

## INITIAL STATEMENT OF REASONS

**HEARING DATE(S):**

August 13, 2024

WebEx/Teleconference

**SUBJECT MATTER OF THE  
PROPOSED REGULATIONS:**

Waiver of Appointment

**SECTIONS AFFECTED:**

Title 2, Chapter 1, California Code of Regulations, Amend Sections 258, 260.1, and 261.1

In this rulemaking action, the State Personnel Board (Board) proposes to amend sections 258, 260.1, and 261.1 of Title 2, Chapter 1, of the California Code of Regulations.

**PURPOSE, NECESSITY, RATIONALE, AND BENEFITS OF REGULATORY ACTION:**

Introduction:

The jurisdiction and authority of the State Personnel Board (Board) to enforce civil service statutes and promulgate regulations are rooted in the California Constitution, article VII, section 3. Relative to this regulatory action, the Board prescribes rules to govern the selection process. (Gov. Code, § 18502, subd. (b).) The Board's rulemaking authority is also found in certain statutory provisions related to civil service and the merit principle. (See e.g., Gov. Code, §§ 18701 & 18660.)

Background:

Recently, the Board adopted the repeal of the California Code of Regulations, title 2, section 262. The repeal becomes operative on July 1, 2024. The repeal eliminates the requirement that an eligible candidate's record be removed from the employment list for future certification when the candidate waives three appointments in any given class. Due to the automation of generating employment lists, the Board determined that the three-waiver requirement is obsolete.

Current sections 258, 260.1, and 261.1 reference the three-waiver of appointment requirement. This is likely to cause confusion to state agencies in light of the repeal of section 262. Consequently, the proposed changes update and clarify existing rules by removing the three-waiver appointment requirement from California Code of Regulations, Title 2, Article 10.

### Anticipated Benefits of the Regulatory Action:

The proposed regulations provide several benefits to the state civil service system. The anticipated benefits of this regulatory action include: 1.) clarifying processes concerning employee inquiries following certification and the waiver of contacts and/or appointments 2.) aligning existing California Code of Regulations to the repeal of section 262.

### Discussion of Amendments:

#### **Amend § 258. Time Periods for Replies to Employment Inquiries Following Certification.**

Current section 258 stipulates that when an eligible candidate is unavailable for employment within 30 calendar days following the date of the job offer, the appointing power may consider this unavailability as a waiver of appointment. The proposed changes amend section 258, subdivision (c), to make clear that, if a candidate is unavailable for employment after receiving a job offer, then the unavailability may be viewed as a decline of the job offer rather than a waiver of appointment and the candidate's name shall remain active on the employment list for future certification.

#### **Amend § 260.1: Failure to Appear for Work After Acceptance of Appointment.**

Section 260.1 currently specifies that a candidate's declination of a job offer or failure to appear for work or a job interview constitutes a waiver of appointment.

The proposed changes eliminate waivers of appointment for declination of a job offer or failure to appear for a job interview. It does retain and clarify the component that a candidate's status would be changed to inactive on the eligible list if they fail to report for the mutually agreed upon first day of work. This is preserved given the enormous amount of work it takes to select and on-board new employees.

#### **Amend 261.1 § Waiver of Contact.**

Current Rule 261.1 is amended to remove any reference to waiver of appointment. Furthermore, proposed amendments clarify that, if a candidate is unavailable for employment, declines the job offer, or fails to appear for work on the designated start date, then the candidate is considered to be not interested in the position.

### **ECONOMIC IMPACT ASSESSMENT:**

The proposed regulations set standards related to the Board's selection process. Therefore, the adoption of these regulations will not:

1. Create or eliminate jobs within California.

2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state's environment.

The adoption of these regulations, however, will have a positive impact on the general health and welfare of California residents in that the benefits of this regulatory action create a fair, equitable, and consistent process for the civil service hiring process.

**TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS:**

None.

**SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment.

**EFFORTS TO AVOID CONFLICT WITH AND DUPLICATION OF FEDERAL REGULATIONS:**

Not applicable. The Board is not a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshall.

**SIGNIFICANT ECONOMIC IMPACT ON BUSINESS:**

The proposed regulations set a standard related to the Board's selection procedures. Accordingly, it has been determined that the adoption of the proposed regulations would not have a significant, statewide adverse economic impact affecting California businesses, including the ability of California businesses to compete with businesses in other states.

**CONSIDERATION OF ALTERNATIVES**

The Board has initially determined that no reasonable alternatives it has considered or that have been otherwise identified and brought to the attention of the Board would be more effective in carrying out the purposes for which the instant action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.