

MEMORANDUM

DATE: August 2, 2024

TO: ALL INTERESTED PARTIES

FROM: /s/ MICHELLE LA GRANDEUR
Michelle La Grandeur
Chief, Policy Division

**SUBJECT: UNLAWFUL APPOINTMENTS REGULATORY ACTION EFFECTIVE
AUGUST 1, 2024**

On February 23, 2024, the State Personnel Board (SPB) announced proposed changes to regulations¹ pertaining to unlawful appointments. Subsequently, a public hearing was held on April 9, 2024, to solicit public comment related to the proposed changes. Interested parties were also invited to provide written comments, if preferred. Public comment on the proposed changes yielded no substantive revisions; therefore, finalized regulations were sent to the Office of Administrative Law in June 2024.

The regulations became effective on August 1, 2024. The final regulations are posted on [SPB's website](#); however, for your convenience, a summary of the substantive changes are outlined below.

Rule 52.4: Requirements and Method of Delivery for Filing Appeals and Complaints with the Board

Rule 52.4, subdivision (e)(1)(Q) states that an employee whose appointment is voided has 30 days from the effective date of the voided appointment to file an appeal with the Board.

In addition, this subdivision further provides that appeals challenging any reimbursement ordered under section 243.3, subdivision (c), because the employee did not act in good faith, shall be filed within one year from the effective date of the voided appointment.

¹ All regulations referred to in this notification pertain to California Code of Regulations, Title 2. Specific sections will be referred to as "Rule".

Rule 58.4: Hearings are Public

Rule 58.4, subdivision (b) conforms with Government Code section 11425.20, subdivision (b)(2), amended on January 1, 2023, which codified the best practices and procedures to conduct remote administrative hearings.

Rule 243.2: Voiding of Unlawful Appointments

Rule 243.2 delineates which control agency has the authority to void unlawful appointments depending on the circumstances and length of the appointment. Where an appointment has been made and accepted in good faith but would not have been made but for some mistake of law or fact that renders the appointment unlawful, the civil service statutory scheme provides the California Department of Human Resources (CalHR) with limited authority to declare the appointment void from the beginning if the action is taken within one year after the appointment. (Gov. Code, § 19257.5.)

The amended language makes explicit that CalHR shall request the Board or the Executive Officer to take appropriate action, up to voiding an unlawful appointment, in cases where CalHR determines the appointment was not made in good faith and has been in effect for longer than one year.

Rule 243.5: Right to Respond; Right to Appeal

Rule 243.5 provides clear and simplified procedures for correcting unlawful appointments.

Rule 243.6: Right to Reimbursement Hearing; Petition for Reconsideration

Rule 243.6 ensures consistency with the amendments to sections 52.4, 243.2, and 243.5. The amendments clarify and make specific the appeal and hearing process in those cases where the amount of reimbursement is in dispute, which is not addressed in existing rule. Language concerning petitions for reconsideration was also amended for stylistic purposes and with no substantive impact.

A policy section that addresses unlawful appointments will soon be available at the online [Human Resources Manual](#). A notification will be transmitted to those subscribed to CalHR's Policy Memos list when it is posted. Interested parties may subscribe to this list via [CalHR's website](#).

To join SPB's mailing list, which will provide notification of proposed regulatory actions, as well as other SPB activities, visit [State Personnel Board Mailing List](#).