

DATE: November 20, 2019

TO: ALL INTERESTED PARTIES

/s/ **SUZANNE M. AMBROSE**

FROM: Suzanne M. Ambrose
Executive Officer

SUBJECT: NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION

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 first 15-day public comment period. The changes being made are:

1. For purposes of clarity, proposed Rule 151.5 [Limited Term Eligible Lists] is further amended to specify that an employee may not be appointed to a permanent appointment or gain permanent status by appointment from a limited term eligible list unless the employee otherwise has eligibility for permanent appointment to the classification.
2. For purposes of clarity, proposed Rule 170, subdivision (b)(1) is further amended to delete “where applicable” and to instead add “city(ies)” and “any in-person.” Subdivisions (c) and (d) are further amended to add in parcel delivery or courier service as acceptable means of submitting applications when the examination is required to be taken in person and the agency prefers applicants to apply by way of the online application system. Other further non-substantive changes are for style and clarity and to conform the numbering of the proposed regulation to these changes.
3. Proposed Rule 174, subdivisions (a), (f) and (h) are amended to allow parcel delivery or courier service for the submission of application materials, other than online examinations. For clarity, subdivision (b)(2) is further amended to delete “Contact” and add “Communicate with.” For clarity, subdivision (d) has been

modified to permit application instructions to require submission of an STD 678 form and that, if the application instructions do not include such a requirement, an applicant who submits a resume in lieu of providing employment history on the STD 678 must be provided the opportunity to submit a completed STD 678 prior to disqualification, provided the original application was timely filed.

4. To ensure clarity, the language used in Rule 249.1, subdivision (b), has been further amended to require appointing powers to inform eligible departmental employees of the job opportunity by any means appropriate. Additional language has been added to the proposed regulation concerning the seven-day posting requirement. Subdivision (e)(5) concerning the Career Opportunity Development Program established by the Welfare Reform Act of 1971 has been stricken as this program is no longer in effect. Other changes are technical in nature.
5. For consistency, subdivision (a)(7) of proposed Rule 249.1.1 is further amended to reference the requirements of section 249.2. Subdivisions (b) and (d) have been further amended to allow applications to be submitted using parcel delivery or courier service. For clarity, this regulation has been amended to state that the limited-term employee may be appointed to the position as a permanent civil service employee without a new selection process provided that the employee was eligible for permanent appointment either at the time of the limited-term appointment or at the time of conversion and SROA and Reemployment for the permanent appointment were cleared either at the time of the limited-term appointment or at the time of conversion.
6. Subdivision (a) of proposed Rule 249.1.2 has been further amended to allow applications to be submitted using parcel delivery or courier service.
7. Subdivisions (a)(1) and (c) (now renumbered (b)) of proposed Rule 249.1.3 have been further amended to allow applications to be submitted using parcel delivery or courier service. Subdivision (b) has been stricken to allow applicants flexibility in choosing a parcel delivery or courier service.
8. Proposed Rule 249.8, subdivision (c), has been further amended to eliminate the requirement that both the appointing power and the hiring agency agree that written notice may be made by way of e-mail from the hiring agency's designee to the appointing power's designee.
9. Proposed Rule 250.2 [Hires From Certified Employment Lists] has been amended to allow an extension of the 180-day period for up to 30 working days or up to two years when the position is being filled as a training and development assignment in order to transition the employee into the "to" class upon completion of the assignment. This section was added to clarify the appropriate process from converting from a T&D to a permanent appointment.
10. Proposed Rule 425, subdivisions, (c), (d), (g), (i) and (j), formerly (a)(3), (a)(4), (a)(7), (a)(9), and (a)(10), have been clarified to reflect the use of deep classes. In addition, the language in current section 432 has been moved to proposed section 425, subdivision (f), formerly (a)(7). The numbering of this section has been

changed for technical reasons. The prior language in subdivision (a)(7) has been deleted.

11. Subdivision (c) has been stricken from proposed Rule 427 to avoid confusion with calculating salaries for deep classes.
12. Technical, non-substantive amendments have been made to subdivision (a) of proposed Rule 428. Subdivision (e) has been stricken to avoid confusion for calculating salaries for deep classes.
13. For purposes of clarifying the salary requirements for voluntary transfers between classes, current section 433, subdivisions (b)(3) and (4), have been added to proposed Rule 429 as subdivisions (a)(2)(C) and (D). The numbering and lettering of this section have been changed consistent with these changes.
14. Subdivision (b) has been added to proposed Rule 430 to clarify that temporary or limited-term appointment in a classification shall not be used as a basis for transfer eligibility. For consistency, the term “management” has been changed to “managerial” in subdivision (a).
15. Proposed Rule 431 has been stricken. Relevant language was added to 430 subdivision (b).
16. Proposed Rule 435 has been amended to add language specifying that consecutive transfers without examination shall not be permitted where the combined effect of the transfers results in a promotional salary level “except the promotional salary level may be exceeded to the extent that such additional increase is caused by progression through one deep class.”
17. Proposed Rule 436 has been stricken. The language was deemed unnecessary.
18. Technical changes have been made to the language of proposed Rule 438, subdivision (e).
19. Proposed Rule 438.1, subdivision (e), has been amended, reference Rule 437, subdivision (h).
20. In proposed Rule 438.4, subdivision (c), formerly (a)(3), “Certification” has been changed to “Documentation” in subdivisions (3) and (4), formerly (C) and (D).
21. Proposed Rule 438.7 has been amended to add “state” before employee.
22. Proposed Rule 439.1 is amended to delete references to “appointment” to a training and development assignment. Subdivision (b) has been further modified to replace “prior approval” with “agreement” and to add notification requirements to the loaning department.
23. In proposed Rule 439.2, subdivision (a) has been further modified to replace “431.1” with “439.1.” Proposed section 439.2, subdivision (a)(3), has been further modified to add back in subdivision (a)(3)(C) to disallow a training and development assignment in the employee’s current class series unless pursuant to an

apprenticeship program. Subdivision (b) has been added to allow training and development assignments involving an approved apprenticeship program.

24. For purposes of clarity, proposed Rule 439.3 is further amended to delete “unless otherwise exempted therein.”
25. Subdivision (a) of proposed Rule 439.4 is further amended to clarify that an employee will shall have an absolute right to return to his or her former position following completion of a training and development assignment. Subdivisions (b), (c) and (d) are further amended to clarify the circumstances under which an employee may be appointed to the same position in which he or she served the training and development assignment.
26. In proposed Rule 440, subdivision (a)(1)-(4) has been replaced with the language in current section 442, subdivisions (b)(1) and (2). Subdivision (b) has been changed to subdivision (c) and further modified to replace “should consider” with “shall consider and document.” The recruitment requirements applicable to training and development assignments are contained in proposed section 440.2. Modification of the numbering and lettering of this section has been made consistent with these changes.
27. For purposes of clarity, proposed section 441.2 has been further modified to apply when “eligible injured employees are temporarily assigned to perform the functions and duties of a classification other than the one to which they are appointed.”
28. For purposes of clarity, proposed section 442 is further modified to require that the employee have permanent status in his or her current classification. The reference to “430.4” has been corrected to “438.4.”

If you have any comments regarding the proposed changes, the Board will accept written comments between November 21, 2019, and December 5, 2019. All written comments must be submitted to the Board no later than 5:00 p.m. on December 5, 2019, and addressed to:

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All written comments received by 5:00 p.m. on December 5, 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.