

**State of California  
Office of Administrative Law**

**In re:  
Department of Social Services**

**Regulatory Action:  
Manual of Policies and Procedures**

**Adopt sections: 60-100, 60-101,  
60-102, 60-103,  
60-104, 60-105,  
60-106, 60-107,  
60-108, 60-109,  
60-203, 60-204,  
60-205, 60-206,  
60-300, 60-301,  
60-302, 60-303,  
60-304, 60-305,  
60-400, 60-401,  
60-402, 60-403**

**DECISION OF DISAPPROVAL OF  
REGULATORY ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2026-0205-01**

**OAL Matter Type: Regular (S)**

**SUMMARY OF REGULATORY ACTION**

This regulatory action by the Department of Social Services (Department) proposes to add sections to its Manual of Policies and Procedures (MPP) to implement the Bringing Families Home Program, Housing and Disability Advocacy Program, and California Work Opportunity and Responsibility to Kids Housing Support Program.

On February 5, 2026, the Department submitted the above-referenced regulatory action to the Office of Administrative Law (OAL) for review. On March 20, 2026, OAL notified the Department that OAL disapproved the proposed regulatory action pursuant to the Administrative Procedure Act (APA). This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

## **DECISION**

OAL disapproved the action because the proposed regulatory changes failed to comply with the clarity standard of Government Code section 11349.1, subdivision (a)(3), the authority standard of Government Code section 11349.1, subdivision (a)(2), and for incorrect procedure.

## **DISCUSSION**

The Department's regulatory action must satisfy requirements established by the part of the APA that governs rulemaking by a state agency. Any regulation adopted, amended, or repealed by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, is subject to the APA unless a statute expressly exempts the regulation from APA coverage. (Gov. Code, sec. 11346.) No exemption applies to the present regulatory action under review.

Before any regulation subject to the APA may become effective, the regulation is reviewed by OAL for compliance with the procedural requirements of the APA and the standards for administrative regulations in Government Code section 11349.1. Generally, to satisfy the APA standards, a regulation must be legally valid, supported by an adequate record, and easy to understand. In this review, OAL is limited to the rulemaking record and may not substitute its judgement for that of the rulemaking agency regarding the substantive content of the regulation. This review is an independent check on the exercise of rulemaking powers by executive branch agencies intended to improve the quality of regulations that implement, interpret, and make specific statutory law, and ensure that the public is provided with a meaningful opportunity to comment on regulations before they become effective.

### **1. CLARITY STANDARD**

In adopting the APA, the Legislature found that the language of many regulations was unclear and confusing to persons who must comply with the regulations. (Gov. Code, sec. 11340, subd. (b).) Government Code section 11349.1, subdivision (a)(3), requires that OAL review all regulations for compliance with the clarity standard. Government Code section 11349, subdivision (c), defines "clarity" to mean "written or displayed so that the

meaning of regulations will be easily understood by those persons directly affected by them.”

The “clarity” standard is further defined in section 16 of title 1 of the California Code of Regulations (CCR), which provides:

In examining a regulation for compliance with the “clarity” requirement of Government Code section 11349.1, OAL shall apply the following standards and presumptions:

(a) A regulation shall be presumed not to comply with the “clarity” standard if any of the following conditions exists:

(1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or

(2) the language of the regulation conflicts with the agency’s description of the effect of the regulation; or

(3) ...

(5) the regulation presents information in a format that is not readily understandable by persons “directly affected;” or

(6) ...

(b) Persons shall be presumed to be “directly affected” if they:

(1) are legally required to comply with the regulation; or

(2) are legally required to enforce the regulation; or

(3) derive from the enforcement of the regulation a benefit that is not common to the public in general; or

(4) incur from the enforcement of the regulation a detriment that is not common to the public in general.

The following provisions in the Department's proposed regulatory action do not satisfy the clarity standard.

### **1.1 Proposed Section 60-105.53**

Proposed section 60-105.53 reads:

If a grantee falls out of compliance with applicable laws, regulations, or **Departmental guidance**, the Department **may provide a written notification of noncompliance** to the grantee.

[Emphasis added.]

Proposed section 60-105.53 is unclear for two reasons.

First, proposed section 60-105.53 is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) As written, it is unclear what “Departmental guidance” the Department requires grantees to comply with.

Second, proposed section 60-105.53 is unclear because it can be reasonably and logically interpreted to have more than one meaning and it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, subs. (a)(1) and (a)(5).) The use of “may” makes it unclear under what circumstance the Department will choose not to provide a written notification of noncompliance, even if a grantee has fallen out of compliance with applicable laws.

## **1.2 Proposed Section 60-108.1**

Proposed section 60-108.1 reads:

Grantees shall report program data to the Department, inclusive of aggregate and individual-level data, as requested by the Department. **The Department shall determine the frequency, manner, and type of that data is submitted**, including whether reports developed by the Department must be used.

[Emphasis added.]

Proposed section 60-108.1 is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) As written, it is unclear how often, in what manner, and what data must be reported to the Department. Additionally, without further clarification or the addition of relevant cross references, it is unclear how these requirements will be determined by the Department.

### **1.3 Proposed Section 60-107.3**

Proposed section 60-107.3 reads:

Grantees shall submit their annual budget to the Department **in a manner determined by the Department** upon receipt of program allocations.

[Emphasis added.]

Proposed section 60-107.3 is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) As written, it is unclear how a grantee is required to submit their annual budget to the Department, how the Department will determine the manner of submission, and whether the manner of submission will vary from grantee to grantee. Additionally, it is unclear within what timeframe the grantee must submit their annual budget to the Department upon receipt of program allocations.

### **1.4 Proposed Section 60-103.17**

Proposed section 60-103.17 reads:

Grantees **shall accept an applicant’s self-attestation** as verification that:

[Emphasis added.]

Proposed section 60-103.17 is unclear for two reasons.

First, proposed section 60-103.17 is unclear because it can be reasonably and logically interpreted to have more than one meaning. (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(1).) As written, it is unclear what type of self-attestation grantees must accept. One commenter echoed this clarity concern stating:

Proposed MPP section 60-103.17 is vague regarding whether self-attestation must be in writing or whether it can be verbal.

Second, proposed section 60-103.17 is unclear because it conflicts with the agency’s description of the effect of the regulation. (Cal. Code Regs., tit. 1, sec.

16, sub. (a)(2).) In response to the above comment, the Department explains in the Final Statement of Reasons:

The ability to accept a telephonic signature is available for programs processing application in the CalSAWS system. However, **not all of the HHD programs covered by these regulations use the CalSAWS system and may not have the functionality to accept a telephonic signature at this time.** CDSS will not be making any changes to the proposed regulations MPP Section 60-103.17 to specify that both written and oral attestations are acceptable but may consider this change in future regulations if and when all programs are able to receive signatures telephonically.  
[Emphasis added.]

The response to the comment acknowledges a limitation on the methods by which a self-attestation may be accepted, but proposed section 60-103.17 does not include that limitation. Additionally, contrary to the response to the comment in the rulemaking record, proposed section 60-103.17 does not contain a requirement for the self-attestation to be signed by the applicant.

### **1.5 Proposed Section 60-103.216**

Proposed section 60-103.216 reads:

**The grantee has determined, in accordance with Housing First and the grantee's written policies and procedures, that the recipient requires either more long-term or permanent assistance than can be provided under time-limited Housing and Homelessness Programs.**

[Emphasis added.]

Proposed section 60-103.216 is unclear because it presents information in a format that is not readily understandable by persons "directly affected." (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) Proposed section 60-103.216 requires the grantee to render the determination. However, the nonregulatory Handbook language that follows proposed section 60-103.216 references agreement between the recipient and grantee regarding that finding. The Handbook language states:

A recipient has been enrolled in a Housing and Homelessness Program for twenty-four months. **The recipient and grantee agree** that during those twenty-four months, the recipient's ability to maintain or obtain permanent housing has diminished due to the recipient's increasing care needs. **The recipient and the grantee agree** that the recipient needs a permanent housing placement that can provide a greater level of care for a longer period of time than the Housing and Homelessness Program. The grantee provides the recipient with a warm handoff to a Permanent Supportive Housing unit that meets the recipient's needs and preferences. The recipient is discontinued from the Housing and Homelessness Program upon completion of the warm handoff.  
[Emphasis added.]

Between these two provisions, it is unclear whether the recipient and grantee must agree to this determination, or whether the grantee may render the determination unilaterally without recipient agreement.

### **1.6 Proposed Section 60-107.1**

Proposed section 60-107.1 reads:

Housing and Homelessness **Program budget categories shall consist of administrative costs, direct program service costs, and direct financial assistance.** Grantees shall minimize administrative costs and maximize direct program service costs and direct financial assistance. **However, there is no numeric cap on any budget category.**  
[Emphasis added.]

Proposed section 60-107.1 is unclear because it presents information in a format that is not readily understandable by persons "directly affected." (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) Proposed section 60-107.1 establishes three budget categories (administrative costs, direct program service costs, and direct financial assistance) with no numeric cap on these categories. However, the nonregulatory Handbook language that

follows proposed section 60-107.1 includes a numeric cap. The Handbook language states:

For tribal grantees, **the administrative costs may include indirect costs of up to twenty-five percent**, as established by Department policy.

[Emphasis added.]

Between these two provisions, it is unclear whether there is no numeric cap on any budget category or whether the inclusion of indirect costs within administrative costs for tribal grantees is subject to a 25 percent cap. Additionally, with respect to the Handbook language, it is unclear whether “as established by Department policy” is intended to serve as a cross reference to existing Department regulations or whether this is referencing other Department guidance.

For the reasons discussed above, the proposed regulatory changes failed to comply with the clarity standard of the APA.

## **2. AUTHORITY STANDARD**

Government Code section 11342.1 states, in relevant part, “Each regulation adopted, to be effective, **shall be within the scope of authority conferred** and in accordance with standards prescribed by other provisions of law.” [Emphasis added.] Thus, to ensure promulgation of legally valid regulations, and that agencies act within the scope of their rulemaking authority, Government Code section 11349.1, subdivision (a)(2), tasks OAL with reviewing proposed regulations for compliance with the authority standard of the APA. Government Code section 11349, subdivision (b), defines “authority” as, “the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation.”

The “authority” standard is further defined in section 14 of title 1 of the CCR, which provides:

(a) Sources of "Authority." "Authority" shall be presumed to exist only if an agency cites in its "authority" note proposed for printing in the California Code of Regulations:

(1) a California constitutional or statutory provision which expressly permits or obligates the agency to adopt, amend, or repeal the regulation; or

(2) a California constitutional or statutory provision that grants a power to the agency which impliedly permits or obligates the agency to adopt, amend, or repeal the regulation in order to achieve the purpose for which the power was granted.

(b)...

(c) Review of "Notes." In reviewing "notes," OAL shall use the same analytical approach employed by the California Supreme Court and the California Court of Appeal, as evidenced in published opinions of those courts.

(1) For purposes of this analysis, an agency's interpretation of its regulatory power, as indicated by the proposed citations to "authority" or "reference" or any supporting documents contained in the rulemaking record, shall be conclusive unless:

(A) the agency's interpretation alters, amends, or enlarges the scope of power conferred upon it; or

(B)...

Proposed section 60-103.14 does not satisfy the authority standard. Proposed section 60-103.14 reads:

**Notwithstanding any other law, an applicant or recipient's prior or current enrollment in other public benefits or social services programs shall not impact their eligibility for Housing and Homelessness Programs.**

[Emphasis added.]

The authority and reference note for proposed section 60-103.14 reads:

Authority cited: Sections 8256, 10553, 10554, 10604, 11330.5(i)(2), 16523.2(b), and 18999.1(d)(2), Welfare and Institutions Code.

Reference: Sections 8255, 16523, 16523.1, 18999, 18999.1, 18999.2, 18999.4, 18999.6, 11330, and 11330.5, Welfare and Institutions Code.

The cited sections of the Welfare and Institutions Code provide rulemaking authority to adopt regulations specific to the Bringing Families Home Program,

Housing and Disability Advocacy Program, and California Work Opportunity and Responsibility to Kids Housing Support Program. However, none of the cited statutory provisions expressly or impliedly provide that the Department may or shall adopt regulations which contradict or supersede “any other law.”

As such, proposed section 60-103.14 failed to comply with the authority standard of the APA.

### **3. INCORRECT PROCEDURE**

OAL also notes the following issues that must be addressed prior to any resubmission of this regulatory action.

#### **3.1 Substantive Changes to the Regulation Text Without Notice to the Public**

Government Code section 11346.8, subdivision (c), provides in relevant part:

No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5, unless the change is (1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. If a sufficiently related change is made, the full text of the resulting adoption, amendment, or repeal, with the change clearly indicated, shall be made available to the public for at least 15 days before the agency adopts, amends, or repeals the resulting language.

Following a notice period conducted from February 7, 2025, through March 24, 2025, the Department made several substantive changes to the regulation text. These changes include but are not limited to the following:

- Proposed section 60-102.37 lists risk factors which may be indicative of recipients with higher needs or vulnerability. The Department revised proposed section 60-102.37 to require consideration of a new risk factor of “uninhabitable housing” when determining prioritization of assistance.

- Proposed section 60-103.12 establishes the general requirements for program participation. The Department revised proposed section 60-103.12 to require consideration of the “amount” of assistance when determining requirements for the program participation.
- Proposed section 60-105.530 sets forth the contents of a notice of noncompliance. The Department revised proposed section 60-105.530 to remove the vague language of “where possible,” which clarified that collaboration between the Department and grantee is mandatory instead of discretionary.

The Department did not make the substantive revisions to the regulation text available to the public for review and comment pursuant to Government Code section 11346.8, subdivision (c), prior to submitting the regulatory action to OAL.

### **3.2 Confirmation of Mailing of Notice of Proposed Action**

CCR, title 1, section 86, subsection (a), sets forth the requirements for confirming the agency complied with the requirement to mail the Notice of Proposed Action pursuant to Government Code section 11346.4, subdivision (a). CCR, title 1, section 86, subsection (a), reads:

The rulemaking record shall contain a statement confirming that the agency complied with the provisions of Government Code section 11346.4(a)(1) through (4) and (6) regarding the mailing and posting of notice of proposed action at least 45 days prior to the public hearing, if any, and close of the public comment period, and stating the method(s) of delivery and the date(s) upon which the notice was mailed and posted on the agency's website, if the agency has a website. This section is not intended to require an agency to provide a copy of its mailing list to support the statement.

The statement provided in the Department's rulemaking record does not comply with CCR, title 1, section 86, subsection (a).

### **3.3 Public Comments**

Pursuant to Government Code section 11347.3, subdivisions (b)(6) and (12), all written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation must be included in the rulemaking record and identified on the Table of Contents.

Based on the inclusion of a public hearing transcript in the rulemaking record, despite the fact that no hearing was scheduled in the Notice of Proposed Action, it appears the Department received a written request to hold a public hearing in relation to the proposed adoption of these regulations. This comment is not included in the rulemaking record nor is it identified on the Table of Contents.

### **3.4 Notice of Public Hearing**

Pursuant to Government Code section 11347.3, subdivisions (b)(2) and (12), all published notices must be included in the rulemaking record and identified on the Table of Contents.

Following the notice period conducted February 7, 2025, through March 24, 2025, the Department held a hearing in relation to the proposed adoption of these regulations on March 27, 2026. Based on the rulemaking record, it is unclear whether notice of the public hearing was sent in accordance with Government Code section 11346.8, subdivision (a).

### **3.5 Documents Relied Upon**

Pursuant to Government Code section 11347.3, subdivisions (b)(7) and (12), all data and other factual information, technical, theoretical, empirical studies or reports on which the agency is relying in the adoption, amendment, or repeal of a regulation must be included in the rulemaking record and identified on the Table of Contents.

In the Initial Statement of Reasons, the Department lists a multitude of "research and articles" which are identified as "documents the Department is relying on." These documents are not included in the rulemaking record nor are they identified on the Table of Contents.

