

**DATE:** May 16, 2019

**TO:** ALL INTERESTED PARTIES

/s/ SUZANNE M. AMBROSE

**FROM:** Suzanne M. Ambrose  
Executive Officer

**SUBJECT: NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION**

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**Notice is hereby given** that the State Personnel Board (Board) has made changes to the proposed text for regulations related to Applications, Transfers and Special Assignments, beginning with section 170 et seq. of Title 2, Chapter 1, of the Code of Regulations (CCR).

The changes are based upon further review and in response to comments received during the 45-day public comment period. The changes being made are:

1. Rule 151.5 [Limited Term Eligible Lists] is being modified to avoid any confusion with proposed Rule 249.1.1, subdivision (c).
2. For purposes of clarity, proposed Rule 170, subdivision (b)(1) is further amended to add “where applicable.” Also for purposes of clarity, subdivision (b)(2) is further amended to require that the final filing date for examination applications be included on the announcement and, where the exam is continuous, the cut off date(s). The re-numbering and lettering of the proposed regulation is non-substantive and intended to conform with these changes. To avoid any confusion, subdivision (c) will be further amended to add in person “at the physical location designated on the examination announcement” and to add “For purposes of this regulation, ‘in person’ does not include online or web based examinations taken on a computer or other digital device where a particular physical location(s) for taking the online examination is not required and not specified on the examination announcement.” Other further changes are for style and clarity.
3. Upon further review, it was found that Rule 249 required further clarification.
4. To ensure clarity, the language used in Rule 249.1, subdivision (a), has been further amended to include express reference to Rule 249.2. In addition, due to further changes to this proposed rule, the subdivisions have been reordered. Therefore, subdivision (d)

is now subdivision (e). Proposed Rule 249.1 is further modified to incorporate a stronger statement of best practices. The language “broad and inclusive” is thus added to subdivision (b). Additional language has been added to the proposed regulation

5. concerning the seven-day posting requirement. Other changes are technical in nature to conform to this added paragraph.
6. Subdivision (a)(7) of proposed Rule 249.1.1 is further amended to allow a job vacancy to be advertised as “until filled” and to provide for periodic cutoff dates for submitting applications and other required materials, provided the cutoff dates are included in the job announcement. Subdivision (a)(8) has been stricken to eliminate duplication. To conform to this necessary change, the regulation is re-numbered accordingly.
7. For purposes of consistency and clarity, proposed Rule 249.8 has been further amended to clarify that the hiring agency must provide notice to the employee’s current appointing power. The proposed regulation has been further amended to add subdivision (c). In addition, for purposes of clarity and consistency with other regulations, the use of the term “lateral” has been stricken in subdivision (a) and replaced with “voluntary.” This change is technical without substantive impact.
8. Proposed Rule 280.1, subdivision (b) has been further amended to clarify that handwritten, electronic, or digital signatures are acceptable. The words “position” and “positions” have also been changed to “appointment” and “appointments,” respectively.
9. In proposed Rule 425, “.50 cents” will be changed to “50 cents” and “.49 “ will be changed to “49 cents.” In addition, for purposes of clarity, subdivision (7) has been amended.
10. To promote greater clarity regarding the definition of “current class” as used in proposed Rule 425, subdivision (c), is added to proposed Rule 427.
11. For purposes of clarity, it is noted that the correct title for proposed Rule 428 is “Voluntary Transfers In General.” Proposed Rule 428, subdivision (a), is also modified to provide clarification in the rule with regard to an employee’s status.
12. In proposed Rule 431, the term “position” has been changed to “appointment.”
13. For purposes of avoiding substantially duplicative rules and a standard that is for all practical purposes unnecessary, proposed Rule 433 is stricken in its entirety.
14. For purposes of consistency, in proposed Rule 434 the term “positions” has been changed to “appointments.”
15. Proposed Rule 438 is further amended to change reference therein from Rule 430 to Rule 437.
16. Proposed Rule 438.1, subdivision (b), has been amended to require prior approval by the Executive Officer of the extension of a temporary assignment beyond 24 months in any 36-month time period where required to complete an apprenticeship program. Subdivision (c) has also been amended to clarify the definition of “between jurisdictions.”

17. For purposes of clarity, proposed Rule 438.2 has been amended to include provisions concerning the salary rate of employees serving in temporary assignments or loans. Additional technical changes have also been made.
18. For purposes of clarity, proposed Rule 438.6 has been further amended to state that it applies to open, open-promotional, promotional, and non-promotional examinations.
19. For purposes of consistency and ease of reference, a note for authority and reference has been added to proposed Rule 438.7. This is a technical amendment without substantive impact.
20. Proposed Rule 439.2 is further amended by striking subdivisions (3)(A), (B) and (C) and amending subdivision (3). Reference to apprenticeships is stricken as no longer necessary given these changes.
21. For purposes of clarity, proposed Rule 439.3 is further amended to add reference to proposed Rule 439, subdivision (b). Other changes are for style and clarity. .
22. Proposed Rule 439.4 is further modified to allow appointments by way of transfer, list appointment, or demotion. Proposed rule 439.4(b)(1) is further modified to add "list appointment." In addition, subdivision (a) is further amended to strike "successful" in order to clarify that an employee has a right of return to his or her former position when the T&D ends. To conform to this change, the title of the proposed rule is changed to strike "successful." Also, subdivision (d) is further amended to reference open, open-promotional, promotional, and non-promotional examinations.
23. To ensure reasonable flexibility for hiring agencies that is consistent with a merit based hiring system, reference to interviews in proposed Rule 439.5 has been stricken. Other changes are stylistic and technical.
24. To ensure clarity and uniform practices relative to temporary assignments where a probationary employee is used, proposed Rule 440.1 has been further modified. To be consistent with the other two types of temporary assignments, the requirement that the employee meet the minimum qualifications has also been removed.
25. The advertisement requirement set forth in proposed Rule 440.2 has been simplified to require the advertisement to be "posted in a manner designed to provide fair, equitable notice to all eligible candidates."
26. For purposes of clarity and consistency, proposed Rule 440.4 is further amended to refer to "open, open-promotional, promotional, or non-promotional examinations." The proposed rule is also further amended to take into account situations in which the temporary assignment ends early for reasons other than disciplinary or unsatisfactory performance. The title of the proposed rule is further modified to strike "successful" so as to conform with these changes.

If you have any comments regarding the proposed changes, the Board will accept

written comments between May 17, 2019, and May 31, 2019. All written comments must be submitted to the Board no later than 5:00 p.m. on May 31, 2019, and addressed to:

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All written comments received by 5:00 p.m. on May 31, 2019, which pertain to the indicated changes will be reviewed and responded to by the Board as part of the compilation of the rulemaking file. Please limit your comments to the modifications to the text.

