State of California Office of Administrative Law

In re: State Personnel Board

Regulatory Action:

Title 02, California Code of Regulations

Amend sections: 213.6

NOTICE OF APPROVAL OF REGULATORY ACTION

Government Code Section 11349.3

OAL Matter Number: 2022-0609-03

OAL Matter Type: Regular (S)

This action amends section 213.6(b) by clarifying the grounds for an applicant to appeal disqualification from eligibility based on failing a drug test.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2022.

Date: July 19, 2022

Ashita Mohandas Attorney

For: Kenneth J. Pogue Director

Original: Suzanne Ambrose, Executive Officer Copy: Lori Gillihan

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801 Capitol Mall Sacramento, CA 95814 | www.spb.ca.gov

Governor Gavin C. Newsom

FINAL TEXT

Text added to the Board's regulations is shown in <u>underline</u>. Text deleted from the Board's regulations is shown in strikethrough.

CALIFORNIA CODE OF REGULATIONS TITLE 2. ADMINISTRATION DIVISION 1. ADMINISTRATIVE PERSONNEL CHAPTER 1. STATE PERSONNEL BOARD SUBCHAPTER 1.3 CLASSIFICATIONS, EXAMINATIONS, AND APPOINTMENTS ARTICLE 8. EXAMINATIONS

§ 213.6. Appeal of a Disqualification Resulting from a Failed Drug Test or Background Investigation Report.

(a) This section pertains to and outlines administrative appeal rights only. An applicant appealing under this section shall follow the procedures in Sections 51 through 54.2 Subchapter 1.2.

(b) An applicant disqualified as the result of failing the drug test may only appeal the disqualification on the grounds that: 1) the drug was obtained-used legally; or 2) there has been test result was a false positive resulting from a violation of test protocol, ordefect in the chain of custody procedures, or another irregularity that invalidates the test result. A disqualified applicant may have his/herthe drug test specimen retested at his/herthe applicant's own expense as provided in Section 213.4(i)(2) and include the results of the retesting in his/herthe appeal.

(c) An applicant disqualified or withheld from certification as a result of disclosure of drug use or whose background investigation reveals use of a drug pursuant to Section 213.5(c) may appeal the disqualification or the withholding from certification on any grounds allowable by law.

(d) <u>aAn</u> applicant who prevails upon appeal under this section will be restored to eligibility in the examination from which <u>the applicant was</u> disqualified or restored to the eligible list from which <u>the applicant was</u> withheld.

Note: Authority cited: Section 18701 and 18215, Government Code. Reference: <u>sS</u>ections 18654, 18670, 18671, 1<u>89</u>675 and 18930, Government Code.