

SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES

I.

Introduction

The State Personnel Board (Board) proposes to repeal Section 262 and amend Sections 170, 249.1.1, 249.1.2, 249.2, 249.4, 321, 438, 438.1, 439.2, and 439.4 of Title 2, Chapter 1, of the Code of Regulations (CCR). A second 15-day public comment period on this rulemaking action was held from October 26, 2023 through November 13, 2023. 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 Elizabeth A. Edwards, Instructor –Office of State Controller (SCO)

Comment I. Section 321.

The SCO recommends amending California Code of Regulations, section 321, subdivision (a) by adding the term "physical" before "worked" as probationary periods are based on physical hours worked, excluding leave (e.g., vacation and sick leave) from the calculation.

Response I.

The Board appreciates the SCO for its feedback to this regulatory package. The Board would like to make clear that no specific changes have been made to subdivision (a) during this notice period. Moreover, section 321, subdivision (b), already clarifies that working time excludes vacation, sick leave, military leave or other leaves of absence, compensating time off, suspension or other separations, including separations subsequently voided or otherwise set aside, and absences of 5 or more consecutive working days. As such, this section does not require further modification.

Comment II. Section 321.

The SCO seeks clarification on California Code of Regulations, section 321. Currently, Human Resources Manual Section 1214 specifies that extensions under subdivision (d) are in addition

to the minimum number of required hours under automatic extensions or subdivision (a). However, with the proposed changes eliminating subdivision (e)(5) from the rule, this will no longer be clearly stated.

Response II.

The Board believes that subdivision (d) provides sufficient clarity for when a probationary period may be extended beyond the minimum number of required hours under subdivision (a) and requires no further amendment. Moreover, upon adoption of these proposed regulations, the current HR Manual policy will be updated to align with the proposed amendments.

Comment III. Section 321.

The SCO acknowledges the majority of amendments to California Code of Regulations, section 321 involve eliminating CalHR's involvement in probationary period extensions and places the responsibility on the appointing power. Notably, CalHR has been removed to the extent that the rule no longer mandates departments to submit anything to CalHR. The SCO believes in order to further align with the Board's proposed amendments, CalHR should be removed from section 321, subdivision (f)(2) as well.

Response III.

In order to support a more streamlined process, the Board agrees that section 321, subdivision (f) no longer requires CalHR to review and provide recommendation to the Executive Officer concerning probationary extensions. As such, the Board proposes to further amend section 321, subdivision (f), so that the probationer may submit a response to a probationary extension directly to the Board's Executive Officer.

III.

Summary of Written Comments Carolina Zavala Department of State Hospitals (DSH)

Comment IV. Section 249.1.1

DSH has concerns of clarity regarding California Code of regulations 249.1.1. Current rules do not allow for SROA and reemployment to not be considered. This new proposed verbiage may be confusing by implying if SROA and reemployment are not provided as types of eligibility being considered on a job announcement they may be bypassed. DSH recommends including language indicating that SROA and reemployment need not be listed on the job advertisement to be considered.

Response IV.

The Board thanks and appreciates the DHS for their comments on this regulatory package. Section 249.1.1 was amended to ensure SROA and reemployment eligibility are included in

job advertisements. This amendment codifies the practice as a mandatory requirement so SROA and reemployment candidates are always aware of their eligibility and priority consideration during the hiring process.

Comment V. Section 249.1.2

DSH seeks clarification on the proposed amendments to California Code of Regulations, section 249.1.2, regarding disqualifying applicants who fail to provide a Statement of Qualifications (SOQ) in the job applications when required by the department. Moreover, DSH questions if departments can clear ranks on certification lists or merely disqualify the applicants during the screening process.

Response V.

The Board would like to make clear that SOQs are a job-related tool used to assess candidates during the hiring process. As such, failure to submit an appropriate SOQ as specified in a job advertisement, may permit an appointing power to reject or disqualify an applicant from consideration. Disqualifying a candidate for failing to submit an appropriate SOQ as specified in the job advertisement constitutes clearing the candidate from any applicable certification lists.

IV.

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.