

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION**

**FINAL STATEMENT OF REASONS AND  
UPDATED INFORMATIVE DIGEST**

**Subject Matter of Regulations:  
Retraining and Return to Work Regulations**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS  
Sections 10116 through 10133.58**

The Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 133, 138.4, 139.48, 139.5, 4658.5, 4658.6, and 5307.3, proposes to adopt regulations within Articles 6, 6.5, 7, and 7.5, Subchapter 1 to Chapter 4.5 of Title 8, California Code of Regulations, commencing with section 10116, relating to Retraining and Return to Work.

**Article 6. Retraining and Return to Work Definitions and General Provisions**

Proposed §10116	Filing and Reporting Requirements
Proposed §10116.1	Electronic Filing Exemption
Proposed §10116.2	Incomplete Filings
Amended §10116.3	Reproduction of Forms, Notice
Proposed §10116.4	Technical problems and unavailability of EAMS
Proposed §10116.5	Retraining and Return to Work File Retention
Proposed §10116.6	Misfiled or misdirected documents
Proposed §10116.7	Jurisdiction where the issue of injury has not been resolved
Amended §10116.8	Definitions for Article 6.5 and 7.5

**Article 6.5. Return to Work**

Amended §10117	Offer of Work; Adjustment of Permanent Disability Payments
Amended §10118	Form [DWC AD 10118 Notice of Offer of Work]
Amended §10119	Return to Work Program
Amended §10120	Form [DWC AD 10120 Request for Reimbursement of Accommodation Expenses]

**Article 7.0. Vocational Rehabilitation**

Amended §10123	Vocational Rehabilitation Reporting Requirements
Amended §10127	Dispute Resolution
Amended §10127.1	Conferences

Amended §10128	Request for Order of Rehabilitation Services
Amended §10133.13	Form RU-102 “Vocational Rehabilitation Plan” and Form Filing Instructions
Amended §10133.14	Form RU-103 “Request for Dispute Resolution” and Form Filing Instructions
Amended §10133.16	Form RU-105 “Notice of Termination of Vocational Rehabilitation Services.
Amended §10133.22	Form RU-122 “Settlement of Prospective Vocational Rehabilitation Services” and Form Filing Instructions.
Repealed §10133.3	Rehabilitation File Retention

## **Article 7.5. Supplemental Job Displacement Benefit**

Repealed §10133.50	Definitions
Amended §10133.53	Form DWC-AD 10133.53 “Notice of Offer of Modified or Alternative Work.”
Amended §10133.54	Dispute Resolution
Amended §10133.55	Form DWC-AD 10133.55 “Request for Dispute Resolution Before the Administrative Director.”
Amended §10133.56	Requirement to Issue Supplemental Job Displacement Non Transferable Training Voucher.
Amended §10133.57	Form DWC-AD 10133.57 “Supplemental Job Displacement Nontransferable Training Voucher Form.”.
Amended §10133.58	State Approved or Accredited Schools

## **UPDATED INFORMATIVE DIGEST**

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

## **UPDATE OF INITIAL STATEMENT OF REASONS**

As authorized by Government Code §11346.9(d), the Administrative Director hereby incorporates the Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated for any modification to the regulations is initially proposed, the necessity for the amendments to existing regulations and adoption of new regulations as set forth in the Initial Statement of Reasons continue to apply to the regulations as adopted.

All modifications from the initially proposed text of the regulations are summarized below.

## **THE FOLLOWING SUBDIVISIONS WERE AMENDED FOLLOWING THE PUBLIC HEARING AND CIRCULATED FOR A 15-DAY COMMENT PERIOD:**

### **Modifications to §10116. Filing and Reporting Requirements.**

**Subdivision (a)(2)** was revised to add “ed” on the word “return,” so that it now states “returned.”

**Subdivision (a)(3)** was corrected to include citations to proposed sections 10217 and 10228 of title 8 of California Code of Regulations. These sections set forth the filing requirements for EAMS.

**Subdivision (a)(4)** was revised to include the words “not less than 30 business days after filing” in response to comments requesting that the documents be retained for a period of time after the documents are scanned in case there was a mistake or error. This is necessary to assure the public that the documents will be retained for a period of time after scanning in case there was a mistake or error.

**The authority and reference were revised.** Sections 139.48, 4658, and 4658.5 were added to the authorities. Sections 4636, 4637, 4638, and 4645 were removed from the references as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10116.2. Incomplete filings.**

**Subdivisions (1), (2), and (3)** were corrected for clerical error to substitute the numbers with letters. Thus, the sections are now reflected as (a), (b), and (c).

**The authority and reference were revised.** Sections 139.48, 4658, and 4658.5 were added to the authorities. Sections 4636, 4637, 4638, and 4645 were removed from the reference as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10116.3. Reproduction of Forms, Notices.**

To clarify that this regulation only applies to injuries that occurred before January 1, 2004, the phrase “For injuries occurring before January 1, 2004” was added. The words “forms...by this article and Article 2.6 of Chapter 2, Part 2 of Division 4 of the Labor Code (commencing with section 4635)” were deleted as the Article no longer exists. The words were replaced with “vocational rehabilitation forms.” The “-94” was deleted as the name of the pamphlet was changed.

**The authority and reference were revised.** Sections 139.48, 4658, and 4658.5 were added to the authorities. Sections 4636, 4637, 4638, and 4645 were removed from the reference as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational

rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

#### **Modifications to §10116.4. Technical problems and unavailability of EAMS.**

**The title** of this section was changed to add the words “problems and” and corrected for clerical error to insert a period at the end of the title. The title of the section now reads: “§10116.4. Technical problems and unavailability of EAMS.”

**The authority and reference were revised.** Sections 139.48, 4658, and 4658.5 were added to the authorities. Sections 4636, 4637, 4638, and 4645 were removed from the reference as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

#### **Modifications to §10116.5. Retraining and Return to Work File Retention.**

**Subdivision (b) was amended.** The sentence “If a paper case file has been converted to electronic form, the paper case file may be destroyed.” was moved to the end of the subdivision, and the words “no less than 30 business days after the parties have been informed of the conversion” were added to the sentence in response to comments requesting that the documents be retained for a period of time after the conversion in case there was a mistake or error. This is necessary to assure the public that the documents will be retained for a period of time after scanning in case there was a mistake or error.

#### **Modifications to §10116.6. Misfiled or misdirected documents.**

**The title** of this section was corrected for clerical error to insert a period at the end of the title. The title of the section now reads: “§10116.6. Misfiled or misdirected documents.”

An “(a)” was added to designate **subdivision (a)**.

**Subdivision (b)** was added to provide the remedies that may be taken if a document is not filed in compliance with proposed sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations. Subdivision (b) states: “If a document is not filed in compliance with sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations and these regulations, the administrative director may in his or her discretion take the actions set forth in section 10222 of title 8 of the California Code of Regulations.” This is necessary so that the public knows what the remedies are if documents are not filed in compliance with the regulations.

## **Modifications to §10116.7. Jurisdiction where the issue of injury has not been resolved**

**Subdivision (b)** was clarified by the addition of the words “on the appropriate form.”

**The authority and references were revised.** Sections 139.48, 4658, and 4658.5 were added to the authorities. Sections 4636, 4637, 4638, and 4645 were removed from the references as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10116.8. Definitions for Article 6.5 and 7.5**

**Subdivision (b)** setting forth the definition for “Approved training facility” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letter “t” in “training” and “f” in “facility” were changed to lower case, the period at the end of the word facility was deleted, the word “means” was inserted before the definition, and the letter “A” at the beginning of the definition was changed to lower case “a.”

**Subdivision (c)** setting forth the definition for “claims administrator” was corrected for clerical error to change the higher case letter “A” in “Administrator” to lower case “a.” The term is reflected as “Claims administrator.”

**Subdivision (d)** setting forth the definition for “Employer” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the period at the end of the word “Employer” was deleted, the word “means” was inserted before the definition, and the higher case letter “T” at the beginning of the definition was changed to lower case “t.”

**Subdivision (e)** setting forth the definition for “Essential Functions” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letter “F” was changed from higher case to lower case, the period at the end of the word “functions” was deleted, the word “means” was inserted before the definition, and the higher case letter “J” at the beginning of the definition was changed to lower case “j.”

**Subdivision (f)** setting forth the definition for “Insurer” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the period at the end of the word “Insurer” was deleted, and the higher case letter “H” at the beginning of the definition was changed to lower case “h.”

**Subdivision (g)** setting forth the definition for “Modified Work” was corrected for clerical error to change the higher case letter “W” in “Work” to lower case “w.” The term is reflected as “Modified work.”

**Subdivision (h)** setting forth the definition for “Nontransferable Training Voucher” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letters “T” and “V” were changed from higher case to lower case, the period at the end of the word “voucher” was deleted, the word “means” was inserted before the definition, and the higher case letter “A” at the beginning of the definition was changed to lower case “a.”

**Subdivision (i)** setting forth the definition for “Notice” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the period at the end of the word “Notice” was deleted, the word “means” was inserted before the definition, and the higher case letter “A” at the beginning of the definition was changed to lower case “a.”

**Subdivision (j)** setting forth the definition for “Offer of Modified or Alternative Work” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letters “M,” “A,” and “W” were changed from higher case to lower case, the period at the end of the word “work” was deleted, the word “means” was inserted before the definition, and the higher case letter “A” at the beginning of the definition was changed to lower case “a.”

**Subdivision (k)** setting forth the definition for “Parties” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the period at the end of the word “parties” was deleted, the word “means” was inserted before the definition, and the higher case letter “T” at the beginning of the definition was changed to lower case “t.”

**Subdivision (m)** setting forth the definition for “Permanent Partial Disability Award” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letters “P,” “D,” and “A” were changed from higher case to lower case, and the period at the end of the word “award” was deleted.

**Subdivision (n)** setting forth the definition for “Regular Work” was corrected for clerical error to change the higher case letter “W” in “Work” to lower case “w.” The term was reflected as “Regular work.”

**Subdivision (o)** setting forth the definition for “Seasonal Work” was corrected for clerical error to change the higher case letter “W” in “Work” to lower case “w.” The term was reflected as “Seasonal work.”

**Subdivision (p)** setting forth the definition for “Supplemental Job Displacement Benefit” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letters “J,” “D,” and “B” were changed from higher case to

lower case, the period at the end of the word “benefit” was deleted, the word “means” was inserted before the definition, and the higher case letter “A” at the beginning of the definition was changed to lower case “a.”

**Subdivision (q)** setting forth the definition for “Vocational & Return to Work Counselor (VRTWC)” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the letters “R,” “W,” and “C” were changed from higher case to lower case, the period at the end of the acronym “VRTWC” was deleted, the word “means” was inserted before the definition, and the higher case letter “A” at the beginning of the definition was changed to lower case “a.”

**Subdivision (r)** setting forth the definition for “Work Restrictions” was corrected for clerical error to conform to the format of other definitions in the same section. The term was set forth in quotations, the period at the end of the word “restrictions” was deleted, the word “means” was inserted before the definition, and the higher case letter “P” at the beginning of the definition was changed to lower case “p.”

## **Modifications to §10117. Offer of Work; Adjustment of Permanent Disability Payments**

**The title** of this section was corrected for clerical error to insert a period at the end of the title. The title of the section now reads: “§10117. Offer of Work; Adjustment of Permanent Disability Payments.”

The language previously added to **subdivision (b)(3)** regarding filing and serving the forms was deleted in response to comments. The deleted language is the following:

“and shall file the forms with the Retraining and Return to Work Unit immediately after serving the form on the employee.

(A) The DWC-AD 10133.53 (Section 10133.53) or form DWC-AD 10118 (Section 10118) filed with the Retraining and Return to Work Unit by the claims administrator shall contain a proof of service on the employee.

(B) The employee, or their representative, within the time specified in the form DWC-AD 10133.53 (Section 10133.53) to offer modified or alternative work or form DWC-AD 10118 (Section 101018) shall file the completed form as paper document under section 10232.”

In **subdivision (e)**, the change of the “B” to “b” in board is noted.

## **Modifications to §10118. Form [DWC AD 10118 Notice of Offer of Work]**

**In the text of the regulation the title** of this section was corrected for clerical error to insert a period at the end of the title. The title of the section now reads: “§10118. Form [DWC AD 10118 Notice of Offer of Work].”

**In the text of the sentence below** the title was also corrected for clerical error to insert a period at the end of the sentence. The sentence now reads: “DWC AD 10118 Notice of Offer of Work.”

**DWC-AD form 10118—Notice of Offer of Regular Work (For Injuries Occurring on or after 1/1/05) was amended** to reflect changes in the registration marks to aid scanning process.

**The form was amended** to create a text box to replace lines where written text was allowed.

**The form was amended** for clarification purposes at page 1, lines 7 and 8, to delete the word “worker” in both lines and to substitute in their place the word “employee.”

**The form was amended** for clerical error at page 1, line 11, to change the higher case letter “Y” to the lower case letter “y” in the word “you” to reflect that this is a continuing sentence, and not a new sentence.

**The form was amended** for clerical error at page 1, line 14 at the “cumulative trauma injury” line to insert a period at the end of the sentence.

**The form was amended** for clarification purposes at page 3, line 13, to insert the word “offer.” Thus, instead of the form requesting information on the “Date Received,” the information now requests information on the “Date Offer Received.”

The following text that appeared on pages 3 and 4 was deleted: “**Note:** If either party has a dispute or objection regarding the offer of regular work, or if the employee rejects the offer of regular work, that party may file a Declaration of Readiness with the local district office of the Workers’ Compensation Appeals Board (WCAB).”

The following replaces the “Note” that appeared on page 4: “If a dispute occurs regarding the above offer or agreement, either party may request the Administrative Director to resolve the dispute by filing a Request for Dispute Resolution (Form DWC-AD 10133.55) with the Administrative Director.”

The revision was made in response to comments and to reduce confusion. The form must be sent to the Administrative Director, not the WCAB, as the Administrative Director has jurisdiction over the form and manner of the offers for work. (See Labor Code section 4658(d)(2) and (3).)

## **Modifications to §10119. Return to Work Program.**

**The title** of this section was corrected for clerical error to insert a period at the end of the title. The title of the section now reads: “§10119. Return to Work Program.”

The previously stricken language in **subdivision (h)** was re-inserted. The language states: “Requests should be sent to the mailing address for the Division of Workers' Compensation Return to Work Program that is listed in the web site of the Division of Workers' Compensation, at: [http://www.dir.ca.gov/dwc/dwc\\_home\\_page.htm](http://www.dir.ca.gov/dwc/dwc_home_page.htm)”



**Subdivision (k)** was revised to state the correct title of the “Petition Appealing Administrative Director’s Reimbursement Allowance” and to reference section 10294 which states how to appeal the decision.

## **Modifications to §10120. Form [DWC AD 10120 Request for Reimbursement of Accommodation Expenses].**

**In the text of the regulations the title** of this section was corrected for clerical error to insert a period at the end of the title. The title of the section now reads: “§10120. Form [DWC AD 10120 Request for Reimbursement of Accommodation Expenses].”

**Form DWC AD 10120—Request for Reimbursement of Accommodation Expense (For Injuries on or after July 1, 2004)** was amended to reflect changes in the registration marks to aid scanning process.

## **Modifications to §10123. Vocational Rehabilitation Reporting Requirements.**

**Subdivision (a)** was revised by the addition of the phrase “For injuries occurring prior to January 1, 2004.” Also, the word “former” was added to modify the words “Labor Code section 4638, as it was repealed.

**The reference was revised.** Sections 4636, 4637, 4638, and 4645 were removed from the references as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10127. Dispute Resolution.**

**Subdivision (d)** was corrected for clerical error to conform to other parts of the regulations. Subparts (d)(1)(aa), (d)(1)(bb), (d)(1)(cc), (d)(1)(dd), and (d)(1)(ee) are relettered (d)(1)(A), (d)(1)(B), (d)(1)(C), (d)(1)(D), and (d)(1)(E) respectively.

**The reference was revised.** Sections 4639, 4644, and 4645 were removed from the references as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10127.1. Conferences.**

**The reference was revised.** Sections 4638 and 4639 were removed from the reference as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational

rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

### **Modifications to §10128. Request for Order of Rehabilitation Services.**

**The reference was revised.** Section 4639 was removed from the reference as it was repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

### **Modifications to §10133.13. Form RU-102 “Vocational Rehabilitation Plan” and Form Filing Instructions.**

**In the text of the regulation,** the sentence below the title was corrected for clerical error to insert a period at the end of the sentence. The sentence now reads: “Rehabilitation Unit California Division of Workers’ Compensation Form RU-102.”

**Form RU-102 was amended** to reflect changes in the registration marks to aid scanning process.

**The form was amended** to create a text box to replace lines where written text was allowed.

**The form was amended** for clerical error at page 3, last sentence commencing with “Number of,” to substitute a higher case “O” with a lower case “o.” Thus the corrected sentence now states: “Number of Days of Placement Assistance.”

**The form was amended** for clerical error at page 5, 15<sup>th</sup> line commencing with “Permanent Disability,” to insert the phrase “to be” and delete the phrase “to date.” Thus the corrected sentence now states: “Permanent Disability Supplement to be paid.”

**The form was amended** for clerical error at page 6, Section – E, to delete the word “Firm” below the paragraph No. 2.

**The form was amended** for clerical error at page 8, under “Form Completion,” second sentence, and at the last sentence of the form to substitute the number 12 for the number 10. Thus, the corrected sentences under now states: “Please note: This form must be completed using type no smaller than 12 point.”

**The reference was revised.** Sections 4635, 4636, and 4638 were removed from the reference as they were repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10133.14. Form RU-103 “Request for Dispute Resolution” and Form Filing Instructions.**

**In the text of the regulations the sentence below** the title was corrected for clerical error to insert a period at the end of the sentence. The sentence now reads: “Rehabilitation Unit California Division of Workers’ Compensation Form RU-103.”

**Form RU-103—Request for Dispute Resolution was amended** to insert the phrase “RU-103” immediately below the title at the top of the form.

**The form was amended** to reflect changes in the registration marks to aid scanning process.

**The form was amended** to create a text box to replace lines where written text was allowed.

**The form was amended** to delete the language “serve all parties” at the bottom of page 5 and to insert a new paragraph which states: “**Service:** attach a proof of service showing service of the document on all parties.”

**The reference was revised.** Section 139.5 was added. Section 4638 was removed from the reference as it was repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10133.16. Form RU-105 “Notice of Termination of Vocational Rehabilitation Services” and Form Filing Instructions.**

**In the text of the regulations, the sentence below** the title was corrected for clerical error to insert a period at the end of the sentence. The sentence now reads: “Rehabilitation Unit California Division of Workers’ Compensation Form RU-105.

**Form RU-105—Notice of Termination of Vocational Rehabilitation Services was amended** to reflect changes in the registration marks to aid scanning process.

**The reference was revised.** Section 139.5 was added. Sections 4637 and 4638 were removed from the reference as it was repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) is added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” is added to the citation for the *Godinez* case.

## **Modifications to §10133.22. Form RU-122 “Settlement of Prospective Vocational Rehabilitation Services” and Form Filing Instructions.**

**In the text of the regulation the sentence below** the title was corrected for clerical error to insert a period at the end of the sentence. The sentence now reads: “Rehabilitation Unit California Division of Workers’ Compensation Form RU-122 SETTLEMENT OF PROSPECTIVE VOCATIONAL REHABILITATION SERVICES.”

**RU 122—Settlement of Prospective Vocational Rehabilitation Services [LC §466(b)] was amended** to reflect changes in the registration marks to aid scanning process.

**The form was amended** for clerical error at the footer to conform to the remaining forms in the regulatory package, thus “(Voc. Rehab.) §10133.22.” The text “RU122” was deleted as it is reflected on the right side of the footer in the form.

The form was amended for clerical error at page 5, paragraph 5, under “Form Completion” to adjust the margin.

**The reference was revised.** Section 4646 was removed from the reference as it was repealed. An additional case authority (*Vulean Materials Co. v. WCAB* (2006, Writ Denied) 71 Cal. Comp. Cases 1346) was added as it explains that the former vocational rehabilitation statutes still apply to pre January 1, 2004 injuries. “Significant Panel Decision” was added to the citation for the *Godinez* case.

## **Modifications to §10133.53. Form DWC-AD 10133.53 “Notice of Offer of Modified or Alternative Work.”**

**In the text of the regulation the sentence below** the title was corrected for clerical error to insert a period at the end of the sentence. The sentence now reads: “Form DWC-AD 10133.53.”

**Form DWC-AD 10133.53—Notice of Offer of Modified or Alternative Work was amended** to reflect changes in the registration marks to aid scanning process.

**The form was amended** to create a text box to replace lines where written text was allowed.

**The footer was amended** for clerical purposes to put a space between the regulation number and the parenthetical information.

**The form was amended** at page 1, line 4, to insert the text “(Employee name)” immediately below the line to identify the information necessary on that line.

**The form was amended** for clerical error at page 4, second paragraph, to identify the proper name of the unit as “Retraining and Return to Work.”

## **Modifications to §10133.54. Dispute Resolution.**

**Subdivision (g) was revised.** The phrase “as set forth in section 10294.5 of title 8 of the California Code of Regulations” was added. Proposed section 10294.5 sets forth the appeal procedure.

## **Modifications to §10133.55. Form DWC-AD 10133.55 “Request for Dispute Resolution Before the Administrative Director.”**

**The text in the regulations was amended to correct the sentence below** the title for clerical error to insert a period at the end of the sentence. The sentence now reads: “Form DWC-AD 10133.55.”

**Form DWC-AD 10133.55—Request for Dispute Resolution Before the Administrative Director was amended** to reflect changes in the registration marks to aid scanning process.

**The form was amended** to create a text box to replace lines where written text was allowed.

The form was amended at page 1, line 5, to add the following language to the box “issued/approved.” Thus the sentence now states: “Has PPD been stipulated, issued/approved.”

Page 3 was amended. The following sentence was deleted in response to comments: “The employer refuses to pay the professionals who rendered services for preparation of a job description or job analysis.” The sentence is deleted because this form is used for issues pertaining to the supplemental job displacement benefit. Preparation of job description or job analysis is not set forth in Labor Codes section 4658.5(b) as a benefit.

## **Modifications to §10133.56. Requirement to Issue Supplemental Job Displacement Nontransferable Training Voucher.**

**Subdivision (c) was revised** to delete the language that was added as (c)(1) and (2) in response to comments. The deleted language is the following:

“(1) The employer shall file the form DWC-AD 10133.57 with the Retraining and Return to Work Unit simultaneously with serving the employee. The claims administrator may serve the offer of work on behalf of the employer.

(2) After the service of the form on the employee, the employer shall file a completed proof of service with the Retraining and Return to Work Unit.”

**Subdivision (d) was revised** to delete the language that was previously added: “The employer, or its representative, shall file the completed form DWC-AD 10133.57 with the Retraining and Return to Work Unit pursuant to section 10232.”

**Subdivision (g) was revised** to state: The voucher shall certify that the school is approved by one of the Regional Associations of Schools and Colleges authorized by the United States Department of Education or has approval from a California State agency that has an agreement

with the United States Department of Education or Regional Associations of School and Colleges for the regulation and oversight of non-degree granting private post secondary providers. The reference to the Bureau for Private Postsecondary (BPPVE) was removed as it is no longer funded.

### **Modifications to §10133.57. Form DWC-AD 10133.57 “Supplemental Job Displacement Nontransferable Training Voucher Form.”**

**Form DWC-AD 10133.57—Supplemental Job Displacement Nontransferable Training Voucher Form** was amended to reflect changes in the registration marks to aid scanning process.

### **Modifications to §10133.58. State Approved or Accredited Schools.**

**Subdivision (b)(2) was added** to reflect the same change made to 10133.56 (g). It now states “has approval from a California State agency that has an agreement with the United States Department of Education or Regional Associations of School and Colleges for the regulation and oversight of non-degree granting private post secondary providers.; or”

**Subdivision (c)** was deleted as it was duplicative of subdivision (b)(1). It stated: “(c) Any training outside of California must be approved by one of the Regional Associations of Schools and Colleges authorized by the United States Department of Education.”

### **NONSUBSTANTIVE CHANGES MADE AFTER THE CLOSE OF THE 15-DAY COMMENT PERIOD:**

#### **Modifications to §10118. Form [DWC AD 10118 Notice of Offer of Work]**

**DWC-AD form 10118—Notice of Offer of Regular Work (For Injuries Occurring on or after 1/1/05):** Throughout the form, lines were lengthened. The footer was amended to reflect the most recent revision date: 10/2008. On page 1, the word “of” was changed to “on” to correct a typographical error.

#### **Modifications to §10120. Form [DWC AD 10120 Request for Reimbursement of Accommodation Expenses].**

**Form DWC AD 10120—Request for Reimbursement of Accommodation Expense (For Injuries on or after July 1, 2004):** On page 1, the font size of the word “State” was reduced to be consistent with the other type. On page 1, the word “of” was changed to “on” to correct a typographical error. The footer was amended to reflect the most recent revision date: 10/2008.

### **Modifications to §10133.13. Form RU-102 “Vocational Rehabilitation Plan” and Form Filing Instructions.**

**Form RU-102:** Throughout the form, lines were lengthened. The footer was amended to reflect the most recent revision date: 10/2008. On page 1, the word “of” was changed to “on” to correct a typographical error.

### **Modifications to §10133.14. Form RU-103 “Request for Dispute Resolution” and Form Filing Instructions.**

**Form RU-103—Request for Dispute Resolution:** Throughout the form, lines were lengthened. The footer was amended to reflect the most recent revision date: 10/2008. On page 1, the word “of” was changed to “on” to correct a typographical error.

### **Modifications to §10133.16. Form RU-105 “Notice of Termination of Vocational Rehabilitation Services” and Form Filing Instructions.**

**Form RU-105—Notice of Termination of Vocational Rehabilitation Services:** Throughout the form, lines were lengthened. The footer was amended to reflect the most recent revision date: 10/2008. On page 1, the word “of” was changed to “on” to correct a typographical error. On page 4, some of the lines were re-aligned

### **Modifications to §10133.22. Form RU-122 “Settlement of Prospective Vocational Rehabilitation Services” and Form Filing Instructions.**

**RU 122—Settlement of Prospective Vocational Rehabilitation Services [LC §466(b)]:** Throughout the form, lines were lengthened. The footer was amended to reflect the most recent revision date: 10/2008. On page 1, the word “of” was changed to “on” to correct a typographical error. On page 3, some of the lines were re-aligned

### **Modifications to §10133.53. Form DWC-AD 10133.53 “Notice of Offer of Modified or Alternative Work.”**

**Form DWC-AD 10133.53—Notice of Offer of Modified or Alternative Work:.** Throughout the form, lines were lengthened. There is realignment throughout. On page 1, the word “of” was changed to “on” to correct a typographical error. Also on page one, the layout in the top section was changed. On page 2, the “Work location” was moved down to accommodate field expansion. The footer was amended to reflect the most recent revision date: 10/2008.

### **Modifications to §10133.55. Form DWC-AD 10133.55 “Request for Dispute Resolution Before the Administrative Director.”**

**Form DWC-AD 10133.55—Request for Dispute Resolution Before the Administrative Director:** Throughout the form, lines were lengthened. On page 1, the word “of” was changed to “on” to correct a typographical error. On page 3, the missing line was added above the word “Name.” On page 3. The comment box below the word “other” was expanded. The footer was amended to reflect the most recent revision date: 10/2008.

## **Modifications to §10133.57. Form DWC-AD 10133.57 “Supplemental Job Displacement Nontransferable Training Voucher Form.”**

### **Form DWC-AD 10133.57—Supplemental Job Displacement Nontransferable Training Voucher Form:** The footer was amended to reflect the most recent revision date: 10/2008.

Throughout the form, lines were lengthened.

A correction was made to page three, paragraph three. The words “in order to initiate your training and return to work counseling” were deleted, as they were repetitive of the first phrase of the same paragraph.

### **LOCAL MANDATES DETERMINATION**

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- 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: None. The proposed amendments do not apply to any local agency or school district.
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments do not apply to any local agency or school district.

### **CONSIDERATION OF ALTERNATIVES**

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially proposed. The Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective as and less burdensome to affected private persons and businesses than the regulations that were adopted.

### **SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED**

The comments of each organization or individual are addressed in the charts contained in the rulemaking binder.

The public comment periods were as follows:

- Initial 45-day comment period: May 30 through July 15, 2008.
- First 15-day comment period: August 6 through August 21, 2008.

-oOo-