



LEGISLATIVE COMMISSIONERS' OFFICE  
*of the Connecticut General Assembly*

STATE OF CONNECTICUT

**MANUAL FOR  
DRAFTING  
REGULATIONS**

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# AGENCY CHECKLIST FOR DRAFTING REGULATIONS

In drafting a regulation, state agency personnel should keep in mind the following guidelines:

## Statutory Authority

- ✓ Make sure the authorizing statute for the regulation provides the authority to regulate the activity the agency proposes to regulate.
- ✓ Make sure there is specific statutory authority if the regulation
  - Imposes fines, penalties, fees, suspension or revocation of a license,
  - Affects a party's right to appeal to the court, or
  - Makes public documents confidential or otherwise exempt from the Freedom of Information Act.
- ✓ Draft the regulation to implement the law as intended by the statute.
- ✓ Address each area the statute requires the regulation to specify.
- ✓ Do not exceed the scope of authority delegated in the statute.
- ✓ Do not "notwithstanding" the Connecticut General Statutes (or federal law) in a regulation.

## Current Regulations, Statement of Purpose, Effective Dates

- ✓ Before amending a regulation, check that you are using the most current regulation in effect at the Office of the Secretary of the State. The Regulations of Connecticut State Agencies posted on the Secretary of the State's web site are the most current.
- ✓ Make sure the statement of purpose follows the final section of the regulation, and that it states the purpose of the regulation, including the problems, issues or circumstances that the regulation proposes to address, a summary of the main provisions of the regulation, and the legal effects of the regulation.
- ✓ Check that effective dates, if included in a regulation, are not retroactive.

## Text and Language Conventions, Numbering and Lettering

- ✓ Do not omit provisions that are to be deleted; bracket them.
- ✓ Underline new language.
- ✓ If an entire section or subunit of a section is new, the new language should be preceded by "(NEW)" and the section or subunit should NOT be underlined.
- ✓ Check that the catchline accurately reflects the text of the section.
- ✓ Assign section numbers to each section of the regulation according to the section number of the authorizing statute under which the regulation is being enacted, followed by a hyphen and an additional letter or number.
- ✓ Designate sections of the proposed regulation with numbers.
- ✓ Use numbers in parentheses for definitions.
- ✓ Use letters in parentheses for subsections.

## Drafting

- ✓ Use clear, unambiguous language.
- ✓ Use active voice.
- ✓ Properly define technical terms and words used in a sense other than their ordinary meaning.
- ✓ Check that defined terms appear in the regulation.
- ✓ Use terms consistently throughout the regulation.
- ✓ Use introductory language that corresponds to the language in the section or the specific subunit of the regulation.
- ✓ Do not repeat or paraphrase language in the authorizing statute.

## Proofreading

Prior to submitting the regulation to the committee, **carefully proofread** the regulation for:

- ✓ Technical errors;
- ✓ Grammar;
- ✓ Proper spelling;
- ✓ Accurate internal references; and
- ✓ In the case of a repealed section, check throughout the regulations of the agency for any references or citations to that section, and amend those references or citations accordingly.

**Please note the above list is not exhaustive;** agencies should refer to the provisions of chapter 54 of the Connecticut General Statutes and the guidelines and rules established by the Legislative Regulation Review Committee for any additional requirements.

## **PREFACE**

Pursuant to chapter 54 of the Connecticut General Statutes, the Legislative Regulation Review Committee is authorized to review all regulations proposed by executive branch agencies.

Attorneys in the Legislative Commissioners' Office analyze each proposed regulation and prepare a report to the committee on each such regulation. The report includes a recommendation as to whether the regulation should be approved or rejected without prejudice.

The Legislative Commissioners' Office has prepared this Regulations Drafting Manual to assist state agencies in drafting regulations for submission to the Legislative Regulation Review Committee. This manual contains the standards that attorneys in the Legislative Commissioners' Office apply when reviewing proposed regulations for the committee.

The Legislative Commissioners' Office of the Connecticut General Assembly is a nonpartisan office that provides legal counsel and legislative drafting services to all members and committees of the state legislature.

## INTRODUCTION

**Part A: Statutory Authority** provides a brief overview of administrative law and the Uniform Administrative Procedure Act, codified in chapter 54 of the Connecticut General Statutes.

**An agency must have the legal authority to adopt a regulation.**

**Part B: Language Convention and Usage** presents the basic format and style in which executive agency regulations typically appear in this state. Because regulations impose certain requirements or restrictions on the rights of individuals, regulations have the force and effect of law. For this reason, regulations should be uniform in style and language conventions and should be drafted in a manner that is clear and concise.

In certain instances, the guidelines in this manual expand on precedents established by the Legislative Regulation Review Committee. The manual is not intended as a substitute for either the provisions of chapter 54 of the Connecticut General Statutes or for any guidelines established by the committee. Compliance with the guidelines in this manual does not guarantee approval of a proposed regulation by the committee. Rather, this manual is intended as a tool to enable agencies to craft language in a uniform manner that is consistent with the style of language in the Connecticut General Statutes.

Any questions or comments about this manual can be directed to the Legislative Commissioners' Office at (860) 240-8410 or by email at [lco@cga.ct.gov](mailto:lco@cga.ct.gov).

## **PART A: STATUTORY AUTHORITY**

### **Generally**

In general, the principle of separation of powers holds that under our federal and state constitutions, the legislative branch enacts laws and the executive branch executes or carries out laws. Pursuant to this principle, an administrative agency does not have authority to enact law. However, in accordance with state constitutional provisions, the legislature may delegate to an agency broad rulemaking powers, authorizing the agency to implement the law a legislature passes. The Connecticut constitution contains the following broad delegation of rulemaking power to Connecticut executive agencies: "The legislative department may delegate regulatory authority to the executive department. ..." (Art. XVIII of the Amendments to the Connecticut Constitution). Pursuant to this provision, the Connecticut General Assembly enacts laws that direct a specific state agency to adopt regulations that implement, carry out, provide details on, embellish upon or fill in the gaps of a particular statutory scheme. If an agency adopts a regulation that falls outside of the rulemaking powers delegated by statute to that agency, then the regulation exceeds statutory authority and may be determined by a court to be invalid.

### **Citing the Proper Statute as Authority For Adopting Regulations**

Statutory authority arises from statutory provisions that authorize the agency to adopt regulations and direct the agency to implement a specific statutory scheme. Frequently, these provisions appear in the same section of the Connecticut General Statutes.

In general, an agency should not cite any of the provisions in chapter 54 of the Connecticut General Statutes as statutory authority. An exception to this general rule is found in section 4-167 of the Connecticut General Statutes for the adoption of regulations with respect to each agency's rules of practice. Subsection (a) of said section provides in part:

(a) In addition to other regulation-making requirements imposed by law, each agency shall: (1) Adopt as a regulation rules of practice setting forth the nature and requirements of all formal and informal procedures available provided such rules shall be in conformance with the provisions of this chapter....

Thus, whenever an agency proposes to establish rules of practice that set forth all formal and informal procedures available or amend such rules of practice, the agency should cite section 4-167 of the Connecticut General Statutes as its statutory authority.

Although chapter 54 contains the provisions governing the rulemaking process all agencies must follow, agencies must look toward more specific language in the statutes that directs their specific agency to adopt regulations. Statutory authority is often found within the title or titles of the general statutes that provide powers and responsibilities to that particular agency.

## Exceeding Statutory Authority

A primary reason for rejection of a regulation is that the regulation exceeds the scope of the authority conferred on the agency by statute. Before drafting regulations, the agency should scrutinize the authorizing statute to determine the extent to which the legislature has delegated rulemaking authority. For example, compare the following two sections of the Connecticut General Statutes:

**BROAD delegation of authority in section 14-312:**

The traffic authority shall have power to make regulations necessary to make effective the provisions of this chapter, and may make and enforce temporary regulations to cover emergencies and special conditions.

*Discussion: An agency with this type of authority could address almost any aspect of the subject matter of chapter 249 – Traffic Control and Highway Safety – provided the regulations are necessary to "make effective the provisions" of the chapter.*

**LIMITED delegation of authority in section 16a-15a:**

The Commissioner of Consumer Protection shall adopt regulations in accordance with the provisions of chapter 54 specifying the manner in which retail dealers, as defined in section 14-318, shall notify customers of the location of self-service and full-service fuel pumps or any pumps at which discounts are offered for cash payment or credit cards are accepted. The regulations shall include provision for the direction of handicapped drivers to the appropriate self-service pump as provided in section 14-325b.

*Discussion: If an agency with this type of authority included in its regulation any aspect of the subject matter beyond the notification provisions specified in the statute, the agency would be exceeding the authority delegated to it by the statute.*



Similarly, a statute that authorizes regulations to govern the issuance of a particular type of license does not, **by itself**, authorize the regulations to provide for the suspension or revocation of such a license. However, such statute, when read together with subsection (d) of section 4-182 of the Connecticut General Statutes, may provide authority for the suspension or revocation of a license if the agency has complied with the provisions of subsections (c) and (d) of said section. Subsections (c) and (d) provide in part:

(c) No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(d) (1) When an agency is authorized under the general statutes to issue a license, but is not specifically authorized to revoke or suspend such license, the agency may: (A) Revoke or suspend such license in accordance with the provisions of subsection (c) of this section; or (B) (i) adopt regulations, in accordance with the provisions of chapter 54, that provide a procedure for the revocation or suspension of such license consistent with the requirements of said subsection (c), and (ii) revoke or suspend such license in accordance with such regulations.

**Regardless of whether the authorizing statute is broad or restrictive, certain types of provisions require specific statutory authority:**

- Imposition of fines, similar penalties or fees;
- The right to appeal to the court;
- Suspension or revocation of a license, unless the provisions comply with subsections (c) and (d) of section 4-182 of the Connecticut General Statutes;
- Making public documents confidential or otherwise exempt from the Freedom of Information Act.

For example, the Department of Revenue Services would not be authorized to establish penalties by regulation if not for statutory provisions explicitly granting the department the authority, as illustrated by section 32-536(e) of the Connecticut General Statutes:

The Department of Revenue Services may adopt regulations which provide for monetary penalties and fines for noncompliance by exempt companies with the exempt activity provisions of sections 32-530 to 32-540, inclusive, which is other than intentional or reckless.

**In addition, because it is the statutes that confer regulatory authority upon an agency, it is never appropriate to use the term, "Notwithstanding the Connecticut General Statutes" in a regulation.**

### **Failure to Implement the Law as Directed by Statutory Authority**

Regulations should not repeat what is already in the statutes. Not only is paraphrasing or repeating the statutes unnecessary, it is also undesirable because a statute may be amended, thereby necessitating an amendment to the regulation. Instead, regulations should embellish upon what is set forth in a statutory scheme. For example, suppose a statute states:

The department may grant a license to a person who is at least twenty-one years of age, has no criminal record and complies with any other factors set forth in regulations adopted in accordance with chapter 54....

Any corresponding regulations should actually list those factors the department determines a person must comply with in order to be granted a license.

<b>YES:</b>	<b>NO:</b>
<p>Corresponding regulation reads:</p> <p>(a) An applicant for a license shall submit to the licensing department of the department:</p> <ol style="list-style-type: none"><li>(1) An individual application;</li><li>(2) A copy of the applicant's birth certificate, or, if a naturalized citizen, a copy of the applicant's naturalization papers; and</li><li>(3) A recent, two-inch by three-inch full face color photograph of the applicant.</li></ol> <p><i>Discussion: This example lists the additional factors the commissioner determines are appropriate for a person to comply with to be granted a license.</i></p>	<p>Corresponding regulation reads:</p> <p>The department may grant a license to a person who is at least twenty-one years of age, has no criminal record and complies with any other factors the commissioner may require.</p> <p><i>Discussion: This example merely paraphrases the statute and does not list those factors the commissioner determines are appropriate for a person to comply with to be granted a license.</i></p>

Sometimes the statute conferring regulatory authority upon an agency sets forth specific provisions to be included in the regulation. In such cases, the proposed regulation must include all of the provisions required by law.

## **"Guidelines", "Standards" and Other Agency Directives**

For a regulation to be valid, an agency must comply with the rulemaking process set forth in chapter 54 of the Connecticut General Statutes. Section 4-166(15) of the Connecticut General Statutes defines a regulation as follows:

(15) "Regulation" means each agency statement of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior regulation, but does not include (A) statements concerning only the internal management of any agency and not affecting private rights or procedures available to the public, (B) declaratory rulings issued pursuant to section 4-176 or (C) intra-agency or interagency memoranda.

According to the definition, if an agency drafts *any* directive that has general applicability, whether or not it is designated a regulation, it is considered a regulation. Thus, if an agency drafts "guidelines", "procedures" or any other statement that affects the rights of private persons or entities, the agency should adopt such statement as a regulation in accordance with the procedures set forth in chapter 54 of the Connecticut General Statutes.

## **Summary**

- Do not impose a requirement or authorize individuals to do something that goes beyond the scope of the underlying statutory scheme.
- Specific statutory authority is required for the imposition of fines, similar penalties or fees in a regulation and, in some circumstances, for the suspension or revocation of a license in a regulation. Specific statutory authority is also required for a regulation that affects the right to appeal to the court or that makes public documents confidential or otherwise exempt from the Freedom of Information Act.
- Avoid repeating or paraphrasing the provisions of the Connecticut General Statutes in a regulation. Make sure the regulations actually implement the program or statutory scheme.
- All "guidelines", "requirements", "rules" and other directives affecting individuals, regardless of the terminology the agency uses, should be adopted as regulations pursuant to the rulemaking process set forth in chapter 54 of the Connecticut General Statutes.

## PART B: LANGUAGE CONVENTION & USAGE

- **If amending an existing regulation, first make sure the language being used is the most current regulation in effect at the Office of the Secretary of the State. The Regulations of Connecticut State Agencies posted on the Secretary of the State's web site are the most current.**
- **Sources other than the Secretary of the State's web site may not be accurate for the purposes of research or drafting.**

### ► STANDARD FORMAT FOR PROPOSED REGULATIONS

#### Typical Font, Type Size, Other Requirements

There is no specific font or type size requirement for proposed regulations but many agencies use a standard font and size such as 12-point Times New Roman. Similarly, there is no requirement that a proposed regulation be single line-spaced or double line-spaced, but agencies should consider ease of readability and the length of the proposed regulation when formatting their proposed regulations.

#### Separating Proposed Regulations Into Sections

Separate each proposed regulation into a different section. Each section may consist of a regulation (*i.e.*, an entire section of a regulation), a consecutive string of regulations or a specific unit of a regulation, that is being amended, added or deleted.

A "unit" of a regulation refers to a subsection, subdivision, subparagraph or any other division within a regulation. For further discussion on subdividing sections into smaller units, see [page 23](#).

Designate the first section as "Section 1." and abbreviate all subsequent sections as "Sec. \_\_\_." For example: Section 1, Sec. 2., Sec. 3., etc.

If a proposed regulation contains only one section, (*i.e.*, only one regulation or one specific unit of a regulation is being amended, added or deleted) it is **not** necessary to designate that section as "Section 1."

## Introductory Language

Following the section of the proposed regulation (*e.g.*, "Section 1.", "Sec. 2.", etc.), insert an introductory phrase in accordance with one of the following formats, depending on the action the agency is taking with regard to the regulation.

### Amending a regulation or a specific unit of a regulation

- To amend a **regulation**, use the following format for the introductory language:

<p>Section (section number) of the Regulations of Connecticut State Agencies is amended to read as follows:</p> <p style="text-align: center;"><b>OR</b></p> <p>Sections (section number) to (section number), inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:</p>
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- To amend a **specific unit of a regulation**, such as a subsection or subdivision, use the following format for the introductory language:

<p>(Specific unit) of section (section number) of the Regulations of Connecticut State Agencies is amended to read as follows:</p> <p style="text-align: center;"><b>OR</b></p> <p>Section (section number)(specific unit) of the Regulations of Connecticut State Agencies is amended to read as follows:</p> <p style="text-align: center;"><b>OR</b></p> <p>(Specific unit) to (specific unit), inclusive, of section (section number) of the Regulations of Connecticut State Agencies are amended to read as follows:</p>
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See [page 25](#) for guidelines on how to refer to a specific unit of a regulation. Although there is generally more than one acceptable way to refer to a specific unit of a regulation, the reference to a specific unit should be drafted in a manner that is most clear to the reader.

**EXAMPLES:**

Section 1. Section 51-51k-10(i) of the Regulations of Connecticut State Agencies is amended to read as follows:

(i) Any court reporter [or language interpreter] present at the hearing shall be sworn as to confidentiality.

Section 1. Subsection (i) of section 51-51k-10 of the Regulations of Connecticut State Agencies is amended to read as follows:

(i) Any court reporter [or language interpreter] present at the hearing shall be sworn as to confidentiality.

***Discussion: The first example presents another way to refer to a specific unit of a regulation, as discussed on page 25. Because the format in the first example appears to be just as clear as the format in the second example, either format is acceptable.***

Sec. 4. Subdivisions (2) to (5), inclusive, of section 52-362e-5(b) of the Regulations of Connecticut State Agencies are amended to read as follows:

(2) At least [sixty] thirty days prior to submittal to DAS, the department shall mail notice of action to all [obligors] applicants identified for potential withholding.

(3) The [obligor's] applicant's name shall not be submitted to DAS if the results of a prehearing review indicate that the case is not appropriate for such action.

(4) If a fair hearing is requested, submittal shall not be made unless the fair hearing is denied or dismissed, or a decision which upholds the proposed withholding is rendered prior to the department's submittal to DAS.

(5) Subject to subdivisions (2) and (3) of this subsection, the [obligor's] applicant's name shall be submitted to DAS no earlier than [sixty] thirty days after the mailing date of the notice of action.

***Discussion: In this example, it is inappropriate to refer to the units as "section 52-362e-5(b)(2) to (5), inclusive," because it is awkward and less clear.***

For the benefit of the reader, an amendment to a regulation should show a complete thought or sentence.

**✘ TO AVOID:**

Sec. 2. Section 46a-68-45(a)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) insure that the race and sex composition of program participants [is consistent] complies with affirmative action;

***Discussion: By itself, subdivision (1) is not a complete sentence. Consequently, all of subsection (a), which constitutes a complete sentence, should be shown.***

Make sure the citation in the introductory language accurately corresponds to the text of the regulation shown.

**✘ TO AVOID:**

Sec. 3. Section 22a-174-3(g) of the Regulations of Connecticut State Agencies is amended to read as follows:

(g)(1) The Commissioner may impose reasonable conditions within any permit to operate, [, including requirements beyond normal due diligence in operation and maintenance.]

***Discussion: Because the introductory language states that subsection (g) is being amended, all of subsection (g) (i.e., subdivisions (1), (2) and so forth) should be shown. Alternatively, the introductory language could state that section 22a-174-3(g)(1) is being amended.***

- When amending an entire section of a regulation, make sure the **section number** and the **catchline** are included after the introductory language and before the text of the section.

Section 1. Section 36a-647-7 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 36a-647-7. Violation of provisions**

A creditor shall not be found to violate any provision of sections [36a-647-1 to 36a-647-7] 36a-647-2 to 36a-647-6, inclusive, of the Regulations of Connecticut State Agencies if the creditor proves by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such error. As to any violation by an employee of the creditor, the commissioner shall consider, without limitation, the extent of the creditor's education program for its employees in determining whether the creditor maintains procedures reasonably adapted to avoid such error.

*NOTE:* If a section is being amended, amend the catchline as well, if necessary, to accurately reflect the content of the section.

**Adding a new regulation or adding a new unit to a regulation**

If a new regulation is being added, the numbering of the regulation should be assigned according to the section number of the authorizing statute under which the regulation is being enacted, followed by a hyphen and an additional letter or number.

*EXAMPLES:*

For a regulation with authorizing statute 22a-1, the regulation would be numbered 22a-1-1, 22a-1-2, etc.

For a regulation with authorizing statute 22a-174, the regulation would be numbered 22a-174-31a, 22a-174-31b, etc.

*NOTE:* Section 4-170(b) of the Connecticut General Statutes requires each new regulation to be preceded by the word "(NEW)" in capital letters. Likewise, when adding a new unit or units to an existing regulation, insert the word "(NEW)" in capital letters before each new unit. In those instances where "(NEW)" is inserted, the text should *not* be underlined (see also "Deleting and Adding Language" on [page 20](#)).



- To add a **new regulation**, use the following format for the introductory language:

The Regulations of Connecticut State Agencies are amended by adding section (section number) as follows:

**OR**

The Regulations of Connecticut State Agencies are amended by adding sections (section number) to (section number), inclusive, as follows:

*EXAMPLES:*

Sec. 3. The Regulations of Connecticut State Agencies are amended by adding section 51-275a-7 as follows:  
(NEW) Sec. 51-275a-7. **Post hearing brief.** Each party shall have the opportunity to file a post hearing brief at a time to be designated by the commission.

Sec. 1. The Regulations of Connecticut State Agencies are amended by adding sections 22a-174-18 to 22a-174-20, inclusive, as follows:  
(Text with proposed new language)

- To add a **new unit or units to an existing regulation**, use the following format for the introductory language:

Section (section number) of the Regulations of Connecticut State Agencies is amended by adding (unit designator) as follows:

**OR**

Section (section number) of the Regulations of Connecticut State Agencies is amended by adding (unit designator) to (unit designator), inclusive, as follows:

Sec 2. Section 38a-88-7(c) of the Regulations of Connecticut State Agencies is amended by adding subdivisions (4) and (5) as follows:

(NEW) (4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(NEW) (5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

See [page 25](#) for guidelines on how to refer to a specific unit of a regulation.

**Word of caution:** When adding a new unit to an existing regulation, make sure all appropriate changes are made to existing unit designators. If changes to existing text are necessary, show all of the text in the regulation that needs to be amended).

YES:	NO:
<p>Section 1. Section 38a-495a-7(a) of the Regulations of Connecticut State Agencies is amended to read as follows:</p> <p>(a)(1) In the event the state shall become a Medicare Select State, this section shall apply to Medicare Select policies and certificates, as defined in this section.</p> <p>(2) <u>No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.</u></p>	<p>Section 1. The Regulations of Connecticut State Agencies are amended by adding a new section 13-87-3(a)(2) as follows:</p> <p>(NEW) (2) No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.</p> <p><i>Discussion: In this instance, because a new subdivision is being added, the existing language in subsection (a) is now designated as subdivision (1). As a result, the subdivision designator "(1)" must be inserted in existing text. For this reason, all of subsection (a) must be shown, not just the new subdivision (2), and the format for amending a subsection must be used.</i></p>

- When drafting a new section, a **catchline** that describes the content of a section must be added after a section number as shown in the example below.

For lengthy sections, it may be helpful to the reader to add a descriptive catchline after the subsection designator as shown below. Remember to include any subsection catchlines when amending such subsection.

(NEW) Sec. 10-xxx-2. **General Rules**

(a) **Who May Apply**

(1) Applications shall be submitted by the owner of a property listed on the National or State Register of Historic Places or, in cases of multiple owners, application may be made by a duly authorized joint owner, partner or member on behalf of the owners.

(2) For purposes of sections 10-xxx-3 and 10-xxx-5 of the Regulations of Connecticut State Agencies, a person or business entity that is not the owner of a property listed on the National or State Register of Historic Places shall be eligible to apply provided such person or business entity submits evidence that the owner has been informed of the application and has no objection to the filing.

(3) If a complex constitutes more than one legal parcel and the parcels are under separate ownership, the owner of the legal parcel who is seeking tax credits shall be eligible to apply.

(b) **How to Apply**

(1) The owner shall submit requests for approvals, certifications, reservation of tax credits and issuance of a tax credit voucher on forms prescribed by the commission. In cases where the owner also seeks to claim the federal historic preservation investment tax credit for a building located in a district listed on the National Register of Historic Places, applications for determination of historic structure status and approval of proposed rehabilitation plan may be made on the Part 1 or Part 2 applications, respectively, of the Historic Preservation Certification Application used by the National Park Service, with such additional forms and information as may be required by the commission.

(2) The owner may apply at any time during a state fiscal year, subject to the application requirements under sections 10-xxx-3, 10-xxx-5, 10-xxx-8, 10-xxx-10 and 10-xxx-11 of the Regulations of Connecticut State Agencies.

(3) No owner shall be eligible to apply for a preliminary certification and reservation of tax credits for more than one certified historic structure in a state fiscal year.

**Repealing an entire section or sections of a regulation**

- To repeal an entire section or sections of a regulation, use the following format for the introductory language for a repealer section:

<p>Section (section number) of the Regulations of Connecticut State Agencies is repealed.</p> <p style="text-align: center;"><b>OR</b></p> <p>Sections (section number) and (section number) of the Regulations of Connecticut State Agencies are repealed.</p> <p style="text-align: center;"><b>OR</b></p> <p>Sections (section number) to (section number), inclusive, of the Regulations of Connecticut State Agencies are repealed.</p>
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**Do a search of the Regulations of Connecticut State Agencies for any references to the section or sections being repealed, amend any regulations containing such references accordingly and include those amended sections in the proposed regulations.**

*NOTE:* Do not repeal a subsection or subdivision using a repealer section. To delete a **unit** of an existing regulation, follow the format for *amending* a unit of an existing section, as provided on pages 11-14 (*i.e.*, use the introductory language for amending a regulation or amending a unit of a regulation, and show all necessary text to be deleted and bracket it). Repealing a section of a regulation without showing the text of that regulation can only be done if the *entire* section is being deleted.

<b>YES:</b>	<b>NO:</b>
<p>Section 38a-495a-13(b) of the Regulations of the Connecticut State Agencies is amended to read as follows:</p> <p style="padding-left: 2em;">(b)(1) As soon as practicable, but not later than thirty days prior to the annual effective date of any Medicare benefit change, an issuer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement insurance policies.</p> <p style="padding-left: 2em;">(2) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms.</p> <p style="padding-left: 2em;">[(3) Such notice shall not contain or be accompanied by any solicitation.]</p>	<p>Section 38a-495a-13(b)(3) is repealed.</p>

- A repealer section should always be the **last section** of the proposed regulation. Do not repeal an entire section or sections by showing the text and surrounding the text with brackets.
- If a regulation amends a series of sections of existing regulation and the intent is to repeal a section within the series, the repealed section should be omitted from the series of sections of the proposed regulation. The repeal should be accomplished with a repealer section at the end of the regulation as follows:

Section 1. Sections 38a-8-1 to 38a-8-22, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

(Text with proposed changes shown)

Sec. 2. Sections 38a-8-24 to 38a-8-30, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

(Text with proposed changes shown)

Sec. 3. Section 38a-8-23 of the Regulations of Connecticut State Agencies is repealed.

Note that the repeal of section 38a-8-23 is accomplished with a separate repealer section at the end of the regulation rather than by including and bracketing the text of the section within the series of sections amended by the proposed regulation.

- **Never reuse repealed section numbers** once a regulation section has been repealed.

## Deleting and Adding Language

### Deleting language

- Language to be deleted (including punctuation) should be enclosed in bolded brackets.
- When making *any* change to a word, bracket the entire word and underline the new word. Do not bracket letters or characters of an existing word and do not add underlined letters or characters to an existing word.

YES:	NO:
... [sewer] <u>sewerage</u> ...	... sewer <u>age</u> ...
... [insurers] <u>insurer's</u> ...	... insurer' <u>s</u> ...
... [programming] <u>program</u> ...	... program[ming] ...
... [an] <u>a</u> ...	... a[n] ...
... [person] <u>persons</u>	... persons <u></u>
... [licenses] <u>license</u>	... license[s]

- When changing the designation of a unit of a regulation (*e.g.*, subsection, subdivision), bracket the parentheses around the unit designator to be deleted and underscore the unit designator, including parentheses, to be added.

YES:	NO:
[(a)] <u>(b)</u> ...	([a] <u>b</u> ) ...

**Do a search of the Regulations of Connecticut State Agencies for any references to the unit designator being changed, amend any regulations containing such references accordingly and include those amended sections in the proposed regulations.**

**Adding language**

- Underline new language added to an existing regulation (including punctuation, numbers and unit designators (*e.g.*, (a), (1), (A), (i)).

(2) Permanent classifications of crane operator licenses are:  
(A) Tower crane operator license; [and]  
(B) Hydraulic crane operator license;  
(C) Derrick crane operator license; and  
(D) Mobile cable crane operator license.

*NOTE:* Where an entire section or stand-alone unit of a regulation is new, it should be preceded by the word "(NEW)" in capital letters, as required by section 4-170(b) of the Connecticut General Statutes. In those instances where "(NEW)" is inserted, the text should *not* be underlined.

*Adding an entirely new section:*  
Sec. 3. The Regulations of Connecticut State Agencies are amended by adding section 51-275a-7 as follows :  
(NEW) Sec. 51-275a-7. **Post hearing brief.** Each party shall have the opportunity to file a post hearing brief at a time to be designated by the commission. The chairman shall notify all parties when the transcript has been filed.

*Adding a new subsection to an existing section when no other amendments to the existing section are required:*  
Section 1. Section 14-36f-2 of the Regulations of Connecticut State Agencies is amended by adding subsection (h) as follows :  
(NEW) (h) No secondary school shall conduct a driver education program unless the commissioner has approved the curriculum and conduct of the program.

**Sequence**

- If replacing existing language with new language, always bracket the language to be deleted and insert the underlined language to be added **after** the bracketed language.

[Each] <u>Not later than January first, each</u> licensee shall ...
---

- If deleting multiple words in a sentence, bracket them as a whole rather than as individual words, for ease of reading.

YES:	NO:
... The [Department of Public Health shall create a] <u>Insurance Department shall implement the</u> ...	... The <u>Insurance</u> Department [of] [Public] [Health] shall [create] <u>implement</u> [a] <u>the</u> ...

**Exception:** Add new punctuation (which should be underlined) immediately following the text that it punctuates rather than after the bracketed language.

YES:	NO:
... Department of <u>Public</u> Health; [Services.]	... Department of <u>Public</u> Health [Services.];



## Subdividing Sections Into Smaller Units

### The Anatomy of a Section

- Subdivide regulations according to the following breakdown of units:

Section 10a-45-210
Subsection (a)
Subdivision (1)
Subparagraph (A)
Clause (i)
Subclause (I)

### Exceptions:

- **Definitions** - A definitions section should use subdivision numerical designators, whether or not the section is broken into subsections (see "Definitions" on [page 38](#)).

<p>Section 16-1-53.</p> <p>As used in sections 16-1-53 to 16-1-59, inclusive, of the Regulations of Connecticut State Agencies:</p> <p>(1) "Customer" means a person or entity that has contracted with a utility company for service;</p> <p>(2) "Termination" means the voluntary discontinuation of service to an individual utility customer but does not include interruption or curtailment of service resulting from forced outages, energy or capacity shortages or other emergencies; and</p> <p>(3) "Utility service" means the provision of gas, electricity or water by a utility company to a customer at retail rates and includes, without limitation, residential utility service.</p>
--

- **A list following an introductory statement** - If a section that is not broken into subsections contains a list of items that cannot be read without an initial statement or paragraph, use subdivision numerical designators (*e.g.*, (1), (2)) rather than alphabetical designators to list the items, even though alphabetical designators would normally be the next lowest unit designator.

Section 13-15-2.

In order to qualify, an individual shall be (1) at least sixty years of age, (2) domiciled in this state, and (3) the record owner of the property.

Section 14-80a-5a.

Measurement tolerances shall take into account the effects of the following factors:

- (1) The standard practice of reporting field sound level measurements to the nearest whole decibel;
  - (2) Variations resulting from commercial instrument tolerances;
  - (3) Variations resulting from the topography of the noise measurement site;
- and
- (4) Variations resulting from reflected sound from small objects allowed within the test site.

## Citing Regulations

### Citing Units of a Regulation

- Citing a specific unit of a section of a regulation can be accomplished two different ways:

- (1) Cite each unit of the section starting with the smallest unit and ending with the section number.

subparagraph (B) of subdivision (1) of subsection (c) of section 22-43-2 of the Regulations of Connecticut State Agencies

**OR**

- (2) Cite the section number first followed by each unit of the section, ending with the smallest unit.

*NOTE:* It is not necessary to identify the units as such (*e.g.*, "subsection", "subdivision").

section 22-43-2(c)(1)(B) of the Regulations of Connecticut State Agencies

*NOTE:* In general, do not reference a unit smaller than a subparagraph.

YES:	NO:
... subparagraph (B)(i)(II) of subdivision (1) of subsection (c) of section 22-43-2	... subclause (II) of clause (i) of subparagraph (B) of...

**Citing Another Unit Within the Same Regulation**

- To cite another unit within the same regulation, use *either* of the following two forms:

(1) Cite each part of the section starting with the smallest unit you wish to cite, ending with "of this (largest unit)".

*EXAMPLES:*

subparagraph (B) of subdivision (1) of subsection (c) of this section

subparagraph (B) of subdivision (1) of this subsection

**OR**

(2) Cite the second to largest unit first followed by succeeding smaller units, ending with "of this (largest unit)".

*NOTE:* It is not necessary to identify the units as such, (e.g., "subdivision", "subparagraph").

*EXAMPLES:*

subsection (c)(1)(B) of this section

subdivision (1)(B) of this subsection

**Citing Another Connecticut Regulation**

- To cite another section of the Connecticut regulations, use the following form:

section \_\_\_\_ of the Regulations of Connecticut State Agencies

**Do Not Use Ambiguous References**

Never use "these regulations", "above", "below", "hereinafter" or any similar term.

YES:	NO:
... of this section of the Regulations of Connecticut State Agencies OR ... of section 14-11d of the Regulations of Connecticut State Agencies OR ... of sections 14-11d-1 to 14-11d-7, inclusive, of the Regulations of Connecticut State Agencies	... of this regulation  OR  ... of these regulations
... of subsection (a) of this section	... of subsection (a) above
... of subsection (c)(2) of this section OR ... of subdivision (2) of subsection (c) of this section	... of subsection (c)(2) below OR ... hereinafter OR ... herein OR ... above
... section 12-34-14 of the Regulations of Connecticut State Agencies	... section 12-34-14 above OR ... section 12-34-14 below
... of section 29-109-1c(a)(2) of the Regulations of Connecticut State Agencies OR ... of subdivision (2) of subsection (a) of section 29-109-1c of the Regulations of Connecticut State Agencies	... of section 29-109-1c(a)(2) below OR ... hereinafter OR ... herein OR ... above
The provider shall include the information set forth in subsection (a) of this section for each of the agency's employees who render SBCH services.	The provider shall include the information above for each of the agency's employees who render SBCH services.

## Citing the Connecticut General Statutes

- To cite a section of the Connecticut General Statutes, use the following form:

section ____ of the Connecticut General Statutes
--

YES:	NO:
... section 12-34 of the Connecticut General Statutes	... section 12-34 of the Conn. Gen. Stats. OR ... section 12-34 of the general statutes OR ... section 12-34, C.G.S.
... section 14-227b(c) of the Connecticut General Statutes OR ... subsection (c) of section 14-227b of the Connecticut General Statutes	... section 14-227b(c) of the Conn. Gen. Stats. OR ... section 14-227b(c) of the general statutes OR ... section 14-227b(c), C.G.S.

## Citing a Specific Unit Within a Section of the Connecticut General Statutes

The same formats provided for citing units of a regulation apply when referring to a specific unit of a section of the Connecticut General Statutes.

subparagraph (C) of subdivision (4) of subsection (b) of section 31-57e of the Connecticut General Statutes  <b>OR</b> section 31-57e(b)(4)(C) of the Connecticut General Statutes
---

**Never Insert "As Amended From Time to Time" After a Citation to the Connecticut General Statutes**

- Doing so may result in an agency exceeding the scope of its authority delegated to it by statute.

YES:	NO:
... section 12-34 of the Connecticut General Statutes	... section 12-34 of the Connecticut General Statutes, as amended from time to time

**Never Insert "As Amended By Public Act XX-XX" After a Citation to the Connecticut General Statutes**

- While this type of citation may be necessary in the Connecticut General Statutes, it is not appropriate in regulations.

YES:	NO:
... section 12-34 of the Connecticut General Statutes	... section 12-34 of the Connecticut General Statutes, as amended by public act 95-86

**Referring to a Public Act in Lieu of the Connecticut General Statutes, Assigning Temporary Section Numbers to New Regulations**

Sometimes it is necessary to refer to a public act *in lieu of* referring to a section of the Connecticut General Statutes. This is appropriate if a public act adds a new section to the general statutes that a regulation must refer to, but the new section has not yet been codified as part of the most recent odd-numbered year publication of the Connecticut General Statutes, and therefore has not yet been assigned an official statutory section number.<sup>1</sup> In this instance, the agency must cite the applicable section or sections of the public act because there is no official statutory section number to cite.

---

<sup>1</sup> The general statutes are published and updated online at the beginning of each odd-numbered year, or in even-numbered years as a supplement to the Connecticut General Statutes. The year cited in the revision date of the statutes is not included in that publication; thus, "REVISED TO JANUARY 1, 2013" means the statutes contain all the legislative changes made via public acts up to the end of 2012 but not the changes made during the 2013 legislative session. For those changes, one must reference the 2013 public acts or the 2014 supplement to the General Statutes.

Where a public act directs an agency to draft new regulations and the agency drafts the new regulations before official statutory sections are assigned to the public act sections, the agency should assign the new regulations temporary section numbers, as provided in the example below. Once the applicable section or sections of the public act are assigned official statutory section numbers, the agency must amend the regulation to substitute the official numbers for the temporary ones. If an agency learns of the official section numbers prior to submitting the regulation to the Regulation Review Committee, the agency should correct the regulation numbers prior to submittal.

Sec. 3. The Regulations of Connecticut State Agencies are amended by adding sections xx-xxx-1 to xx-xxx-8, inclusive, as follows:

(NEW) Section xx-xxx-1. Application Procedure for Bail Enforcement Agent License.

(a) Any person desiring ....

...

(NEW) Section xx-xxx-8. Suspension or Revocation of a Bail Enforcement Agent's License. Any bail enforcement agent's license may be suspended or revoked by the Commissioner of Public Safety, provided notice shall have been given to the licensee to appear before the commissioner to show cause why the license should not be suspended or revoked, upon a finding by the commissioner that the licensee has violated any of the terms or provisions of sections 1 to 10, inclusive, of public act 97-287 or sections xx-xxx-1 to xx-xxx-8, inclusive, of the Regulations of Connecticut State Agencies.

**Never Copy or Paraphrase the Connecticut General Statutes**

When a regulation refers to the Connecticut General Statutes, cite to the applicable section of the general statutes rather than copying or paraphrasing the actual provisions of that statutory section because any future amendments to that statutory section could create an internal conflict in the regulation.

**✘ TO AVOID:**

(5) "Nursing services", as defined in section 20-87a of the Connecticut General Statutes, means the process of diagnosing human responses to actual or potential health problems, providing supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of a total health care regimen and executing the medical regimen as established under the respective nurse's code of practice, as defined under state law.



**Discussion:** *It is preferable to say, "(5) "Nursing services" has the same meaning as provided in section 20-87a of the Connecticut General Statutes." Generally, it is more accurate to cite to the definition in the Connecticut General Statutes rather than copying the text that appears in the general statutes. See also "Failure to Implement the Law as Directed by Statutory Authority" on [page 8](#) for a discussion on copying or paraphrasing the general statutes.*

**✘ TO AVOID:**

**R104.6. Right of entry.** In accordance with the provisions of subsection (d) of section 29-261 of the Connecticut General Statutes, *the building official or his or her assistant shall have the right of entry to such buildings or structures, except single-family residences, for the proper performance of his or her duties between the hours of nine a.m. and five p.m., except that in the case if an emergency he or she shall have the right of entry at any time, if such entry is necessary in the interest of public safety.*

Section 29-261(d) of the Connecticut General Statutes states:

(d) The building official or his assistant shall have the right of entry to such buildings or structures, except single-family residences, for the proper performance of his duties between the hours of nine a.m. and five p.m., except that in the case if an emergency he shall have the right of entry at any time, if such entry is necessary in the interest of public safety.

**Discussion:** *The italicized language in the proposed regulation repeats the language of the statute rather than citing more generally to the right of entry requirements set forth in said subsection. If the language in the cited subsection is amended by legislation, the regulation will no longer be consistent and will need to be amended accordingly, whereas by citing to the right of entry requirements in the statute, the regulation will not need to be amended following any statutory change to such requirements.*

*See also "Failure to Implement the Law as Directed by Statutory Authority" on [page 8](#) for a discussion on copying or paraphrasing the general statutes.*

## Citing Federal Regulations and Federal Statutes

- To cite a provision or provisions of the **Code of Federal Regulations**, use one of the following forms, as appropriate:

(1) To cite a specific **section** of the Code of Federal Regulations:

7 CFR 631.1 (*i.e.*, Title 7, Part 631, Section 631.1)

(2) To cite a specific **part** of the Code of Federal Regulations:

7 CFR 631 (*i.e.*, Title 7, Part 631)

(3) To cite a specific **subpart** of the Code of Federal Regulations:

7 CFR 631, Subpart A (*i.e.*, Title 7, Part 631, Subpart A)

YES:	NO:
... 7 CFR 631.1	... 7 Code of Federal Regulations 631.1 OR ... Title 7 of the Code of Federal Regulations, Section 631.1 OR ... 7 C.F.R. 631.1

- To cite a provision or provisions of the **United States Code**, use one of the following forms, as appropriate:

(1) To cite a specific **section** of the United States Code:

42 USC 4577 (*i.e.*, Title 42, Section 4541)

(2) To cite a specific **chapter** of the United States Code:

42 USC, Chapter 60 (*i.e.*, Title 42, Chapter 60)

(3) To cite a specific **subchapter** of the United States Code:

42 USC, Chapter 60, Subchapter III (*i.e.*, Title 42, Chapter 60, Subchapter III)

(4) To cite a specific **part** of the United States Code:

42 USC, Chapter 60, Subchapter III, Part B

(5) To cite a specific act:

the federal Single Audit Act, Public Law 98-502

YES:	NO:
... the Public Works Economic Development Act, Public Law 89-136	... the Public Works Economic Development Act, Public Law 136 of the 101 <sup>st</sup> Congress of the United States
... 26 USC 999	... 26 USC Section 999 OR ... 26 U.S.C. 999 OR ... 26 USCA 999 OR ... Section 999, Title 26 of the United States Code

**Using "As Amended From Time to Time" After a Citation to Federal Regulations or Federal Statutes**

Pursuant to section 4-170(b) of the Connecticut General Statutes, the Regulation Review Committee may allow a regulation to specifically incorporate by reference *future* amendments to federal statutes or regulations if the Regulation Review Committee finds that a federal statute requires, as a condition of the state exercising regulatory authority, that a Connecticut regulation at all times must be identical to that federal statute or regulation. In that case, a comma and the words "as amended from time to time" should be inserted after the citation to the federal statute or regulation.

Section 19a-145-7. Medicaid payment for any laboratory service is limited to services provided by Medicaid providers who are in compliance with the provisions set forth in 42 CFR 441.154, as amended from time to time.

*NOTE:* Section 4-170(b) of the Connecticut General Statutes requires the agency to submit such future amendments to the Regulation Review Committee.

## ► OTHER DRAFTING CONSIDERATIONS

### Statement of Purpose

Section 4-170 of the Connecticut General Statutes requires each regulation to include a statement of its purpose following the final section of the regulation. The Regulation Review Committee requires said statement to provide:

- A detailed, plain language narrative stating the purpose of the regulation including the problems, issues or circumstances that the regulation proposes to address;
- A summary of the main provisions of the regulation; and
- The legal effects of the regulation, including all the ways in which the regulation would change existing regulations or other law.

**Statement of Purpose:** This proposed new regulation adopts rules for the conduct of hearing an appeal from any person aggrieved by the determination of the amount of compensation paid whenever the Commissioner of Transportation acquires an outdoor advertising structure.

In these appeals, the petitioner could potentially be billboard owners, permit holders, or billboard operators. An appeal to the State Properties Review Board allows the petitioner to seek an administrative remedy concerning the Commissioner of Transportation's determination of compensation.

PA 07-5 amended Section 8-273a of the General Statutes to change the valuation method used by the Commissioner of Transportation when determining the fair market value of outdoor advertising structures, or billboards, and the act also required the State Properties Review Board to hear appeals from any person aggrieved by the determination of the amount of compensation paid whenever the Commissioner of Transportation acquires an outdoor advertising structure.

**Statement of purpose:** To make technical and other minor changes to the Insurance Department's rules of practice.

**A. The problems, issues or circumstances that the regulation proposes to address.** In addition to the need to make some technical changes to clean and clarify some of the language, the Insurance Department ("Department") sought to address two issues. First, having become aware that the regulation's provision related to jurisdictional objections was being misinterpreted to apply also in situations in which a contested case had not commenced, the Department sought to clarify the issue. Second, it appears redundant to provide two notices when a respondent fails to answer a Department's complaint within the time allowed by law.

**B. Summary of the main provision of the proposed amendment.** The main provisions of the amendment provide (1) that an attorney representing the Department in a hearing instituted by the Department is not required to file a notice of appearance; (2) that a complaint issued by the Department in a contested case shall contain a notice of the consequences of a respondent's failure to answer (3) limits to the time in which the Department may file an amended complaint; and (4) for the deletion of the requirement that the Department mail a second notice upon a respondent's failure to file an answer.

**C. The legal effects of the proposed amendment on existing regulations or other laws.** There is no impact on existing regulations or other laws.

(A) Purpose of regulation: To address the use of physical restraint or seclusion in the public schools for children who are or may be eligible for special education consistent with the requirements of Public Act 07-147.

(B) Summary of the main provisions of the regulation: This regulation adopts definitions contained in Public Act 07-147 concerning what is seclusion and restraint and who may perform such; requires that the use of physical restraint or seclusion conforms to the requirements of Public Act 07-147; provides exceptions to the restrictions on the use of physical restraint or seclusion as emergency interventions to allow districts to maintain a safe school setting and to use reasonable physical force consistent with the requirements of Section 53a-18 of the general statutes; details under what conditions seclusions may be used as a behavior intervention strategy for a child eligible for special education; provides for parental notification in the event physical restraint or seclusion must be used as an emergency intervention, allows the PPT to determine the appropriate method notification if seclusion is used as a behavior intervention strategy and provides clarification on how school districts are to notify parents regarding the laws and regulations on the use of restraint and seclusion in the public schools; provides that providers or assistants be provided with training as required pursuant to subdivision (2) of subsection (a) of section 46a-154 of the general statutes; and requires that the Department of Education create a standardized incident report form for reporting incidents of physical restraint or seclusion.

(C) Legal effects of the regulation: The proposed regulation adds to the regulatory requirements for the provision of special education and related services to children who are eligible or whose eligibility for special education is being determined. The development of the IEP, including the conducting of any assessment or evaluation would follow the procedural requirements contained in the federal Individuals with Disabilities Education Act (IDEA) and the state special education regulations.

## "Notwithstanding" Clauses, Exceptions, Provisos

- "**Notwithstanding**" means "despite" or "in spite of". Sometimes it is necessary to "notwithstanding" contrary or conflicting provisions of existing regulations wherever they may appear. Since the reader of the contrary or conflicting law may not know of the new, superseding provision, such sweeping "notwithstanding" clauses should be used as seldom as possible.

**NOTE:** **Never** use the term, "notwithstanding the Connecticut General Statutes" (or any federal regulation or federal statute) in a regulation. The statutes confer regulatory authority on an agency, and therefore the agency lacks the power to adopt regulations that contradict the statutes.

- Use an **exception** when the general application of a regulation does not apply. An exception should be limited in application and narrowly and precisely stated. Do not use an exception if it would be clearer to use "but" or "if". An agency **cannot** create an exception by regulation to any provision a statute may require.

**NOTE:** An agency **cannot** create an exception by regulation to any provision a statute may require.

- A **proviso** is introduced by "provided". It should be used sparingly and *only* to mean "on the condition that".

## Retroactivity and Effective Dates

Pursuant to section 4-172 of the Connecticut General Statutes, regulations are generally effective upon posting on the eRegulations System by the Secretary of the State, which is required to occur not later than ten calendar days after the electronic submission by the agency. It is not necessary to specify that a regulation is "effective from passage." However, if the regulation will take effect on a different date, that effective date must be specified on the certification page.

Please note that provisions that are effective retroactively may create due process problems if they fail to provide affected parties with adequate advance notice of their application. Therefore, retroactive effective dates should not be used except in compelling circumstances.

## Definitions

### When to Define a Term

Definitions are appropriate:

- To avoid repetition (*i.e.*, if the term will be used frequently);
- To limit or expand the meaning of a word beyond its ordinary meaning; or
- To translate technical words into common language.

Generally, definitions are *not* appropriate:

- To merely repeat the dictionary meaning of a word or term;
- If the term is used only once or is not used in the text of the regulation; or
- If the term is already defined by statute.

*NOTE:* If a term is defined by statute, it should be defined in a regulation by reference to that statute (*e.g.*, " "(term)" has the same meaning as provided in section \_\_\_ of the Connecticut General Statutes").

### Placement of Definitions

- Place definitions at the beginning of the section or group of sections to which the definition applies. Cite to those sections of the regulations that a definition applies to by using one, or a combination, of the following forms of introductory language, as appropriate:

As used in this section:	<b>OR</b>	As used in this section and sections ___ to ___, inclusive, of the Regulations of Connecticut State Agencies:
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- Normally a numerical subdivision will only follow an alphabetical subsection: (a)(1), (a)(2), and so forth. When defining terms, however, list all defined terms numerically using subdivisions (1), (2), (3), and so on, even where no subsections are used.
- Definitions may be listed alphabetically or in order of or by frequency of use.



## **Capitalization**

Capitalize the first word of each term being defined, but do not capitalize subsequent words appearing within a term being defined, unless the entire term is capitalized throughout the regulations.

<b>YES:</b>	<b>NO:</b>
... (3) "Utility service" means ...	... (3) "Utility Service" means ...  <i>Discussion: Unless both words in "utility service" are capitalized wherever the term is used, "service" should not be capitalized in the definition.</i>

## **Punctuation**

- Put the defined term in quotation marks followed by "means" (and in some circumstances "includes").
- Follow each definition with either a semicolon or a period, provided the chosen punctuation is used consistently.

<p>Section 16-3-100.</p> <p>(a) As used in this section:</p> <p>(1) "Customer" means a person or entity that has contracted with a utility company for service.</p> <p>(2) "Termination" means the voluntary discontinuation of service to an individual utility customer but does not include interruption or curtailment of service resulting from forced outages, energy or capacity shortages or other emergencies.</p> <p>(3) "Utility service" means the provision of gas, electricity or water by a utility company to a customer at retail rates and includes, without limitation, residential utility service.</p> <p>(b) (1) A customer's utility service may be terminated without notice.</p>
---

- If semicolons are used, insert "and" at the end of the second to last definition.

Section 16-1-53.  
As used in sections 16-1-53 to 16-1-59, inclusive, of the Regulations of Connecticut State Agencies:  
(1) "Customer" means a person or entity that has contracted with a utility company for service;  
(2) "Termination" means the voluntary discontinuation of service to an individual utility customer but does not include interruption or curtailment of service resulting from forced outages, energy or capacity shortages or other emergencies; and  
(3) "Utility service" means the provision of gas, electricity or water by a utility company to a customer at retail rates and includes, without limitation, residential utility service.

- Do not use dashes, slashes, parentheses or similar punctuation within a definition.

YES:	NO:
"Medical appropriateness" or "medically appropriate" means ...	"Medical appropriateness/Medically appropriate" means ...
"Individualized education program" or "IEP" means ...	"Individualized education program (IEP)" means ...

**Form**

- **Do not include substantive provisions within a definition** (e.g., a prohibition or requirement).

YES:	NO:
"Label" means a display of written or printed matter on the container of a substance. ...	"Label" means a display of written or printed matter on the container of a substance, <b>and in order to comply with any requirement under this section that a statement or other information appear on the label of the substance, the statement or other information shall be placed on the outside container or be legible through the outside container.</b>
"Allied health professional" means an individual who is licensed or certified by the Department of Public Health or the Department of Education to provide school based child health services. ...	"Allied health professional" means an individual who is licensed or certified by the Department of Public Health or the Department of Education to provide school based child health services. <b>The activities and services of an allied health professional whose scope of practice is defined under state law is subject to such scope of practice in performing services under this section.</b>

- When introducing a defined term, avoid using the word "shall".

YES:	NO:
... means ...	... shall mean ...
... has the same meaning as...	... shall have the same meaning as...
... includes ...	... shall include ...
... does not include ...	... shall not include ...

- Avoid paraphrasing or repeating the definition of a term that is already defined in the Connecticut General Statutes. Not only does the definition become inaccurate when the statutory definition changes, but any alteration or deviation from the term as it is defined by statute may result in an agency exceeding statutory authority. **Instead**, cite the section of the general statutes where the term is defined, using the following format:

"Term" has the same meaning as provided in section \_\_\_ of the Connecticut General Statutes,

*NOTE:* It is unnecessary to cite the particular subdivision of the Connecticut General Statutes where the term is defined. It is also undesirable because a statute may be amended, thereby necessitating an amendment to the regulation.

YES:	NO:
"Domestic insurer" has the same meaning as provided in section 38a-1 of the Connecticut General Statutes;	"Domestic insurer" means any insurer that has been chartered by, incorporated, organized or constituted within or under the laws of this state; OR "Domestic insurer" has the same meaning as provided in section 38a-1(11)(B) of the Connecticut General Statutes;

### Use Terms Consistently

Whether or not a term is defined in a regulation, a term should be used consistently throughout the regulation. For example, it is clearer to use the term "insured" throughout a regulation than to use "insured", "certificate holder" and "covered person" to mean the same thing. Further, if one of the terms is defined but the others are not, the agency's intention becomes even less clear.

## Use Plain English

- Draft the text of a regulation in plain English to the extent possible. Here are some general rules:
  - Do not use "terms of art" even if the words are familiar to the regulated community, unless they are defined.
  - Do not use an obscure word when a simple and familiar word will do.
  - Do not use many words when the same meaning can be expressed in a few, and do not use pairs of words having the same effect.
  - Do not use ambiguous terms and terms that could be construed more than one way.
  - Do not use the plural when the singular will suffice.
  - Do not use "etc." or any abbreviations.

### Some common examples:

YES:	NO:
regulations	rules and regulations
adopt regulations	promulgate regulations
each	each and every
exclusive	sole and exclusive
The employer shall ...	The employer is hereby directed to ...
The commissioner may ...	The commissioner is authorized to ...
No person shall ...	It shall be unlawful for any person to ...
If ...	In the event that ...
Void	Null, void and of no effect
... every two years OR ... twice a year	... biennially OR ... biannually

## Grammar

### "And" vs. "Or"

- Do not use the conjunctions "and" and "or" interchangeably:
  - Use "and" to connect requirements that are additive to each other;
  - Use "or" to indicate an alternative OR to indicate both an addition and an alternative, *i.e.*, "or" can mean "and/or".
- **Never** use "and/or". **Instead**, use "or", "or ... or both", "or ... or any of these", or similar language, as appropriate.

YES:	NO:
... or ... OR ... or ... or both OR ... or any of these	... and/or ...

(1) "Allied health professional" means an individual who is (A) licensed by the Department of Public Health, or (B) certified by a licensed practitioner that such individual is qualified by special training, education, skills and experience in providing health care, treatment and diagnostic services, under the supervision of or in collaboration with such practitioner.

***Discussion: An individual can qualify as an allied health professional either by being licensed by the department or by being certified by a licensed practitioner.***

(1) "Allied health professional" means an individual who is (A) licensed by the Department of Public Health, and (B) certified by a licensed practitioner that such individual is qualified by special training, education, skills and experience in providing health care, treatment and diagnostic services, under the supervision of or in collaboration with such practitioner.

***Discussion: Here, both requirements must be met for an individual to qualify as an allied health professional.***

**"Shall" vs. "Must" vs. "Will"**

- In keeping with the Regulation Review Committee's directive to agencies regarding mandates, use "shall" when the agency seeks to impose a mandate and does not confer any discretion in carrying out the action so directed. **Never use "must"**.
- **Avoid** using "may not". **Instead**, use "shall not" or "no person shall".
- Use "will" to denote something that will happen in the future, *not* to denote a requirement.

... The seller *shall* maintain such food under conditions that *will* inhibit the growth of bacteria ...

YES:	NO:
... shall ...	... must ...
No person shall ... OR A person shall not ...	A person may not ...
The billing provider shall update the billing provider agreement annually.	The billing provider must update the billing provider agreement annually.
Medicaid shall reimburse a provider for SBCH services, provided the following requirements are met: ...	Medicaid will reimburse a provider for SBCH services, provided the following requirements are met: ...
Small water and sewerage companies shall not be required to comply with section 16-1-56 of the Regulations of Connecticut State Agencies. OR Small water and sewerage companies are not required to comply with section 16-1-56 of the Regulations of Connecticut State Agencies.	Small water and sewerage companies will not be required to comply with section 16-1-56 of the Regulations of Connecticut State Agencies.

## Use Complete Sentences

Always draft regulations as complete sentences. Every item in a list should end with some type of punctuation, and the second to last item in a list should end with the term "and" or "or".

YES:	NO:
(c) A petition filed under subsection (a) of this section shall include: (1) The name and address of the applicant; (2) The address of the applicant's place of employment; and (3) Specification of the reason for seeking relief.	(c) A petition filed under subsection (a) of this section shall include: (1) The name and address of the applicant. (2) The address of the applicant's place of employment. (3) Specification of the reason for seeking relief.  OR (c) A petition filed under subsection (a) of this section shall include: (1) The name and address of the applicant (2) The address of the applicant's place of employment (3) Specification of the reason for seeking relief

## Timeframes

- **Avoid** "within \_\_ days of ...". **Instead**, use "not more than \_\_ days after ..." or "not later than \_\_ days after...".

YES:	NO:
"Not more than thirty days after completion of the exam, ..."	"Within thirty days of completing the exam, ..."



## Use Active Voice

- Draft in the active voice to the extent possible.

YES:	NO:
The billing provider shall update the billing provider agreement annually.	The billing provider agreement shall be updated annually.
The performing provider shall include in the list the name of the agency and shall provide the information set forth in subsection (a) of this section for each of the agency's employees who render SBCH services.	The list shall include the name of the agency, and the information set forth in subsection (a) of this section shall be provided for each of the agency's employees who render SBCH services.

## Use Gender Neutral Language

- Avoid personal pronouns and do not use "he/she".

YES:	NO:
A nurse may administer a controlled substance if the nurse is registered with the department. ... OR A nurse, if registered with the department, may administer a controlled substance. ...	A nurse may administer a controlled substance if she is registered with the department. ... OR A nurse may administer a controlled substance if he/she is registered with the department. ...

Very rarely, a sentence will be awkward if drafted using gender neutral language. In those instances, it is acceptable to use "he or she", but never "he/she".

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Legislative Commissioners' Office  
Suite 5500  
Legislative Office Building  
Hartford, CT 06106



Phone: 860-240-8410  
Fax: 860-240-8414  
[www.cga.ct.gov/lco](http://www.cga.ct.gov/lco)  
email: [lco@cga.ct.gov](mailto:lco@cga.ct.gov)

*"Let all the laws be clear, uniform and precise." -Voltaire*