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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 2. STATE CIVIL SERVICE [18500 - 19799] (Part 2 added by Stats. 1945, Ch. 123.)

CHAPTER 10. Prohibitions and Offenses [19680 - 19765] (Chapter 10 added by Stats. 1945, Ch. 123.)

ARTICLE 1. General [19680 - 19683.5] (Article 1 added by Stats. 1945, Ch. 123.)

19680. It is unlawful for any person:

- (a) Willfully by himself or herself, or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his or her right of examination, application, or employment under this part or rule.
- (b) Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under this part or rule, or to aid in so doing, or make any false representation concerning the same or the person examined.
- (c) Willfully to furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person examined, certified, or to be examined or certified under this part or rule.

(Amended by Stats. 2013, Ch. 427, Sec. 78. (AB 1062) Effective January 1, 2014.)

19681. It is unlawful for any person:

- (a) To practice any deception or fraud with regard to his identity in connection with any examination, application, or request to be examined.
- (b) To obtain examination questions or other examination material except by specific authorization either before, during, or after an examination or use or purport to use any such examination questions or materials for the purpose of instructing or coaching or preparing candidates for examinations.
- (c) To use any unfair means to cause or attempt to cause any eligible to waive any rights obtained under this part.

(Amended by Stats. 1953, Ch. 431.)

19682. Every person who violates any provision of this chapter is guilty of a misdemeanor. In accordance with Section 19683, action may be taken by the appointing power, the department, or the executive officer of the board may file charges, against a state employee who violates any provisions of this chapter.

(Amended by Stats. 2013, Ch. 427, Sec. 79. (AB 1062) Effective January 1, 2014.)

19683. (a) The State Personnel Board shall initiate a hearing or investigation of a written complaint of conduct prohibited by Section 8547.3 within 10 working days of its submission. The executive officer shall complete findings of the hearing or investigation within 60 working days thereafter, and shall provide a copy of the findings to the complaining state employee or applicant for state employment and to the appropriate supervisor, manager, employee, or appointing authority. When the allegations contained in a complaint of reprisal or retaliation are the same as, or similar to, those contained in another appeal, the executive officer may consolidate the appeals into the most appropriate format. In these cases, the time limits described in this subdivision shall not apply. The board shall render its decision on the consolidated matter within a reasonable time after the conclusion of the hearing or investigation, except that the period shall not exceed six months from the date of the order of consolidation unless extended by the board for a period of not more than 45 additional days from the expiration of the six-month period.

(b) If the executive officer finds that the supervisor, manager, employee, or appointing power retaliated against the complainant for engaging in protected whistleblower activities, the supervisor, manager, employee, or appointing power may request a hearing before the State Personnel Board regarding the findings of the executive officer. The request for hearing and any subsequent

determination by the board shall be made in accordance with the board's normal rules governing appeals, hearings, investigations, and disciplinary proceedings.

(c) If, after the hearing, the State Personnel Board determines that a violation of Section 8547.3 occurred, or if no hearing is requested and the findings of the executive officer conclude that improper activity has occurred, the board may order any appropriate relief, including, but not limited to, reinstatement, backpay, restoration of lost service credit, if appropriate, compensatory damages, and the expungement of any adverse records of the state employee or applicant for state employment who was the subject of the alleged acts of misconduct prohibited by Section 8547.3.

(d) Whenever the board determines that a manager, supervisor, or employee, who is named a party to the retaliation complaint, has violated Section 8547.3 and that violation constitutes legal cause for discipline under one or more subdivisions of Section 19572, it shall impose a just and proper penalty and cause an entry to that effect to be made in the manager's, supervisor's, or employee's official personnel records.

(e) Whenever the board determines that a manager, supervisor, or employee, who is not named a party to the retaliation complaint, may have engaged in or participated in any act prohibited by Section 8547.3, the board shall notify the manager's, supervisor's, or employee's appointing power of that fact in writing. Within 60 days after receiving the notification, the appointing power shall either serve a notice of adverse action on the manager, supervisor, or employee, or set forth in writing its reasons for not taking adverse action against the manager, supervisor, or employee. The appointing power shall file a copy of the notice of adverse action with the board in accordance with Section 19574. If the appointing power declines to take adverse action against the manager, supervisor, or employee, it shall submit its written reasons for not doing so to the board, which may take adverse action against the manager, supervisor, or employee as provided in Section 19583.5. A manager, supervisor, or employee who is served with a notice of adverse action pursuant to this section may file an appeal with the board in accordance with Section 19575.

(f) In order for the Governor and the Legislature to determine the need to continue or modify state personnel procedures as they relate to the investigations of reprisals or retaliation for the disclosure of information by public employees, the State Personnel Board, by June 30 of each year, shall submit a report to the Governor and the Legislature regarding complaints filed, hearings held, and legal actions taken pursuant to this section.

(Amended by Stats. 2013, Ch. 781, Sec. 3. (SB 496) Effective January 1, 2014.)

19683.1. The State Personnel Board shall assist the State Auditor in preparing the written explanation required by Section 8548.1 by providing the State Auditor with a written explanation of the board's role in investigating a claim that a state employee has been subject to retaliation as a result of reporting improper governmental activity.

(Added by Stats. 2001, Ch. 883, Sec. 7. Effective January 1, 2002.)

19683.5. If a state employee is successful in an action brought pursuant to Section 19683, the complaining employee shall be reimbursed for all costs incurred pursuant to Section 995.3.

(Added by Stats. 1984, Ch. 1212, Sec. 8.)