

SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES

I.

Introduction

The State Personnel Board (Board) proposes to amend Sections 67.6 & 67.7 of Title 2, Chapter 1, of the Code of Regulations (CCR). A 15-day public comment period on this rulemaking action was held from August 19, 2022, through September 6, 2022. 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 from Darci Haesche, Deputy Director, Human Resources Branch, Covered California (Covered CA).

Comment 1:

Covered California questions whether the amount of evidence provided by the Board to appointing powers would contain sufficient enough information in order to respond to the Board's final decision within the 60-calendar day timeframe. Additionally, there are no consequences found in statute for failing to take adverse action within 60 calendar days. As such, the Board should allow for appointing powers to exceed the 60-calendar day limit when needed. Many investigations require more time due to the complexity of the case or unavailability of witnesses during the 60-day timeframe. To address all of aforementioned concerns, Covered California recommends to move the proposed 60-calendar day period to 90 calendar days, in order to serve a NOAA or to report the reasons for not doing so to the Board within the required period.

Response 1:

The Board thanks and appreciates Covered California for its feedback to this regulatory package. Prior to receiving the final decision, the appointing power and any other party of interest generally would have participated in proceedings before the Board related to the whistleblower retaliation complaint. Therefore, as part of that participation, they would have received or at least been made aware of any facts and/or substantiating documentation. As such, by the time the appointing power receives a Notice of Adverse Action (NOAA) and a copy of the final decision, the appointing power should be privy to the facts and issues required in order to respond in a timely manner. Additionally, Government Code section 19683, subdivision (e), requires the appointing power to respond to the Board's findings within 60 calendar days after receiving the notification. As such, the Board rejects Covered California's suggested change to the 60-calendar day timeframe.

III.

Conclusion:

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