State of California
Office of Administrative Law

In re: State Personnel Board

Regulatory Action:

Title 02, California Code of Regulations

Adopt 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
**A. PUBLICATION OF NOTICE**

<table>
<thead>
<tr>
<th>SUBJECT OF NOTICE</th>
<th>TITLE(S)</th>
<th>FIRST SECTIONAffected</th>
<th>REQUESTED PUBLICATION DATE</th>
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</thead>
</table>

**3. NOTICE TYPE**
- [ ] Notice of Proposed Rulemaking
- [ ] Notice of Other Regulatory Action

**4. AGENCY CONTACT PERSON**
- TELEPHONE NUMBER: [ ]
- FAX NUMBER (Optional): [ ]

**OAL USE ONLY**
- [ ] Approved as Submitted
- [ ] Approved as Modified
- [ ] Disapproved/Withdrawn

**NOTICE REGISTER NUMBER**

**B. SUBMISSION OF REGULATIONS**

<table>
<thead>
<tr>
<th>SUBJECT OF REGULATIONS</th>
<th>ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merit Issue Complaints</td>
<td>66.1</td>
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</tbody>
</table>

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<thead>
<tr>
<th>SECTION(S) AFFECTED</th>
<th>AMEND</th>
<th>REPEAL</th>
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<tbody>
<tr>
<td>66.1</td>
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</table>

**3. TYPE OF FILING**
- [ ] Regular Rulemaking (Gov. Code §11346)
- [ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11346.3, 11349.4)
- [ ] Emergency (Gov. Code §11346.1(b))

**4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE**

- March 19, 2021 - May 3, 2024
- June 2, 2021 - June 18, 2021
- September 17, 2021 - October 4, 2021

**5. EFFECTIVE DATE OF CHANGES**
- [ ] 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

**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

**8. CERTIFICATION**

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, Executive Officer

**DATE**

3/1/2022

**ENDORSED APPROVED**

APR 13 2022

Office of Administrative Law
§ 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
demed 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.