

**State of California
Office of Administrative Law**

In re:
State Personnel Board

Regulatory Action:

Title 02, California Code of Regulations

Amend sections: 213.6

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2022-0609-03

OAL Matter Type: Regular (S)

This action amends section 213.6(b) by clarifying the grounds for an applicant to appeal disqualification from eligibility based on failing a drug test.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2022.

Date: July 19, 2022



**Ashita Mohandas
Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Suzanne Ambrose, Executive
Officer**

Copy: Lori Gillihan

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

STD. 400 (REV. 12/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2021-1130-01	REGULATORY ACTION NUMBER 2022-0609-03	EMERGENCY NUMBER S
For use by Office of Administrative Law (OAL) only mm 7/19/22 per agency OFFICE OF ADMIN. LAW 2022 JUN 9 PM 1:51			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUL 19 2022

1:59pm

AGENCY WITH RULEMAKING AUTHORITY California State Personnel Board	AGENCY FILE NUMBER (If any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Appeal of a DQ from a Failed Drug Test...	TITLE(S) 2	FIRST SECTION AFFECTED 213.6	2. REQUESTED PUBLICATION DATE December 10, 2021
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Lori Gillihan	TELEPHONE NUMBER 916-651-1043	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Appeal of a DQ from a Failed Drug Test or Background Investigation...	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 213.6
TITLE(S) 2	REPEAL

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> 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.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> 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)

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

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> 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 <small>Digitally signed by Suzanne M. Ambrose Date: 2022.06.08 11:42:38 -07'00'</small>	DATE 6/7/2022
TYPED NAME AND TITLE OF SIGNATORY Suzanne M. Ambrose, Executive Officer	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
 JUL 19 2022
 Office of Administrative Law



FINAL TEXT

Text added to the Board's regulations is shown in underline.

Text deleted from the Board's regulations is shown in ~~strikethrough~~.

**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 1. ADMINISTRATIVE PERSONNEL
CHAPTER 1. STATE PERSONNEL BOARD
SUBCHAPTER 1.3 CLASSIFICATIONS, EXAMINATIONS, AND APPOINTMENTS
ARTICLE 8. EXAMINATIONS**

§ 213.6. Appeal of a Disqualification Resulting from a Failed Drug Test or Background Investigation Report.

(a) This section pertains to and outlines administrative appeal rights only. An applicant appealing under this section shall follow the procedures in ~~Sections 54 through 54.2~~ Subchapter 1.2.

(b) An applicant disqualified as the result of failing the drug test may only appeal the disqualification on the grounds that: 1) the drug was obtained used legally; or 2) there has been test result was a false positive resulting from a violation of test protocol, or defect in the chain of custody procedures, or another irregularity that invalidates the test result. A disqualified applicant may have ~~his/her~~ the drug test specimen retested at ~~his/her~~ the applicant's own expense as provided in Section 213.4(i)(2) and include the results of the retesting in ~~his/her~~ the appeal.

(c) An applicant disqualified or withheld from certification as a result of disclosure of drug use or whose background investigation reveals use of a drug pursuant to Section 213.5(c) may appeal the disqualification or the withholding from certification on any grounds allowable by law.

(d) ~~a~~ An applicant who prevails upon appeal under this section will be restored to eligibility in the examination from which the applicant was disqualified or restored to the eligible list from which the applicant was withheld.

Note: Authority cited: Section 18701 and 18215, Government Code. Reference: ~~s~~ Sections 18654, 18670, 18671, 189675 and 18930, Government Code.