

Summary of Comments and Board Responses 15-Day Comment Period  
Proposed Rulemaking Action: Waiver of Appointments

## **SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES**

### **I. Introduction**

The State Personnel Board (Board) proposes to repeal Section 261.1 and amend Sections 249.5, 254, 254.2 258, 260, 260.1, 261 and 261.1 of Title 2, Chapter 1, of the Code of Regulations (CCR). A 15-day public comment period on this rulemaking action was held from October 31, 2024, through November 18, 2024. The comments received by the Board were taken under submission and considered. A summary of those comments and the Board’s responses are below.

### **II. Summary of Written Comments and Responses**

**From Selina Mendoza, Assistant Chief, Human Resources Branch, Department of Motor Vehicles (DMV)**

#### Comment I.

DMV recommends defining “eligible candidate” within California Code of Regulations to ensure accessibility for all stakeholders. Additionally, DMV suggests broadening the definition to include any person who has passed an examination, regardless of whether they are currently reachable on a certified eligible list.

#### Response I.

The Board appreciates the recommendation and confirms that individuals who pass an exam and are placed on an eligible list are considered “eligible candidates”. Because the term “eligible candidate” has not previously caused confusion and its meaning is consistent with longstanding civil service practice, the Board declines to adopt the proposed revision.

#### Comment II. 260.

DMV suggests relocating the final sentence of subdivision (c) to the end of subdivision (d), and also recommends inserting “job offers” into subdivision (d) for improved clarity.

DMV’s recommended text would read as follows:

(c) If an eligible candidate is unavailable for employment within 30 calendar days following the date of a formal offer of employment, then the appointing power may treat the

unavailability of the eligible candidate the same as a decline of the job offer. ~~The eligible candidate shall remain active on the eligible list.~~

(d) Eligible candidates certified from any eligible list may decline an unlimited number of employment inquiries, ~~and~~ hiring interview offers, and job offers without penalty. The eligible candidate shall remain active on the eligible list.

## Response II.

The Board agrees with DMV's recommendation and has revised the regulatory text of Section 260 accordingly. These revisions align with the broader reorganization and simplification of sections related to eligible candidate contact and interest.

## NOTE:

After careful consideration of current hiring practices and an in-depth evaluation of existing regulations, the Board has made significant changes to the waiver of appointment regulatory package. These changes reflect the Board's commitment to modernizing and streamlining the civil service hiring process. The list of changes is as follows.

## **§ 249.5 ~~Employment Inquiries~~ Employment Contact Letters**

Section 249.5 has been revised to clarify that while appointing powers may choose to send employment contact letters to eligible candidates on a certified list, they are only required to send such letters to State Restriction of Appointments (SROA) and reemployment candidates unless doing so conflicts with a memorandum of understanding reached pursuant to Government Code section 3517.5. The regulation now specifies that minimum response timeframes apply only to these two categories of candidates. This amendment reflects current hiring practices and eliminates unnecessary procedural burdens for non-SROA and non-reemployment candidates, for whom contact letters and response tracking are no longer mandated.

The regulation also defines the minimum response times that must be afforded to SROA and reemployment candidates depending on the method of communication:

- Two business days for telephone inquiries (including voicemail),
- Six business days for mailed notices,
- Six business days for electronic communications.

In addition, the contact letter must include a summary of the job vacancy with specified details such as job control number, classification, salary range, and final filing date. The revised text retains the requirement that appointing powers document who was contacted and how, in accordance with section 26.

Lastly, the regulation clarifies that eligible candidates are not required to respond to employment contacts, and appointing powers are prohibited from including language that could discourage candidates from applying.

These revisions better align regulatory requirements with modern hiring practices while maintaining fairness for SROA and reemployment candidates.

## **§ 254. Appointment Following Certification**

Section 254 has been amended to align with terminology used throughout the proposed regulatory changes, including the consistent use of the term “eligible candidate.” The section has also been reorganized for greater clarity and readability.

Specifically, the amendments reaffirm and more clearly distinguish between the rule of three (applicable when fewer than three ranks exist on a certification list) and the rule of three ranks (applicable when three or more ranks exist). This reorganization helps ensure consistent interpretation and application of selection rules across departments, while maintaining merit-based hiring principles.

### **§ 254.2. Three Rank Certification.**

Section 254.2 has been amended to provide appointing powers with clearer guidance on the process of “clearing” ranks during certification. The revised language clarifies that a rank is considered “cleared” when all eligible candidates within that rank have been determined to be not interested in the job vacancy. Once a rank is cleared, appointing powers may proceed to the next available rank, as permitted by the rule of three ranks. These amendments are intended to support a more efficient and flexible hiring process while preserving adherence to merit-based selection principles.

### **~~§ 258 Time Periods for Eligible Candidate Reponses to Employment Inquiries Following Certification~~ Assessing an Eligible Candidate’s Interest in a Job Vacancy**

Section 258 has been amended to clearly define how an eligible candidate’s interest in a job vacancy is determined. The revised language simplifies and standardizes the rules by identifying specific actions that demonstrate a lack of interest, including failure to submit a job application by the final filing date, unavailability for interviews, withdrawal from the hiring process, or declining a job offer.

This section also incorporates the 30-day availability rule previously found in section 260. Under this proposed rule, if a candidate is unavailable to begin employment within 30 calendar days of receiving a formal job offer, the appointing power may consider the offer declined.

**§ § 260. ~~Failure to Respond~~ Eligible Candidate Responses to Employment Inquiries**  
**Failure to Appear for Work.**

The previous section 260 outlined a range of scenarios under which a candidate could be considered not interested in a job vacancy. Those scenarios have now been reorganized into section 258.

In its place, the amended section 260 is now specifically referencing when a candidate who has accepted a job fails to report to work on their agreed upon start date. In this case, the candidate is deemed no longer interested on the certified eligible list.

**§ 260.1. ~~Decline a Job Offer or Failure to Appear for Work or Job Interview After~~**  
**Acceptance of Appointment Formal Offer of Employment.**

Section 260.1 has been repealed and the contents have been reorganized to section 260.

**§ 261. Waiver of Certification.**

Section 261 has been amended to allow candidates the opportunity to change the conditions of their employment, either electronically or by written request.

**III. Conclusion**

The Board appreciates the comments and feedback it received regarding this proposed amendment. The modified text with the changes clearly indicated is available to the public as stated in the Notice of Modification to Text of Proposed Regulation.