

**State of California
Office of Administrative Law**

In re:
Public Employment Relations Board

Regulatory Action:

Title 08, California Code of Regulations

Adopt sections:

Amend sections: 32147, 32305

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

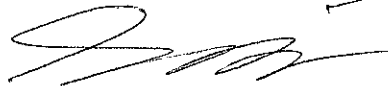
OAL Matter Number: 2023-0714-02

OAL Matter Type: Regular Resubmittal (SR)

In this rulemaking action, the Public Employment Relations Board (PERB) specifies the procedures for requesting expedited case processing and the procedures for documenting that a case is subject to expedited processing. The rulemaking action also addresses the finality of Board Agent decisions.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 8/8/2023.

Date: August 8, 2023



Sam Micon
Attorney

For: Kenneth J. Pogue
Director

Original: Joshua Golka ,

Copy: James Coffey

RESUBMITTAL

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2022-1011-01	REGULATORY ACTION NUMBER 2023-0714-02SR	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2023 JUL 14 PM3:23

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

AUG 08 2023

1:41 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY Pubic Employment Relations Board	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Expedited Case Processing	TITLE(S) 8	FIRST SECTION AFFECTED 32147	2. REQUESTED PUBLICATION DATE 10/23/22
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON James Coffey	TELEPHONE NUMBER (916)584-5676	FAX NUMBER (Optional) (916)327-6377
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2022, 42-2	PUBLICATION DATE 10/23/22

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Expedited Case Processing and Finality of Board Agent Decisions	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2023-0215-01
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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 None
	AMEND 32147 and 32305
TITLE(S) Cal. Code Regs Tit. 8	REPEAL None

3. TYPE OF FILING			
<input 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 checked="" 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)
May 5, 2023 through May 23, 2023

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify)

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 James E. Coffey	TELEPHONE NUMBER 915-584-5676	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) james.coffey@perb.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 	DATE 7/14/2023
TYPED NAME AND TITLE OF SIGNATORY Joshua Golka, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 08 2023

Office of Administrative Law

Proposed Text:

CHAPTER 1. PUBLIC EMPLOYMENT RELATIONS BOARD
SUBCHAPTER 2. DEFINITIONS AND GENERAL PROVISIONS
ARTICLE 2. General Provisions

32147. Expediting Matters Before the Board.

The Board itself, the Chief Administrative Law Judge or the General Counsel may expedite any matter pending before the Board, as follows:

~~(a) In any case arising under Section 32761, 32770, 32781, 32802, 33050, 33070, 33700, 40170, 40200, 51030, 51040, 51100, 51680, 61210, 61300, 61350, 61400, 61450, 71030, 71040, 71100, 71680, 81210, 81300, 81350, 81400, 81450, 91210, 91300, 91350, 91400, 91450, 95030, or 95100;~~

(a) Motions to Expedite

- (1) A motion to expedite proceedings within a single division of the Board shall be filed with the General Counsel, Chief Administrative Law Judge, Director of State Mediation and Conciliation Services, or the Board itself, as appropriate. A motion to expedite proceedings at all divisions shall be filed with the Board itself.
- (2) A motion to expedite a case must be clearly labeled as a motion to expedite. The motion may not be part of or combined with any other document other than a brief or declarations supporting the motion. The motion shall state with specificity why one or more of the criteria in subparagraph (b)(2) of this Section are satisfied.
- (3) Any other party to the proceeding may file a response to a motion to expedite within 5 business days of service of the motion. No reply briefs shall be filed unless otherwise ordered.
- (4) Denial of any motion to expedite, in whole or in part, shall be without prejudice to a party's ability to renew its motion, unless otherwise ordered.
- (5) The General Counsel, Chief Administrative Law Judge, Director of State Mediation and Conciliation Services, or the Board itself may expedite any case on its own motion.

~~(b) In any case that presents an important question of law or policy under any statute administered by the Board, the early resolution of which is likely to improve labor relations between or among affected parties;~~

(b) Applicable Criteria

(1) All divisions must expedite the following types of cases from initial filing to conclusion, without any motion or order:

(A) All cases arising under Section 32761, 32770, 32781, 33050, 33070, 33700, 40170, 40200, 51030, 51040, 51100, 51680, 61210, 61215, 61300, 61350, 61400, 61450, 71030, 71040, 71100, 71680, 81210, 81300, 81350, 81400, 81450, 91210, 91300, 91350, 91400, or 91450.

(B) All cases in which a representation election or other certification or recognition process or procedure has been stayed pending resolution of the case.

(2) In all cases not subject to mandatory expedited processing under subparagraph (b)(1) of this Section, the following criteria shall be considered in determining whether a case should be expedited:

(A) whether expedited processing is necessary to preserve the Board's ability to issue an effective remedy;

(B) whether the case involves alleged conduct that would irreparably harm the exercise of employee or employee organization rights;

(C) whether the case involves an important and unresolved question of law, the prompt resolution of which would significantly benefit one or more segments of the public sector labor-management community;

(D) whether the case arises from or relates to a representation or recognition dispute;

(E) whether a court injunction is in place pending resolution of the case;

(F) the number of employees affected, the size of any potential monetary remedy, or the nature, scope, or importance of any potential non-monetary remedy;
and

(G) any compelling circumstances showing that expedited processing is warranted.

~~(c) In conjunction with any determination to seek injunctive relief pursuant to Section 32450 et seq.;~~

(c) Required Procedures for Expedited Cases

- (1) In all cases falling under subparagraph (b)(1) of this Section, and in other cases after an order expediting the matter has issued, the case shall be given priority and decided on an expedited basis in the manner determined to be appropriate by, as applicable, the General Counsel, Chief Administrative Law Judge, Director of State Mediation and Conciliation Services, or the Board itself.
 - (2) Any document filed in a case falling under subparagraph (b)(1) of this Section, or in any other case if the document is filed in a division in which the case has been expedited, shall prominently display the words "EXPEDITED CASE" on the document's first page.
 - (3) When exceptions are pending in a case falling under subparagraph (b) of Section 32305, no abeyance or extension of time may be granted.
 - (4) In any expedited case not falling under subparagraph (b) of Section 32305, an abeyance may only be granted if all parties agree. An extension of time to file any document, or a request to continue a formal hearing, may be granted only when:
 - (A) the parties mutually agree to the extension of time or continuance;
 - (B) the continuance is necessary to mitigate prejudice caused by an amended pleading; or
 - (C) the party requesting the extension of time or continuance demonstrates extraordinary circumstances that outweigh any prejudice to other parties.
- (d) In any case, as ordered or directed by the Board itself.

~~For purposes of this Section, the expediting of a matter means the matter shall be given priority and decided on an expedited basis, in the manner determined to be appropriate by, as applicable, the Board itself, the General Counsel, or the Chief Administrative Law Judge.~~

Note: Authority cited: Sections 3509(a), 3513(h), 3524.52(a), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; ~~and Sections 28849(b), 40122.1(a), 99561(f), and 102399(b), Public Utilities Code;~~ and Section 10421(e), Welfare and Institutions Code.

Reference: Sections 3509, 3513(h), 3524.52(a), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; ~~and Sections 28849(b), 40122.1(a), 99561(m), and 102399(b), Public Utilities Code;~~ and Section 10421(e), Welfare and Institutions Code.

SUBCHAPTER 4. DECISIONS OF THE BOARD ITSELF

Article 2. Appeal of Board Agent Decision to the Board Itself

32305. Finality of Board Agent Decisions.

- (a) Unless a party files a timely statement of exceptions to the proposed decision, the decision shall become final on the date specified therein.
- (b) In cases arising under Section 32761, 32770, 32781, 33050, 33070, 33700, 40170, 40200, 51030, 51040, 51100, 51680, 61210, 61215, 61300, 61350, 61400, 61450, 71030, 71040, 71100, 71680, 81210, 81300, 81350, 81400, 81450, 91210, 91300, 91350, 91400, 91450, 95030, or 95100, and where exceptions are filed pursuant to Section 32300, the Board agent's decision shall become final unless the Board itself issues a decision not later than 180 days from the date the exceptions were filed with the Board.
- (c) The Board shall not grant abeyances or extensions of time in cases before the Board itself that are subject to subparagraph (b), above.

Note: Authority cited: Sections 3509(a), 3513(h), 3524.52(a), 3541.3(g), 3551(a), 3555.5(c), 3563(f), 71639.1(b) and 71825(b), Government Code; ~~and Sections 28849(b), 40122.1(a), 99561(f), and 102399(b),~~ Public Utilities Code; and Section 10421(c), Welfare and Institutions Code.

Reference: Sections 3509, 3509.3, 3513(h), 3520.8, 3524.52(a), 3524.76, 3541.3(k), 3541.3(n), 3541.35, 3551(a), 3555.5(c), 3563(j), 3563(m), 3563.5, 71639.1, 71639.15, 71825 and 71825.05, Government Code; ~~and Sections 28849(a), 40122.1(a), 99561(j), 99561(m), and 99561.4, and 102399(b),~~ Public Utilities Code; and Section 10428.5(a), Welfare and Institutions Code.