

Personnel – Series 4000

4400 The Merit System

4440 Application and Examination

4441 Application for Employment

**4441.6 Disqualification and Appeal from Disqualification**

- A. Applicants, candidates and eligibles who are disqualified for any of the reasons enumerated in Rule No. 4441.5 shall be notified in writing by the Director, Human Resources. The notification shall state:
  - 1. The reason(s) for disqualification.
  - 2. That, within seven calendar days, the individual may appeal to the Director, Human Resources for administrative review, and that failure to appeal for administrative review makes the disqualification final and conclusive.
- B. If there has been an administrative review, as provided above, and the disqualification is sustained, the individual shall be:
  - 1. Given a written notice outlining the reason(s) for sustaining the disqualification, and
  - 2. Informed of his/her right to make a written appeal of the disqualification and/or the period of disqualification, with seven calendar days, to the Personnel Commission. The appeal may be based on any of the following reasons:
    - a. Discrimination because of political or religious acts or affiliations or opinions, race, color, sex, marital status, national origin or ancestry.
    - b. Abuse or discretion.
    - c. Inconsistency of the reasons given for the disqualification with the facts.
- C. Upon receipt of an appeal, the Commission shall set a date for hearing, hear all of the evidence, and render a decision. Its decision shall be transmitted in writing to all concerned, as determined by the Commission, and shall be final.
- D. If a disqualification is not sustained by the Director, Human Resources or the Personnel Commission, the Director, Human Resources shall immediately institute action to insure the rights of the applicant, candidate or eligible person listed on an eligibility list. However, appointments made in the interim shall not be disturbed unless they were fraudulently made.

Reference:

Education Code Sections 44010, 44011, 45122-45124, 45134, and 45260-45261

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