

**State of California
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation**

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATIONS**

Workers' Compensation – Public Disability Accommodations

**Title 8, California Code of Regulations, Sections 9708.1, 9708.2, 9708.3, 9708.4, 9708.5,
9708.6, 10226.1, 10226.2, 10226.3, 10226.4, 10226.5, 10226.6**

NOTICE IS HEREBY GIVEN, pursuant to Government Code section 11346.8(c) that the Administrative Director of the Division of Workers' Compensation, proposes to modify the text of the following proposed regulations to Title 8, California Code of Regulations:

Section 9708.1	Definitions
Section 9708.2	Disability Accommodation Request Process
Section 9708.3	Confidentiality [no changes]
Section 9708.4	Disability Accommodation Request in Administrative Hearings under the Jurisdiction of the Administrative Director
Section 9708.5	Decision-making Process
Section 9708.6	Appeal Procedure
Section 10226.1	Definitions
Section 10226.2	Disability Accommodation Request Process
Section 10226.3	Confidentiality
Section 10226.4	Disability Accommodation Requests in Workers' Compensation Cases
Section 10226.5	Decision-making Process
Section 10226.6	Appeal Procedure

PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present written comments regarding this proposed modification. **Only comments concerning the proposed modification to the text of the regulation will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603

Notice of 15-Day Comment Period and Changes to Proposed Text:
8 CCR §§ 9708.1-9708.6; §§10226.1-10226.6
October 11, 2011

San Francisco, CA 94142

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on October 26, 2011.

Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@dir.ca.gov

Due to the inherent risks of non-delivery by facsimile transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text, the modified text with modifications clearly indicated and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 1515 Clay Street, 17th Floor, Oakland, California. Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 15-Day Comment Period:

Deletions from the original codified regulatory text noticed for the 45-comment period are indicated by single strike-through: ~~deleted language~~.

Additions to the original codified regulatory text noticed for the 45-comment period are indicated by double underlining: added language.

SUMMARY OF PROPOSED CHANGES

- **Modifications to Section 9708.1 - Definitions**

In response to comments received, the section is modified.

Subdivision (e) is revised to add that equipment and other physical modifications for physical access are also disability accommodations that the agency provides.

Notice of 15-Day Comment Period and Changes to Proposed Text:
8 CCR §§ 9708.1-9708.6; §§10266.1-10266.6

October 11, 2011

Subdivision (g) is added to define what is meant by the use of the term, “disability coordinator” to indicate the individual(s) handling disability accommodations for the agency.

Former subdivision (g) is relettered to subdivision (h) and is revised to include “and locations” after the phrase, “and includes other offices” in the second sentence to clarify that accommodations will be provided at all locations where the agency conducts business.

Subdivision (k) is added to define what is meant by the use of the term, “Statewide Disability Coordinator” as the individual handling disability accommodations statewide for the agency.

Subdivisions (g) through (i) have been relettered to reflect the additional definitions.

Labor Code Section 138.2 is also added as an “Authority” for this section as it sets forth the Administrative Director’s authority and jurisdiction over agency offices and staff, which are referenced in this section.

- **Modifications to Section 9708.2 – Disability Accommodation Request Process**

Subdivision (b) is revised to capitalize references to “disability coordinator” and “statewide disability coordinator,” as they are titles and are defined terms.

- **Modifications to Section 9708.4 – Disability Accommodation Requests in Administrative Hearings under the Jurisdiction of the Administrative Director**

In response to comments received, the section has been modified.

The title of the section is revised to delete the phrase “in Administrative Hearings under the Jurisdiction of the Administrative Director” and is replaced by “in Division of Workers’ Compensation Hearings” to clearly reflect that the section applies to all hearings under the Division of Workers’ Compensation.

Subdivision (b) is revised to capitalize the title of “disability coordinator” and to include the phrase, “or the workers’ compensation administrative law judge” after both references to hearing officers in the section.

Subdivision (c) is revised to delete the term, “*ex parte*” from the first sentence. The subdivision is also revised to add a sentence clarifying that impermissible *ex parte* communications will be disclosed.

- **Modifications to Section 9708.5 – Decision-making Process**

Subdivision (i) is revised to capitalize the reference to “disability coordinator” in the second sentence. Also, the second sentence is revised to delete “The” and replace it with “A” to refer to the fact that any disability coordinator may verbally inform the requestor of an accommodation decision.

- **Modifications to Section 9708.6 – Appeal Procedure**

Subdivisions (b) and (d) are revised to capitalize the references to the “statewide disability coordinator.”

- **Modifications to Section 10226.1 Definitions**

This section has been deleted due to the passage of Assembly Bill (AB) 1426, eliminating the authority and position of the Court Administrator to promulgate rules and regulations, effective October 7, 2011.

- **Modifications to Section 10226.2 Disability Accommodation Request Process**

This section has been deleted due to the passage of AB 1426, eliminating the authority and position of the Court Administrator to promulgate rules and regulations, effective October 7, 2011.

- **Modifications to Section 10226.3 Confidentiality**

This section has been deleted due to the passage of AB 1426, eliminating the authority and position of the Court Administrator to promulgate rules and regulations, effective October 7, 2011.

- **Modifications to Section 10226.4 Disability Accommodation Requests in Workers’ Compensation Cases**

This section has been deleted due to the passage of AB 1426, eliminating the authority and position of the Court Administrator to promulgate rules and regulations, effective October 7, 2011.

- **Modifications to Section 10226.5 Decision-making Process**

This section has been deleted due to the passage of AB 1426, eliminating the authority and position of the Court Administrator to promulgate rules and regulations, effective October 7, 2011.

- **Modifications to Section 10226.6 Appeal Procedure**

This section has been deleted due to the passage of AB 1426, eliminating the authority and position of the Court Administrator to promulgate rules and regulations, effective October 7, 2011.