

INITIAL STATEMENT OF REASONS

HEARING DATE(S):

July 23, 2024

WebEx/Teleconference

**SUBJECT MATTER OF THE
PROPOSED REGULATIONS:**

Hearings and Appeals

SECTIONS AFFECTED:

Title 2, Chapter 1, California Code of Regulations, Adopt Section 58.14, and Amend Sections 58.12, 58.13, 59.3, 60.1, and 60.2

In this rulemaking action, the State Personnel Board (Board) proposes to adopt section 58.14 and amend sections 58.12, 58.13, 59.3, 60.1, and 60.2 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 is rooted in the California Constitution, article VII, section 3. Relative to this regulatory action, all hearings and investigations shall be governed by rules of practice and procedure adopted by the Board. (Gov. Code, § 18675.)

Purpose:

For the last four years, the SPB has effectively conducted hearings via electronic videoconference, rather than in-person, except in cases where the SPB had determined that the interests of justice required that the cases be assigned to in-person hearings.

Several existing regulations in Title 2, Division 1, Chapter 1 of the California Code of Regulations concerning hearings and appeals require updates which will codify into rule the existing practices which have resulted in more efficient hearing processes.

Anticipated Benefits of the Regulatory Action:

The anticipated benefit of this regulatory action is to ensure that the California Code of Regulations related to hearings and appeals are consistent with existing practices which have saved participants' time and resources.

Purpose of each Proposed Amendment:

Amend § 58.12. Documents Introduced Into Evidence in Electronic Proceedings.

Current section 58.12 describes the requirements for the number of copies a party must have for any document introduced into evidence. The proposed amendment will explain what is specifically required from each party for electronic proceedings, and its title will be changed accordingly.

Amend § 58.13. Documents Introduced Into Evidence in In-person Proceedings.

Section 58.13 currently discusses the requirements for Court Reporters during appeals proceedings. For organizational purposes, the section will be renumbered to 58.14, and section 58.13 will provide guidance to parties on documents to be entered into evidence at in-person hearings.

Adopt § 58.14. Court Reporters.

Current section 58.13, describing requirements for Court Reporters, will be renumbered as 58.14 for organizational purposes.

Amend § 59.3. Subpoenas.

Current section 59.3 describes the requirements for issuing subpoenas. The proposed amendment to subdivision (c) will clarify the meaning of hearing location when a hearing is being conducted by electronic means. The remaining subdivisions will be re-lettered accordingly.

Amend § 60.1. Law and Motion; Procedures; Motions.

Current section 60.1, subdivision (c), lists the different types of motions which shall be filed with the Appeals Division within 15 days after learning of the basis for the motion. Subdivision (c)(4) describes the motion to suppress evidence based upon a party's failure to timely file or fully disclose all required items in the prehearing/settlement conference statement pursuant to section 57.1, subdivision (f)(10).

Section 57.1, subdivision (f), describes the requirements for what information shall be contained in written prehearing/settlement conference statements that each party files with the Appeals Division 12 calendar days prior to the hearing. Subdivision (f)(10) refers specifically to the dates of unavailability of the parties, counsel, and witnesses.

Rather than referring just to subdivision (f)(10) of section 57.1, the proposed amendment to subdivision (c)(4) of section 60.1 shall state that the motion to suppress evidence based upon a party's failure to timely file or fully disclose all required items in the prehearing/settlement conference statement is pursuant to all requirements of the subsections of section 57.1, subdivision (f).

Amend § 60.2. Motions for Hearing Communications.

Current section 60.2, subdivision (c), lists the requirements for filing a motion for continuance. Subdivision (c)(2) states that the motion shall include all facts which support the request to continue the hearing. Subsections (A) through (H) then explain what additional information is needed. Subdivision (c)(2)(F) states that any future dates when the parties are unavailable for hearing over the next three months and any preferred future hearing dates are necessary information for each motion. The proposed amendment to this subdivision shall clarify that the availability of witnesses is considered, rather than just that of the parties.

Additionally, subdivision (c)(2) will be corrected for punctuation.

ECONOMIC IMPACT ASSESSMENT:

The proposed regulations set standards related to the Board's hearings and appeals 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.

SIGNIFICANT ECONOMIC IMPACT ON BUSINESS:

The proposed regulations set a standard related to the Board's hearings and appeals 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.