

**State of California
Office of Administrative Law**

In re:
State Personnel Board

Regulatory Action:

Title 02, California Code of Regulations

Adopt sections:
Amend sections: 66.1
Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2022-0301-03

OAL Matter Type: Regular (S)

This rulemaking by the State Personnel Board amends procedures and requirements relating to merit issue complaints.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2022.

Date: April 12, 2022



Kevin D. Hull
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Suzanne Ambrose, Executive
Officer

Copy: Lori Gillihan

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2022-0301-03 S	EMERGENCY NUMBER
AGENCY WITH RULEMAKING AUTHORITY California State Personnel Board		AGENCY FILE NUMBER (If any)	

OFFICE OF ADMIN. LAW
2022 MAR 1 AM 11:55

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER
		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Merit Issue Complaints	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 66.1
	REPEAL
TITLE(S) 2	

3. TYPE OF FILING

Regular Rulemaking (Gov. Code §11346) Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. Emergency Readopt (Gov. Code, §11346.1(h)) Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) File & Print Print Only

Emergency (Gov. Code §11346.1(b)) Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) Other (Specify)

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
 March 19, 2021 - May 3, 2024, June 2, 2021 - June 18, 2021 - September 17, 2021 - October 4, 2021

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify)

7. CONTACT PERSON Lori Gillihan	TELEPHONE NUMBER 916-651-1043	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) lori.gillihan@spb.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Suzanne M. Ambrose	DATE 3/1/2022
TYPED NAME AND TITLE OF SIGNATORY Suzanne M. Ambrose, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 13 2022

Office of Administrative Law

FINAL TEXT

**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 1. ADMINISTRATIVE PERSONNEL
CHAPTER 1. STATE PERSONNEL BOARD
SUBCHAPTER 1.2. HEARINGS AND APPEALS
ARTICLE 9. MERIT ISSUE COMPLAINTS**

§ 66.1. Merit Issue Complaints.

- (a) Merit issue complaints are complaints that the State Civil Service Act or Board regulation or policy has been violated by a state agency. These complaints include but are not limited to, interference with promotional opportunities, interference with a person's access to any SPB appeals process, and the designation of managerial positions pursuant to Government Code section 3513. Merit issue complaints do not include appeals of actions that are specifically provided for elsewhere in law or in Board regulations. ~~Each state agency shall establish and publicize to its employees its process for addressing merit issue complaints. That process shall include provisions for informing employees of their right to appeal the state agency's decision on the merit issue complaint to the Appeals Division. Failure of a state agency to respond to a merit issue complaint within 90 days of receipt of the complaint shall be deemed a denial of the complaint's allegations and shall release the appellant to file an appeal directly with the Appeals Division. An appeal of a merit issue complaint shall be filed with the Appeals Division within 30 days of the state agency's denial of the complaint.~~
- (b) Merit Issue Complaints are assigned to investigative review by an Investigative Officer pursuant to section 53.2. Each state agency shall establish a process for receiving and addressing merit issue complaints regarding its hiring and selection processes.
- (c) Merit issue complaints shall first be filed with the state agency within three years of the alleged violation of Board regulation or policy in the hiring and selection process.
- (d) Each state agency shall inform employees or applicants at the time the complaint is received of their right to challenge the state agency's denial of the complaint or failure to respond by filing a complaint with the Appeals Division and the timelines for filing according to section 66.1, subdivision (e).
- (e) A merit issue complaint shall be filed with the Appeals Division within 30 days of the state agency's denial of the complaint. Failure of a state agency to respond

to a merit issue complaint within 90 days of receipt of the complaint shall be deemed a denial of the complaint's allegations and shall release the appellant to file a merit issue complaint directly with the Appeals Division within 30 days.

(f) Merit Issue Complaints are assigned for investigative review by an Investigative Officer pursuant to section 53.2, unless otherwise assigned pursuant to section 53.4.

Note: Authority cited: Section 18701, Government Code. Reference: Sections 12940, 18675, 18952, 19701, 19702, 19230 and 19231, Government Code.