

NOTICE OF PROPOSED CHANGES TO TITLE 2, OF THE CALIFORNIA CODE OF REGULATIONS, DIVISION 1, CHAPTER 1, SUBCHAPTER 1, ARTICLE 8, PSYCHOLOGICAL SCREENING, BY THE STATE PERSONNEL BOARD

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the State Personnel Board (Board) is proposing to take the action described in the Informative Digest.

A public hearing regarding this proposal will be held on October 18, 2010, at 10:00 a.m. in Room 150, at 801 Capitol Mall, Sacramento, CA.

Following the public hearing, the Board may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be made available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

State Personnel Board
801 Capitol Mall
Sacramento, CA 95814
Attention: John D. Smith

Comments may also be submitted by e-mail to: jsmith@spb.ca.gov. Comments must be submitted no later than 5:00 p.m. on October 18, 2010.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 18211, 18213, and 18701 of the Government Code, and to implement, interpret or make specific the following sections, the State Personnel Board is considering changes to Article 8, Examinations, of Division 1, of title 2 of the California Code of Regulations as set forth in the Informative Digest:

Government Code Sections: 1031(f) – (g), 18500, 18670, 18931, 18935.
Penal Code: 13503, 13506, 23510, 23510.5, 13601(a).

SECTIONS AFFECTED

Amendment of sections: 172.6, 172.7, 172.8, 172.9, 172.10 (renumbered to 172.11), 172.11 (renumbered to 172.12).

Adoption of section: 172.10

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Personnel Board (Board) is a neutral body responsible for administering a merit system of civil service employment within California State Government. As part of its responsibility, the Board conducts psychological screening, which is the mandatory pre-employment assessment of the psychological fitness of candidates for appointment as peace officers including peace officers in either a youth or adult correctional facility.

Government Code section 18701 provides the Board with broad authority to “prescribe, amend, and repeal rules in accordance with the law for the administration and enforcement of this part and other sections of this code over which the Board is specifically assigned jurisdiction.”

Existing regulations that set forth the procedures for psychological screening as well as the appeal procedures for candidates withheld from certification are incomplete, confusing, and do not reflect a comprehensive regulatory scheme.

In this rulemaking, the Board has undertaken a review of the existing psychological screening regulations in order to provide a clear explanation of the screening process in order to ensure the process functions in a more orderly and expeditious manner.

The majority of changes to these regulations are either clarifying or non-substantive changes. However, the major improvement to this regulatory scheme is the creation of a Dispute Resolution Process which sets forth a clear process for candidates who have been disqualified from consideration as a peace officer. The process allows candidates to obtain an evaluation from an outside professional, and sets forth all possible contingencies that may result from the recommendation of the outside professional.

The process also includes the right of a candidate to file an appeal with the Appeals Division of the Board in the event the candidate does not agree with the final recommendation of the Board’s designee to withhold certification.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

COSTS OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

BUSINESS IMPACT/SMALL BUSINESS

The State Personnel Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by section 11342.610. The determination that the proposal would not affect small business is based upon the fact that the proposal applies only to the procedures of the State Personnel Board, employees of state agencies, or individuals applying to the State for jobs as peace officers.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The State Personnel Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The State Personnel Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS: None.

ALTERNATIVES

The State Personnel Board must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency's attention, would be more effective in carryout out the purpose for which the adoption of these regulations are proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquires concerning the proposed adoption of these regulations and written comments may be directed to:

John D. Smith
801 Capitol Mall
Sacramento, CA 95814
916 651-1041
jsmith@spb.ca.gov

or

Kathey Norton
801 Capitol Mall
Sacramento, CA 95814
916 651-3899
knorton@spb.ca.gov

INITIAL STATEMENT OF REASONS AND INFORMATION

The State Personnel Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all of the information upon which the proposal is based, may be obtained upon request from the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. These documents may also be viewed and downloaded from the State Personnel Board's website under "What's New?" at: spb.ca.gov

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person(s) named above.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named above.

WEBSITE ACCESS

Materials regarding this proposal can be found at the State Personnel Board's website at: spb.ca.gov

