

INITIAL STATEMENT OF REASONS

TITLE 17, Division 2, Chapter 2 DEPARTMENT OF DEVELOPMENTAL SERVICES

Description of the Public Problem, Administrative Requirement or Other Condition or Circumstance the Regulations is Intended to Address

Current state regulations do not specify that eligibility for service issues may be addressed in the complaint process. State regulations currently also do not provide for mediation to be available during complaint procedures. For these reasons, OSEP made findings of non-compliance regarding State procedural safeguards after a technical assistance visit in fall 2007 as documented in California's Annual Performance Report for FFY 2007. The proposed amendments to the Early Start Regulations will bring California into compliance with applicable federal regulations. OSEP indicated in correspondence to DDS that financial sanctions jeopardizing California's IDEA Part C grant would be imposed if regulations were not amended to conform with federal regulations. DDS is proposing amendments to Title 17, Division 2, Chapter 2, Sub Chapter 5 (Procedural Safeguards) to clarify state regulations to be consistent with federal regulations, clear OSEP findings of non-compliance for California, and assure federal funding.

These amendments to existing regulations are intended to clear the findings of non-compliance of the State by OSEP.

Specific Purpose and Rationale for Necessity

Section 52170. Complaint Procedure.

Section 52170(a)

Specific Purpose

This subdivision is proposed to be amended to clarify the circumstances and procedures for the filing of a complaint.

Rationale for Necessity

This amendment is necessary to provide clarification that a complaint may be filed for any alleged violation of federal or state statute or regulations related to early intervention services provided through Part C of the IDEA, including a determination of eligibility for services. This amendment complies with federal regulations.

Section 52170 (f).

Specific Purpose

This subsection is proposed to be amended to clarify the contents required to be submitted in a written complaint regarding any violation of federal or state law or regulation related to early intervention services provided through Part C of IDEA, including a determination of eligibility for services. This amendment complies with federal regulations.

Rationale for Necessity

This amendment is necessary to specify the contents required to be submitted in a written complaint to include a statement that a Part C agency has violated any federal or state law or regulation governing the provision of early intervention service including determination of eligibility.

Section 52170(g)

Specific Purpose

This subdivision is proposed to be added to clarify that mediation is available at any time to resolve disagreements involving any matter related to IDEA, Part C.

Rationale for Necessity

This amendment is necessary to specify that mediation is available at any time before or during a complaint investigation to resolve disagreements involving any matter related to Part C. This amendment complies with federal regulations.

Section 52172. Procedures that apply to both Mediation and Due Process.

Section 52712(b)

Specific Purpose

This subdivision is proposed to be added to clarify that a parent may also request a mediation conference at any time regarding any alleged violation of federal or state law or regulation involving IDEA, Part C.

Rationale for Necessity

This amendment is necessary to clarify that a parent may request a mediation conference at any time regarding any alleged violation of federal or state law or

regulation governing the provision of early intervention services. This amendment complies with federal regulations. Existing subdivisions (b) through (g) are re-lettered accordingly.

Section 52712 (e) as re-lettered.

Specific Purpose

This subsection, as re-lettered, is proposed to be amended to specify that the duration for either a mediation conference or a due process hearing shall not exceed thirty days for each process. The timeline begins with the receipt of the mediation or due process request to the mailing of the mediation agreement or hearing decision.

Rationale for Necessity

This amendment is necessary to clarify the timeline for completing the mediation agreement or the due process hearing decision. The 30 day timeline for mediation is consistent with the due process timeline.

Section 52173. Mediation Procedures.

Section 52173 (b)

Specific Purpose

This subdivision is proposed to be amended to clarify that mediation is available at any time to resolve disagreements involving any matter related to IDEA, Part C.

Rationale for Necessity

This amendment is necessary to clarify that mediation is available at any time before or during a complaint investigation to resolve disagreements involving any matter to Part C. This amendment complies with federal regulations.