

MERIT ISSUE COMPLAINT POLICY

838.1 Effective Date

January 16, 2024

838.2 Purpose

The Department of Alcoholic Beverage Control (ABC) is committed to ensuring compliance with the State of California's merit-based civil service system. It is the policy of ABC that all merit issue complaints shall be promptly investigated and resolved at the lowest level possible. This is to comply with California's civil service laws, regulations, and administrative procedures. Article VII, section 3 of the California Constitution provides that the State Personnel Board (SPB) has the authority to enforce civil service statutes and regulations.

838.3 Authority

This procedure has been developed in accordance with the following laws, rules and regulations:

- California Government Code: Gov. Code §3513, §12940, §18500 *et seq.*, §18570 *et seq.*, §18675, §19230 *et seq.*, §19700 *et seq.*
- [California Code of Regulations: Cal. Code Regs., Title 2 §66.1](#)
- [Investigations and Hearings \[18670 - 18683\]](#)

This policy is applicable to all applicants who apply for employment at ABC, as well as all ABC employees seeking promotional opportunities, including those employed in part-time, intermittent, limited term, and non-testing classifications.

838.4 Definitions

The following terms are defined to facilitate understanding and consistent application of this policy.

- **Applicant:** An individual who has submitted an Examination/Employment Application (STD. 678) to compete in a State civil service examination or apply to a job vacancy.
- **Candidate:** An applicant who has been accepted as a participant in an examination or selected to participate in a hiring interview. Also known as "competitor."

MERIT ISSUE COMPLAINT POLICY

- **Hiring Manager:** Individual responsible for recruitment of a vacant position within their unit. Recruitment process includes developing screening criteria, screening applications, conducting interviews, and making a final selection.
- **Human Resources Analyst:** Person responsible for ensuring selected candidates meet minimum qualifications and have eligibility for appointment.
- **Merit Issue Complaints:** Are complaints that the State Civil Service Act or Board regulation or policy has been violated by a state agency. These complaints include but are not limited to, interference with promotional opportunities, interference with a person's access to any SPB appeals process, and the designation of managerial positions pursuant to Government Code 3513. Merit Issue Complaints do not include appeals of action that are specifically provided elsewhere in law or in Board regulations.

838.5 Procedures:

Step 1: An applicant/employee or designated attorney/authorized representative may submit a Merit Issue Complaint form (ABC-43) to the Human Resources Branch within three years of the alleged violation of Board regulation or policy. Merit issue complaints must be submitted to ABC first to allow the department an opportunity to respond to the allegations before filing an appeal with SPB. The complaint should include all pertinent information, facts, and details related to the alleged acts that support the basis for the merit issue complaint. Submit the [ABC-043](#) to humanresources2@abc.ca.gov or mail to:

Department of Alcoholic Beverage Control
Human Resources Branch (HRB)
3927 Lennane Drive, Ste. 100
Sacramento, CA 95834

Step 2: A Human Resources Branch Analyst will send a written notice acknowledging receipt of complaint and advise complainant of timelines to complete the investigation, and the employee's right to challenge ABC's decision, denial of the complaint, or failure to respond, by filing a complaint with SPB Appeals Division.

Step 3: A Human Resources Branch Analyst will investigate and respond to the complaint in writing within 90 days. Please note: Depending on the circumstances surrounding the merit issue complaint, the complaint may be referred to the Equal Opportunity Office for review.

MERIT ISSUE COMPLAINT POLICY

Step 4: Applicant/employee may file an appeal using [SPB Appeals and Complaint Form](#) to the SPB Appeals Division within 30 days after (1) ABC denies the complaint or (2) after the 90 days expires without ABC's decision on the complaint. The employee shall include 1) evidence of having filed a formal written complaint to ABC's Human Resources Branch, 2) original complaint submitted to ABC, and 3) factual evidence and documentation of any wrongdoing by ABC.

Submit Appeal to:

State Personnel Board
Appeals Division
801 Capitol Mall, MS #22
Sacramento, CA 95814

FAX: (916) 654-6055

Or by email at: appeals@spb.ca.gov

Step 5: SPB will investigate the merit issue complaint filed by the applicant/employee or designated attorney/authorized representative to determine if SPB jurisdiction has been established and sufficient facts are alleged to constitute grounds for the appeal.

If you have any questions about this policy, please email: humanresources2@abc.ca.gov