the age and current condition of the item.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code. Reference: 34 CFR 361.47(a); and Sections 19018 and 19150, Welfare and Institutions Code.

### **§ 7198. Extreme Medical Risk.**

(a) For purposes of this section "extreme medical risk" means a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(ab) The determination of availability of similar benefits under any other program shall not apply if the determination would delay the provision of vocational rehabilitation services to any-client eligible individual who is at extreme medical risk.

(bc) A determination of extreme medical risk shall be based upon medical evidence provided by a licensed physician and verified by the District a Medical Consultant. ~~For purposes of this section "extreme medical risk" means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.~~

(ed) Nothing in this section shall be construed to mean that the Department shall either:

(1) Be required to provide services to persons who no longer meet the conditions of eligibility specified in Section 7062.

(2) Become a primary health care payment program or take the place of other primary health care payment programs, such as the Medi-Cal program.

NOTE: Authority cited: Sections 19006 and 19016, Welfare and Institutions Code.

Reference: Section 19150(b), Welfare and Institutions Code; and 34 CFR

Sections 361.1, 361.5 and 361.47(b).

Applicant Name	Counselor Name
Social Security Number	

The significance of disability determination is based on an assessment of your disabilities and their impact on 10 areas of functional capacity, the number of vocational services you require, and the estimated time required to complete your vocational rehabilitation. The level of significance of disability determination is used with your date of application to establish a priority category. Your placement in a priority category determines the order in which you will be served. An explanation of priority category is contained on page 2.

**PRIORITY CATEGORY**

Priority Category \_\_\_\_\_ Application Date \_\_\_\_\_

Priority Category 1 = Most Significant  
 Priority Category 2 = Significant  
 Priority Category 3 = Disabled

The following information was used to determine your level of Significance of Disability:

**Functional Capacity Area Seriously Impacted:**

*Repeated*

- |                      |                            |
|----------------------|----------------------------|
| _____ Mobility       | _____ Communication        |
| _____ Self-Care      | _____ Interpersonal Skills |
| _____ Work Tolerance | _____ Work Skills          |

- \_\_\_\_\_ Estimated Number of Vocational Rehabilitation Services Required  
 \_\_\_\_\_ Estimated Months to Complete Vocational Rehabilitation Services

The Department of Rehabilitation is operating under an Order of Selection whereby eligible individuals receive vocational rehabilitation services based on their priority category.

You may request a re-evaluation of your priority category placement if you believe your situation has changed sufficiently to place you in a different priority category.

- \_\_\_\_\_ You will be provided vocational rehabilitation services.  
 \_\_\_\_\_ We are currently unable to serve you. You have been placed on a waiting list and will be contacted every 90 days and informed of, among other things, your priority category and the priority category being served. Your appeal rights are explained on the attached from DR1000.

**PRIORITY CATEGORY CURRENTLY BEING SERVED**

**Level of Significance of Disability**

**Application Date On or Before**

Priority Category 1

Priority Category 2

Priority Category 3

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PRIORITY CATEGORY**

The priority category is established:

First: Based on an individual's level of significance of disability.

(Level of significance of disability means disabled, significantly disabled or most significantly disabled. A priority category including individuals who are significantly disabled will not be opened until the Department has sufficient resources to serve all eligible individuals who are most significantly disabled, regardless of application date. A priority category including individuals who are disabled will not be opened until the Department has sufficient resources to serve all eligible individuals who are most significantly disabled or significantly disabled, regardless of application date.)

Second: Based on the date of the application.

*Repeated*

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Your signature indicates that you have received this form.

Your Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Authorized Rep/Parent:

\_\_\_\_\_ Date: \_\_\_\_\_

Counselor Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

**MOBILITY means:**

The ability to move from place to place.

No serious limitation in terms of an employment outcome has been determined for this functional capacity at this time.

A serious limitation in terms of an employment outcome is indicated when, as a result of the physical and/or mental impairment:

The individual requires accommodation to move from place to place. This may include, but is not limited to, the following:

- Wheelchair, prosthesis, orthosis, mobility training, mobility aid and/or service dog to move from place to place;
- Personal assistance to move from place to place;
- Assistance to use public transportation, read maps or signposts to move from place to place;

The individual is limited in terms of distance and/or terrain that can be traveled.

Other serious limitation in terms of an employment outcome (Specify):

*Specified*

Accommodation for the purpose of evaluating the impact in a functional capacity area means any type of assistance required as a result of an impairment including but not limited to work site adaptations, job restructuring, assistive technology devices, personal assistance services, prescribed medication, alternate media or prosthesis. (CCR 7051(a)(1))

*Repealed*

**COMMUNICATION means:**

The ability to use, give and/ or receive information.

No serious limitation in terms of an employment outcome has been determined for this functional capacity at this time.

A serious limitation in terms of an employment outcome is indicated when, as a result of the physical and/or mental impairment:

The individual requires accommodation to use, give and/or receive verbal/auditory information. This may include, but is not limited to, the following:

- Rehabilitation technology that includes, but is not limited to, an augmentative speech device, screen reading software, hearing aid, TTY or assistive listening device to use, give and/or receive verbal/auditory information;
- Interpreter to use, give and/or receive verbal information.

The individual requires accommodation to use, give and/or receive visual information. This may include, but is not limited to, the following:

- Low vision aids to use, give and/or receive visual information;
- Braille/tactile labels and/or a braille to use, give and/or receive visual information;
- Rehabilitation technology including, but not limited to, screen reading software to use, give and/or receive visual information.

Other serious limitation in terms of an employment outcome (Specify) :

Accommodation for the purpose of evaluating the impact in a functional capacity area means any type of assistance required as a result of an impairment including but not limited to work site adaptations, job restructuring, assistive technology devices, personal assistance services, prescribed medication, alternate media or prosthesis. (CCR 7051(a)(1))

*Repealed*

**SELF-CARE means:**

The ability to plan and/or perform activities of daily living.

No serious limitation in terms of an employment outcome has been determined for this functional capacity at this time.

A serious limitation in terms of an employment outcome is indicated when, as a result of the physical and/or mental impairment:

- The individual requires accommodation to plan and/or perform activities of daily living. This may include, but is not limited to, the following:
- Personal assistance services to plan and/or perform activities of daily living;
  - Rehabilitation technology to plan and/or perform activities of daily living;
  - Specialized training to independently plan and/or perform activities of daily living.

Other serious limitation in terms of an employment outcome (Specify):

Accommodation for the purpose of evaluating the impact in a functional capacity area means any type of assistance required as a result of an impairment including but not limited to work site adaptations, job restructuring, assistive technology devices, personal assistance services, prescribed medication, alternate media or prosthesis. (CCR 7051(a)(1))

*Repealed*

**INTERPERSONAL SKILLS means:**

The ability to establish and/or maintain appropriate interactions with others.

No serious limitation in terms of an employment outcome has been determined for this functional capacity at this time.

A serious limitation in terms of an employment outcome is indicated when, as a result of the physical and/or mental impairment:

The individual requires accommodation to establish and/or maintain appropriate interactions with others. This may include, but is not limited to, the following:

- Specialized training and/or personal assistance services to establish and/or maintain appropriate interactions with co-workers, supervisors, etc;
- Prescribed medication to establish and/or maintain appropriate interaction with co-workers, supervisors, etc.

Other serious limitation in terms of an employment outcome (Specify) :

Accommodation for the purpose of evaluating the impact in a functional capacity area means any type of assistance required as a result of an impairment including but not limited to work site adaptations, job restructuring, assistive technology devices, personal assistance services, prescribed medication, alternate media or prosthesis. (CCR 7051(a)(1))

Repealed

**WORK SKILLS means:**

The ability to learn and/or perform work functions.

No **serious** limitation in terms of an employment outcome has been determined for this functional capacity at this time.

A **serious** limitation in terms of an employment outcome is indicated when, as a **result of the physical and/or mental impairment:**

The individual **requires** accommodation to learn and/or perform work functions. This may include, but is not limited to, the following:

- Job coach to learn and/or perform work functions;
- Prescribed medications to learn and/or perform work functions;
- Specialized training and/or personal assistance services to learn and/or perform work functions;
- Job modifications including, but not limited to, job restructuring, modified work area or additional time to learn and/or perform work functions;
- Rehabilitation technology to learn and/or perform work functions.

The individual **requires** accommodation to plan, problem solve and/or organize work functions. This may include, but is not limited to, the following:

- Rehabilitation technology to plan, problem solve and/or organize work functions;
- Personal assistance services to plan, problem solve and/or organize work functions;
- Specialized training to plan, problem solve and/or organize work functions;
- Job Coach to plan, problems solve and/or organize work functions.

Other **serious** limitation in terms of an employment outcome (Specify) :

Accommodation for the purpose of evaluating the impact in a functional capacity area means any type of assistance required as a result of an impairment including but not limited to work site adaptations, job restructuring, assistive technology devices, personal assistance services, prescribed medication, alternate media or prosthesis. (CCR 7051(a)(1))

*Repealed*

**WORK TOLERANCE means:**

The ability to sustain the required level of work function.

No serious limitation in terms of an employment outcome has been determined for this functional capacity at this time.

A serious limitation in terms of an employment outcome is indicated when, as a result of the physical and/or mental impairment:

The individual requires accommodation to sustain the required level of work function. This may include, but is not limited to, the following:

- Adjusted work schedule to meet continuing medical treatment and/or medical needs.
- Variable work schedule for medical appointments or medical needs.
- Prescribed medication to sustain required levels of work function.

Restricted from working in certain work environments which may include, but are not limited to, cold, heat, noise;

Other serious limitation in terms of an employment outcome (Specify):

Accommodation for the purpose of evaluating the impact in a functional capacity area means any type of assistance required as a result of an impairment including but not limited to work site adaptations, job restructuring, assistive technology devices, personal assistance services, prescribed medication, alternate media or prosthesis. (CCR 7051(a)(1))

**SIGNIFICANCE OF DISABILITY DETERMINATION**

Applicant Name

Counselor Name

DR 213 (REGS/Rev. 03/04)

*Repealed*

Social Security Number

The significance of disability determination is based on an assessment of your disabilities and their impact on 6 areas of functional capacity, the number of vocational rehabilitation services you require, and the estimated time required to complete your vocational rehabilitation. The significance of disability determination is used with your date of application to establish a priority category. Your placement in a priority category determines the order in which you will be served. An explanation of priority category is contained on page 2.

**PRIORITY CATEGORY**

Priority Category \_\_\_\_\_

Application Date \_\_\_\_\_

Category 1 = Most Significant

Category 2 = Significant

Category 3 = Disabled

**The following information was used to determine your level of Significance of Disability:**

**Functional Capacity Area Seriously Impacted:**

\_\_\_\_\_ Mobility

\_\_\_\_\_ Communication

\_\_\_\_\_ Self-Care

\_\_\_\_\_ Interpersonal Skills

\_\_\_\_\_ Work Skills

\_\_\_\_\_ Work Tolerance

\_\_\_\_\_ Estimated Number of Vocational Rehabilitation Services Required

\_\_\_\_\_ Estimated Months to Complete Vocational Rehabilitation Services

The Department of Rehabilitation is operating under an Order of Selection whereby eligible individuals receive vocational rehabilitation services based on their priority category.

You may request a re-evaluation of your priority category placement if you believe your situation has changed sufficiently to place you in a different priority category.

\_\_\_\_\_ You will be provided vocational rehabilitation services.

\_\_\_\_\_ We are currently unable to serve you. You have been placed on a waiting list and will be contacted every 90 days and informed of, among other things, your priority category and the priority category being served. Your appeal rights are explained on the attached form DR1000.

**PRIORITY CATEGORY CURRENTLY BEING SERVED**

**Level of Significance of Disability**

**Application Date On or Before**

Priority Category 1

Priority Category 2

Priority Category 3

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Repealed*

**PRIORITY CATEGORY**

The priority category is established:

First: Based on an individual's level of significance of disability.

(Level of significance of disability means disabled, significantly disabled or most significantly disabled. A priority category including individuals who are significantly disabled will not be opened until the Department has sufficient resources to serve all eligible individuals who are most significantly disabled, regardless of application date. A priority category including individuals who are disabled will not be opened until the Department has sufficient resources to serve all eligible individuals who are most significantly disabled or significantly disabled, regardless of application date.)

Second: Based on the date of the application.

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Your signature indicates that you have received this form.

Your Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Rep/Parent: \_\_\_\_\_ Date: \_\_\_\_\_

Counselor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Privacy Statement**

The Information Practices Act of 1977 (Civil Code Section 1798.17) and the Federal Privacy Act (5 USC 552a(e)(3)) require this notice to be provided to individuals when collecting personal information. The information requested on this form, including the Social Security Number, is necessary to properly identify the individual to ensure that the Department provides services to the correct individual. Failure to provide the information requested may result in delays in services. Department authority: Welfare & Institutions Code Sec. 19005, 19005.1, 19010.

*Repealed***YOUR RIGHTS AND REMEDIES REGARDING YOUR REHABILITATION PROGRAM**

If questions or problems arise while you are an applicant or client of the Department of Rehabilitation, please talk with your Rehabilitation Counselor and/or call the Client Assistance Program (CAP). You may bring a family member or other representative with you any time you meet with Department staff.

If you are dissatisfied with any action or decision of the Department, you have the right to speak to a Rehabilitation Supervisor, have an Administrative Review by the District Administrator, or file a formal request for a mediation and/or Fair Hearing. In fact, you can always file for a mediation and/or Fair Hearing at any time; however, many problems can be resolved informally and more quickly at the local level.

You have the right to take any of the following steps should issues arise:

**COUNSELOR** Many misunderstandings and problems can be solved by talking them over with your Rehabilitation Counselor. Sometimes your counselor may not know that a problem exists. It is your responsibility to tell him or her.

**SUPERVISOR** If you believe that you and your counselor cannot resolve the issue, you may ask for a meeting with your counselor's supervisor to discuss the problem.

**ADMINISTRATIVE REVIEW** If the issue is not resolved with the Rehabilitation Supervisor, you may request an Administrative Review by the District Administrator. The Administrative Review must be requested within one year of the decision with which you disagree. If the issue is still not resolved at this level, you may request a mediation and/or Fair Hearing within 30 days.

**MEDIATION** You may request confidential mediation at any time within one year of the action or decision with which you disagree. If you and the Department representatives are not able to resolve the issue directly, a qualified, impartial mediator can help you find solutions that are satisfactory for both of you. If the Department agrees to mediate, a mediation will be held within 25 calendar days from receipt of your request, unless you agree to a later date. Request for Mediation forms are available from Department staff and/or CAP advocates. Completed request forms should be faxed to 916-739-7199 Attention: Department of Rehabilitation Mediation Coordinator QR mailed to Department of Rehabilitation Mediation Coordinator, Institute of Administrative Justice, McGeorge School of Law, 3200 Fifth Avenue, Sacramento, CA 95817 (Voice 916-739-7049). Requests for mediation may also be made at the same time a request for Fair Hearing is filed with the Rehabilitation Appeals Board.

**FAIR HEARING** At any time within one year of the action or decision with which you disagree (within 30 days if you had an administrative review) you may request a Fair Hearing. This is your opportunity to present your case to the Rehabilitation Appeals Board. The Board is composed of seven members who are citizens from the community, appointed by the Governor. At the hearing, you have the right to present information to the Board, explaining why you feel the Department should change a decision it has made. The Department of Rehabilitation is also allowed to provide information to the Board. After the hearing, a written, final decision will be made by the Board. Requests for Fair Hearing forms are available from Department staff and/or CAP advocates. Completed request forms should be sent to Rehabilitation Appeals Board, Department of Rehabilitation, P.O. Box 944222, Sacramento, CA 94244-2220 (Voice 916-263-8979 or TTY 916-263-7477).

The Fair Hearing will be scheduled within 45 days of your request, unless you agree to a delay. You may appear at the hearing in person or have the matter heard on the written record. If the Fair Hearing decision does not satisfy you, you have the right to file a petition with the California Superior Court (within six months) to review the matter.

**DISCRIMINATION** If you have reason to believe that actions or decisions were based on discrimination against your protected status, such as race, religion, sex, etc., you have the right to contact the Department's Office of Civil Rights and Affirmative Action for discrimination counseling or to file a discrimination complaint. Assistance regarding discrimination concerns can be obtained from the Office of Civil Rights and Affirmative Action by calling Voice 916-263-8662 or TTY 916-263-7488

**CLIENT ASSISTANCE PROGRAM** The Client Assistance Program is available to assist you during the entire rehabilitation and appeals processes. You can call them toll free at Voice 800-952-5544 or TTY 800-598-3273.