

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

The following substantive changes were made to the originally proposed text:

- Section 115.02 (b)(2) was amended for clarity by separating each reason for which attendance could be restricted by adopting subsections (b)(2)(A) through (C). The requirements are unchanged, however, the subsection is clearer with the addition of the three subsections.
- Section 115.06 was amended to add the words “as consented to by the person requesting electronic service.”
- Section 115.10 (a)(2)(D) was amended to remove the word ‘may’ and replace with the word ‘shall.’ The use of the word ‘may’ causes the potential exclusion of evidence to be discretionary. To ensure clarity, the department determined that the use of the word “shall” would ensure a fair hearing process.
- Section 115.11 (c)(1) was amended for clarity. As originally proposed, subsection (c)(1) established that a motion that is not served orally on the record or in writing, served on the hearing officer either in person or by mail will not be accepted and will be denied. This text could have been confusing as it both said a motion will not be accepted and will be denied. This section was revised to make clear that a motion that was not served in compliance with subsection (c) will not be accepted for filing and will not be considered.
- Section 115.11 (d) was amended to remove existing text. The originally proposed text large portions of existing text subsection (d) was inadvertently omitted. That language was added but was also being removed due to lack of necessity. The amendments made clear that oral arguments shall be made on the record. The method by which oral argument is made, whether in person or through electronic means, is immaterial.
- Section 115.13(d)(2) was amended to add reference to subsection (d)(1). Subsection (d) allows a motion for continuance to be made and filed within 10 business days following the time a party discovered a conflict, event, or occurrence. Subsection (b)(1) establishes that a motion for continuance will not be granted if it is made more than 10 days following the time the party discovered the conflict. However, the department wanted to allow parties to establish extenuating circumstances where the notice requirements in subsection (d) could not be met. For clarity, the department added a citation back to subsection (d)(1), as it relates to a motion for continuance not being granted.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action adopting Sections 115.00, 115.01, 115.12, and 115.13, and amending Sections 115.00, 115.02, 115.03, 115.04, 115.05, 115.06, 115.07, 115.08, 115.09, and 115.10 in Article 2.4, Chapter 1, Division 1, Title 13 of the California Code of Regulations, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on January 5, 2024, and made available to the public from January 5, 2024 through February 20, 2024.

The department received no written comments during the 45-day comment period.

4) Determination of Alternatives

The department provided the amended to the public for a 45-day comment period. During that time, the department received no comments presenting any alternatives to the proposed rules. This action, in part, adopts the provisions of Government Code section 11440.30 making it easier for the department to conduct hearings remotely. The processes adopted in this action represent those that strike a balance between allowing for hearings to be held remotely while also allowing for all the features of a hearing including, the exchange of information, testimony of witnesses and filing of motions. This action also represents be most cost effective and less burdensome alternative as the hearing process adopted in this action will streamline the hearing process and ensure each matter is adjudicated efficiently for both the department and the driver.

For the reasons stated here, the department has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.