

PROPOSED REGULATIONS
CALIFORNIA CODE OF REGULATIONS
Title 22, Division 7

Legend – All revisions for the 15-day comment period are noted with a double underline for new language and a ~~double strikethrough~~ for deleted language.

Chapter 8.4 Hospital Equity Measures Reporting Program (New Chapter to be Added)

Article 1: General

§ 95300. Definitions

- (a) “Acute psychiatric hospital” as defined pursuant to Health and Safety Code Section 1250, subdivision (b).
- (b) “Children’s Hospital” means a hospital annually identified by the Department of Health Care Access and Information using the following criteria: children’s hospitals identified by Welfare and Institutions Code section 10727, (including hospitals operating under a different name, but otherwise the same entity) or a hospital that has an inpatient population of more than seventy-five percent (75%) of individuals eighteen (18) years of age or younger, as identified by the Department’s Patient Discharge Data, using the same data year as the year reported in the hospital equity report.
- (c) “Department” means the Department of Health Care Access and Information.
- (d) “Director” means the Director of the Department.
- (e) “Disparity” refers to differences in access to or availability of medical facilities and services, as well as variation in rates of disease occurrence and health outcomes among population groups defined by socioeconomic characteristics, race/ethnicity, age, sex assigned at birth, expected payor, preferred language, disability status, sexual orientation, and gender identity.
- (f) “Disparity reduction” means a reduction in variation in access, availability of medical facilities and services, disease occurrence, including communicable diseases and chronic conditions, as well as health outcomes for vulnerable populations.
- (g) “Equity report” or “report” means a document prepared for annual submission to the Department of Health Care Access and Information that includes the required report out of data analysis and stratification of specified measures and the health equity plan as described in Sections 95303 and 95307.
- (h) “General acute care hospital” as defined pursuant to Health and Safety Code Section 1250, subdivision (a).
- (i) “Hospital” means an acute hospital licensed pursuant to subdivision (a), (b), or (f) of Health and Safety Code Section 1250.
- (j) “Hospital type” refers to either of the following: general acute care, children’s, acute psychiatric or special hospital.
- (k) “Hospital system” means an entity or system of entities that includes or owns two or more hospitals within the state, of which at least one is a general acute care

hospital, as defined in Health and Safety Code Section 1250, subdivision (a). Hospital system also includes a single corporation or entity that controls two or more hospitals and an integrated system as defined in Health and Safety Code Section 127371, subdivision (f). A single consolidated license with multiple plants does not constitute a “hospital system.”

- (l) “Measures” refer to a set of metrics used to assess accessibility, quality, and outcomes of healthcare services provided by hospitals or hospital systems.
- (m) “Measures Submission Guide” means the Hospital Equity Report: Measures Submission Guide (version 1.01), dated ~~September 9~~ April 15, 2024, and hereby incorporated by reference. The Measures Submission Guide is available on the Department’s website.
- (n) “Patient population” or “Patient” means all of the individuals served by a hospital.
- (o) “Plants” are defined as physical facilities on a single consolidated license as determined by California Department of Public Health (CDPH). Plant includes parent and consolidated hospitals as determined by CDPH.
- (p) “Rate ratio” compares the rate between a stratification group and the reference group for each measure.
- (q) “Reference group” refers to the group with the best performing outcome for a measure within a stratification category at hospital level or system level.
- (r) “Special hospital” as defined pursuant to Health and Safety Code Section 1250, subdivision (f).
- (s) “Stratification category” refers to the categories by which each measure has to be stratified. The stratification categories are listed in Section 95301 which are race/ethnicity, age, sex assigned at birth, expected payor, preferred language, disability status, sexual orientation, gender identity, and behavioral health diagnosis.
- (t) “Stratification group” refers to the specific group within each stratification category listed in stratification tables of the Measures Submission Guide.
- (u) “Vulnerable populations” as defined pursuant to Health and Safety Code Section 127371, subdivision (h).

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127371, 127372, 127373, Health and Safety Code.

§ 95301. Stratification Categories

(a) In the equity report, all measures shall be stratified as specified in this section to the extent the data is available, as determined by each hospital and hospital system. For the purposes of this requirement, reports shall include the numerator, denominator, and rate of each measure broken down by the following stratification categories:

- (1) Race/Ethnicity
- (2) Age
- (3) Sex Assigned at Birth
- (4) Expected Payor
- (5) Preferred Language
- (6) Disability Status
- (7) Sexual Orientation

(8) Gender Identity

(b) The core quality measure, HCAI All-Cause Unplanned 30-Day Hospital Readmission Rate, shall be stratified by behavioral health diagnosis in addition to the stratification categories specified in Section 95301, subdivision (a), to the extent the data is available, as determined by each hospital and hospital system.

(c) Stratification groups are the specific groups within each stratification category listed in Stratification Tables 1 and 2 of the Measures Submission Guide.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372 and 127373, Health and Safety Code.

§ 95302. Hospital Contact Information and Registration

(a) Each hospital and hospital system shall designate primary and secondary contact persons for the purpose of receiving compliance and informational communications regarding equity reports. The primary and secondary contact person(s) shall be a health facility employee but shall not be a health facility consultant. The designated contact persons for hospital systems are permitted to submit both hospital system and individual hospital equity reports.

(b) The primary and secondary contact persons shall each register on the Department's website using the online report submission portal at hdc.hcai.ca.gov by providing the following information:

- (1) The legal name of the hospital(s) or name of hospital system.
- (2) The name of contact person.
- (3) The business title of the designated contact person.
- (4) A business address.
- (5) A business email address.
- (6) A business phone number.
- (7) Primary or secondary designation of the contact person.

(c) Each hospital shall provide updates through the online submission portal of any changes to the primary or secondary contact person described in subdivision (a) and any information in subdivision (b) within 15 days.

(d) The primary or secondary contact person for each hospital and hospital system shall identify individuals who may use the Department's online report submission portal on behalf of the facility. The primary or secondary contact person may add or remove approved users in the online report submission portal on behalf of the hospital and hospital system. Users may be individuals such as employees or consultants of the hospital or hospital system.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372 and 127373, Health and Safety Code.

Article 2: Hospital Equity Report Submission

§ 95303. Hospital Equity Report

(a) All hospitals shall submit an equity report. A report shall be submitted for each hospital plant included on a consolidated license; however, any distinct part services shall be included in the report of the site to which they are licensed. In the equity report, all measures shall be stratified as specified in Section 95301 to the extent the data is available, as determined by each hospital and consistent with the California Health and Human Services Agency's "Data De-Identification Guidelines (DDG)," dated September 23, 2016.

(1) For the purposes of this section, "distinct part" has the same meaning as defined in Section 70027 of Title 22 of the California Code of Regulations.

(b) All reports must conform to the requirements of the Measures Submission Guide, including the required specificity of each of the stratification categories in Stratification Tables 1 and 2 of the Measures Submission Guide.

(c) For the purposes of this requirement, reports shall include the numerator, denominator, and rate of each measure broken down by each stratification category, to the extent the data is available and consistent with the DDG. If the stratification group is not able to be reported due to DDG, select "suppressed". If the data is not readily available, leave the category blank.

(d) All hospitals shall include in their equity report:

(1) Hospital name.

(2) Hospital HCAI ID (9 digit)

(3) Reporting organization.

(4) Report period start date [January 1 of prior calendar year].

(5) Report period end date [December 31 of prior calendar year].

(6) Hospital in location with access to clean water and air, as defined by an environmental California Healthy Places Index score of 50 percent or lower (checkbox).

(7) The web address where the hospital's equity report is published on the hospital's website. Hospitals shall meet equity report publication requirements pursuant to Health and Safety Code Section 127373, subdivision (a)(3).

(8) A health equity plan that includes the following:

(A) The top ten disparities identified in the data by the rate ratio between a stratification group and the reference group for each measure, consistent with the requirements included in the Measures Submission Guide.

(B) A plan to address the disparities identified in subdivision (b)(8)(A), including population impact, measurable objectives, and specific timeframe.

(C) Performance across all of the following priority areas:

I. Person-centered care.

II. Patient safety.

III. Addressing patient social drivers of health.

IV. Effective treatment.

V. Care coordination.

VI. Access to care.

- (D) Explanation of methodology by indicating:
 - I. Whether hospital used the methodology as outlined in the Measures Submission Guide.
 - II. If hospital did not use the Measures Submission Guide, explain what methodology was used.

(e) Equity Measures for General Acute Care Hospitals

General acute care hospitals shall report on the following structural measures in accordance with specifications outlined in the Measures Submission Guide:

(1) Structural Measures

- (A) The three structural measures based on The Joint Commission's R³ Report: Requirement, Rational, Reference:
 - I. Designate an individual to lead hospital health equity activities.
 - II. Provide documentation of policy prohibiting discrimination.
 - III. Report percentage of patients by preferred language spoken.
- (B) The Centers for Medicare & Medicaid Services (CMS) Hospital Commitment to Health Equity Structural (HCHE) Measure.
- (C) CMS Screening for Social Drivers of Health and CMS Screen Positive Rate for Social Drivers of Health and intervention.

General acute care hospitals shall report on the following core quality measures stratified by categories specified in Section 95301, in accordance with specifications outlined in the Measures Submission Guide:

(2) Core Quality Measure

- (A) Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey: Would recommend hospital.
- (B) HCAHPS survey: Received information and education.
- (C) Agency for Healthcare Research and Quality (AHRQ) Quality Indicator: Pneumonia Mortality Rate.
- (D) AHRQ Patient Safety Indicator: Death Rate among Surgical Inpatients with Serious Treatable Conditions.
- (E) California Maternal Quality Care Collaborative (CMQCC) Nulliparous, Term, Singleton, Vertex (NTSV) Cesarean Birth Rate.
- (F) CMQCC Vaginal Birth After Cesarean (VBAC) Rate.
- (G) CMQCC Exclusive Breast Milk Feeding.
- (H) HCAI All-Cause Unplanned 30-Day Hospital Readmission Rate.
- (I) HCAI All-Cause Unplanned 30-Day Hospital Readmission Rate, stratified by behavioral health diagnosis.

(f) Equity Measures for Children's Hospitals

Children's hospitals shall report on the following structural measures in accordance with specifications outlined in the Measures Submission Guide:

(1) Structural Measures

- (A) The three structural measures based on the Joint Commission Accreditation's Health Care Disparities Reduction and Patient-Centered Communication Accreditation Standards:
 - I. Designate an individual to lead hospital health equity activities.
 - II. Provide documentation of policy prohibiting discrimination.
 - III. Report percentage of patients by preferred language spoken.
- (B) CMS HCHE Measure.
- (C) CMS Screening for Social Drivers of Health and CMS Screen Positive Rate for Social Drivers of Health and intervention.

Children's hospitals shall report on the following core quality measures stratified by categories specified in Section 95301, in accordance with specifications outlined in the Measures Submission Guide:

- (2) Core Quality Measures
 - (A) Pediatric experience survey with scores of willingness to recommend the hospital.
 - (B) HCAI All-Cause Unplanned 30-Day Hospital Readmission Rate.

(g) Equity Measures for Acute Psychiatric Hospitals
Acute psychiatric hospitals shall report on the following structural measures in accordance with specifications outlined in the Measures Submission Guide:

- (1) Structural Measures
 - (A) The three structural measures based on the Joint Commission Accreditation's Health Care Disparities Reduction and Patient-Centered Communication Accreditation Standards:
 - I. Designate an individual to lead hospital health equity activities.
 - II. Provide documentation of policy prohibiting discrimination.
 - III. Report percentage of patients by preferred language spoken.
 - (B) CMS HCHE Measure.
 - (C) CMS Screening for Social Drivers of Health and CMS Screen Positive Rate for Social Drivers of Health and intervention.

Acute psychiatric hospitals shall report on the following core quality measures stratified by categories specified in Section 95301, in accordance with specifications outlined in the Measures Submission Guide:

- (2) Core Quality Measures
 - (A) HCAHPS survey: Would recommend hospital.
 - (B) HCAHPS survey: Received information and education.
 - (C) AHRQ Quality Indicator: Pneumonia Mortality Rate.
 - (D) HCAI All-Cause Unplanned 30-Day Hospital Readmission Rate in an inpatient psychiatric facility (IPF).
 - (E) HCAI All-Cause Unplanned 30-Day Hospital Readmission Rate, stratified by behavioral health diagnosis.

- (F) CMS Inpatient Psychiatric Facility Quality Reporting (IPFQR) program Screening for Metabolic Disorders.
- (G) The Joint Commission Substance Use Measures (SUB) SUB-3: Alcohol and Other Drug Use Disorder Treatment Provided or Offered at Discharge and SUB-3a: Alcohol and Other Drug Use Disorder Treatment at Discharge.

(h) Equity Measures for Special Hospitals

Special hospitals shall report on the structural and core quality measures specified in Section 95303, subdivision (e) in accordance with specifications outlined in the Measures Submission Guide. Special hospitals shall report on measures where applicable.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127372, 127373, and 127374, Health and Safety Code.

§ 95304. Hospital System Equity Report

(a) A hospital system, as defined in Section 95300, shall submit a hospital system equity report.

(b) A hospital system shall include in their hospital system equity report:

- (1) Hospital system name.
- (2) Hospital system CEO (or equivalent).
- (3) Hospital system ID (as generated by HCAI reporting system).
- (4) System description.
- (5) Report period start date [January 1 of prior calendar year].
- (6) Report period end date [December 31 of prior calendar year].
- (7) 9-digit HCAI IDs of hospitals included in hospital system report.
- (8) Grouped by hospital type, aggregate data from each of their hospitals, consistent with the requirements of the Measures Submission Guide. Hospital system equity reports shall include the numerator, denominator, and rate of each core measure broken down by each stratification category, to the extent the data is available and consistent with the DDG. If the DDG prohibits reporting of a stratification group, "suppressed" shall be selected. If the data is not available, the category shall be left blank. Hospital system equity reports shall report on all hospital core measures outlined in Sections 95303. All structural measures outlined in Sections 95303 shall also be reported except for the CMS HCHE Measure.
- (9) A hospital system equity plan that includes the following:
 - (A) The top ten disparities identified in the data by the rate ratio between a stratification group and the reference group for each measure, consistent with the requirements included in the Measures Submission Guide.
 - (B) A plan to address each of the ten disparities identified in subdivision (b)(9)(A), including population impact, measurable objectives, and specific timeframe.
 - (C) Performance across all of the following priority areas:
 - I. Person-centered care.
 - II. Patient safety.

III. Addressing patient social determinants of health.

IV. Effective treatment.

V. Care coordination.

VI. Access to care.

(D) Explanation of methodology by indicating:

I. Whether hospital used the methodology as outlined in the Measures Submission Guide.

II. If hospital did not use the Measures Submission Guide, explain what methodology was used.

(c) A hospital system equity report is not a substitute for an individual hospital equity report. An equity report, as specified in Section 95303 must be submitted by each hospital.

(d) A hospital system shall post the hospital system's equity report on the hospital system's website, if one is available. A hospital system may include in the equity report the web address where the hospital system's equity report is published. Report publication on the hospital system's website shall meet the requirements stated in Health and Safety Code Section 127373, subsection (a)(3).

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372 and 127373, Health and Safety Code.

§ 95305. Equity Report Supplemental Document (Optional)

Additionally, hospitals and hospital systems may submit an equity report Supplemental Document with the Department. A Supplemental Document may be used to supplement the information reported in an equity report required by Sections 95303 and 95304. The supplemental documents shall comply with the following requirements:

(a) Each equity report Supplemental Document shall be submitted by uploading a Portable Document Format (.pdf) file.

(b) Documents submitted shall not be a scanned version or images of paper documents. Documents shall be submitted in machine-readable format.

(c) All data and information in a supplemental document shall conform to the requirements as described in the California Health and Human Services Agency's "Data De-Identification Guidelines (DDG)," dated September 23, 2016.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372, 127373, and 127374, Health and Safety Code; Section 11546.7, Government Code.

§ 95306. Reporting Period and Report Due Date

(a) The reporting period is January 1 to December 31 of the year prior to the year that a report is due.

(b) Each hospital and hospital system shall annually submit its report as described in sections 95303 through 95305 to the Department no later than September 30,

beginning with September 30, 2025, using the submission method described in Section 95308.

(c) If the Department determines that the Department's online report submission portal at hdc.hcai.ca.gov was unavailable for data submission for one or more periods of four or more continuous supported hours during the four State working days before a due date established pursuant to this section, the Department shall extend the due date by seven days.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372 and 127373, Health and Safety Code.

§ 95307. Extension Request

(a) A hospital or hospital system may request, and the Department may grant a single 60-day extension per report period to file an equity report, pursuant to Health and Safety Code Section 127374, subdivision (b).

(b) A request for extension shall be filed by a registered contact person via the extension request page available through the Department's website using the report submission portal at hdc.hcai.ca.gov. Extension requests filed on or before a due date prescribed in Section 95306 may be approved without accruing fines. Extension requests not filed by a due date will accrue fines as prescribed in Section 95310, subdivision (b). Notices regarding the use of extension days, and new due dates, as well as notices of approval and rejection, will be emailed to the registered contact person(s) provided.

(c) The Department shall respond to an extension request with an email to the requestor that indicates whether the extension was approved or denied.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95308. Method of Submission

(a) Any report required under Section 95303 or Section 95304 shall be submitted to the Department through the Department's website using the online report submission portal at hdc.hcai.ca.gov.

(b) Reports must be submitted using one of the following methods:

(1) Uploading comma separated value (.csv) files including all of the required information for one or more reports. Such files shall comply with the Department's Format and File Specifications for Submission of the Equity Report (Version 1.01) dated September 9~~April 15~~, 2024, and hereby incorporated by reference.

(2) Manually entering the required information for reports online.

(c) An equity report Supplemental Document, as described in Section 95305, shall be submitted through the Department's website using the online report submission portal at hdc.hcai.ca.gov. The equity report Supplemental Document shall comply with requirements detailed in Section 95305.

- (d) A report shall include a certification statement, wherein the registered contact person, under penalty of perjury, attests to being duly authorized to certify the report; and that the data and information contained within the report is true, correct, and complete as required by the Health and Safety Code Sections 127370 through 127376 and Title 22, Section 95300 et seq. of the California Code of Regulations.
- (e) A hospital or hospital system which submits a report as required under Section 95303 through 95304 may revise the report after the initial submission. The revision shall be submitted to the Department through the Department's website using the online report submission portal at hdc.hcai.ca.gov. Revisions are permitted for a period not exceeding one-hundred and twenty (120) days after the original report due date as specified in Section 95306, subdivision (b).
- (f) The Department's online submission portal at hdc.hcai.ca.gov for a report period will close one-hundred and twenty (120) days after the original report due date as specified in Section 95306, subdivision (b). No report or revision for the report period will be accepted after the system closure.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372 and 127373, Health and Safety Code.

Article 3: Fines and Appeals

§ 95309. Fines for Late Filing of Reports

- (a) A hospital that fails to file a report, as specified in Section 95303, by a due date established pursuant to Section 95306 is liable for a fine of one hundred dollars (\$100) for each day that the required report is not filed.
- (b) If a report is delinquent one hundred twenty (120) days after the established due date pursuant to Section 95306, the Department shall determine the maximum civil fine of no more than five-thousand dollars (\$5,000) per year, as specified by Health and Safety Code Section 127374, subdivision (a), for failure to file a required report.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95310. Fine Assessment

- (a) When a report required by Section 95303 is filed after the due date specified in Section 95306, the Department will notify the hospital of the accrued fine. The notice shall be provided by email to the contact person(s) identified by the hospital under Section 95302.
- (b) When a hospital receives an extension of a report as specified in Section 95307 after the due date, the Department will notify the hospital of the accrued fine. The notice shall be provided by email to the contact person(s) identified by the hospital under subdivision (b)(2) of Section 95302.
- (c) The Department will calculate the accrued fine pursuant to Section 95309.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Sections 127372, 127373, and 127374, Health and Safety Code.

§ 95311. Filing an Appeal

- (a) A hospital that has received notice of an accrued fine under Section 95310 may appeal the fine assessment by filing, in accordance with Section 95312, a written request for hearing no later than thirty (30) days from the date of the notice. The request shall be filed with the Department's Hearing Officer.
- (b) The request for hearing shall include the following:
 - (1) The name of the hospital.
 - (2) The name of the contact person of the hospital and contact information for that person.
 - (3) The date of the fine assessment notice.
 - (4) A statement of the basis for the appeal.
 - (5) A copy of the fine assessment notice.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95312. Hearing Officer Contact Information

Hearing requests and other communications, including requests for consolidation, questions about the hearing schedule or process, and all documents and proposed exhibits, shall be addressed to the Hearing Officer either by mail or by email as follows:

- (a) Mail shall be sent to the Hearing Officer at the Legal Office of the Department of Health Care Access and Information in Sacramento.
- (b) Email shall be sent to the following email address: HearingOfficer@hcai.ca.gov.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95313. Prehearing Provisions

- (a) The hospital and the Department will be notified of the hearing date and time at least thirty (30) calendar days in advance.
- (b) The hospital and the Department shall provide copies of all proposed exhibits to the Hearing Officer and to the other party no later than ten (10) calendar days prior to the hearing date.
- (c) Request to Change Hearing Date. Either party may request a change of hearing date, if necessary. Requests for rescheduling must be submitted to the Hearing Officer at least ten (10) business days before the scheduled hearing. Requests for rescheduling must be based upon good cause, as determined by the Hearing Officer, and will only be granted if the change would not prejudice the other party.

- (d) Request to Change Hearing Method. All hearings will be held in Sacramento at the business location of the Department; however, the Hearing Officer may schedule a hearing to be conducted by telephone or other electronic means. If so, either party may object; upon receipt of such an objection, the Hearing Officer will schedule an in-person hearing in Sacramento. If the Hearing Officer does not initially plan to conduct a hearing by telephone or other electronic means, either party may so request; if the hospital and the Department consent, the Hearing Officer may, but is not required to, conduct the hearing by telephone or other electronic means. The hospital and the Department will be notified of the Hearing Officer's decision.
- (e) Request for Consolidation. The Hearing Officer may, on their own determination or upon written request of one of the parties, consolidate for hearing or decision any number of appeals when the facts and circumstances are similar, and no substantial right of any party will be prejudiced. The Hearing Officer shall notify the hospital and the Department if consolidation is occurring. Within five days of receiving the notice of hearing, either party may request consolidation by filing a request with the Hearing Officer containing the following information:
 - (1) Identification of the appeals to be consolidated.
 - (2) A statement of the basis for consolidation.
- (f) Request for Interpreter. If a party or a witness of a party does not speak English proficiently, that party may request language assistance and the Department will provide an interpreter. Such a request must be received by the Hearing Officer at least ten (10) business days before the hearing.
- (g) Request for Court Reporter. Hearings will be recorded electronically; however, either party may provide a court reporter at that party's expense. If a party chooses to provide a court reporter, that party shall notify the Hearing Officer in advance and make all necessary arrangements. The original of the transcript shall be provided directly to the Hearing Officer. The non-appearance of a court reporter will not be considered adequate grounds for cancelling or rescheduling a hearing.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95314. Conduct of Hearing

- (a) The hearing shall be conducted by an employee of the Department appointed by the Director of the Department to serve as Hearing Officer.
- (b) The hearing shall be conducted in person in Sacramento or by telephone or other electronic means as determined by the Hearing Officer, as specified in Section 95313.
- (c) The hearing shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs.
- (d) All testimony at the hearing shall be taken under oath or affirmation.

- (e) The hearing shall be recorded by electronic means unless one party has chosen to provide a court reporter at their own expense as specified in Section 95313. A court reporter shall provide the original of the transcript directly to the Hearing Officer.
- (f) The hearing shall be open to the public.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95315. Settlement

If a settlement is reached between the parties prior to the hearing, the Department shall notify the Hearing Officer and no hearing shall be held.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.

§ 95316. Decision

- (a) The Department may reduce or waive the fine due to good cause based on a thorough assessment of the evidence and documentation provided by the appellant party.
- (b) The Hearing Officer shall prepare a recommended decision for the Director of the Department; the recommended decision shall be in writing and shall include findings of fact and conclusions of law.
- (c) The Director of the Department may either adopt or reject the proposed decision. If the Director does not adopt the proposed decision as presented, they will independently prepare a decision based upon the hearing record; the Director may adopt factual findings of the hearing officer.
- (d) The decision of the Director shall be in writing and shall be final.

Note: Authority cited: Section 127375, Health and Safety Code. Reference: Section 127374, Health and Safety Code.