

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**SPALDING COMMUNITY SERVICES
DISTRICT
502-907 MAHOGANY WAY,
SUSANVILLE, CA 96130**

Employer

Inspection Number

1864915

**DENIAL OF PETITION FOR
RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code hereby denies the petition for reconsideration filed in the above-entitled matter by Spalding Community Services District (Employer).

On December 22, 2025, the Division of Occupational Safety and Health (the Division) cited Employer with one Citation alleging eight General violations of California Code of Regulations, title 8¹: Citation 1, Item 1 was an alleged violation of section 3203, subdivision (a) [Injury and Illness Prevention Program (IIPP)]; Citation 1, Item 2 was an alleged violation of section 3395, subdivision (h)(1) [Heat Illness Prevention in Outdoor Places of Employment – employee training]; Citation 1, Item 3 was an alleged violation of section 3395, subdivision (i) [Heat Illness Prevention in Outdoor Places of Employment – heat illness prevention plan]; Citation 1, Item 4 was an alleged violation of section 5162, subdivision (a) [emergency eyewash and shower equipment]; Citation 1, Item 5 was an alleged violation of section 5193, subdivision (f)(1)(A) [Bloodborne Pathogens – hepatitis B vaccination]; Citation 1, Item 6 was an alleged violation of section 5193, subdivision (g)(2) [Bloodborne Pathogens – information and training]; Citation 1, Item 7 was an alleged violation of section 5194, subdivision (g)(1) [Hazard Communication – hazardous chemical safety data sheets]; and Citation 1, Item 8 was an alleged violation of section 5194, subdivision (h)(1) [Hazard Communication – employee information and training].

Pursuant to section 359 and Labor Code sections 6600 and 6602, Employer was required to file an appeal or notify the Appeals Board of its intent to file appeals within 15 working days of receipt of the citations. The Citations were received by Employer on December 30, 2025. Employer had until January 22, 2026, to initiate its appeal.

¹ Unless otherwise specified, all references to “section” are to California Code of Regulations, title 8.

On January 30, 2026, Employer filed an appeal. On February 9, 2026, the Board served a notice of untimely appeal on Employer. The Board's notice of untimely appeal informed Employer they had 20 days from the date of service (here, March 2, 2026) to submit a declaration demonstrating that good cause exists to permit the filing of a late appeal. On March 16, 2026, Employer served an unverified declaration of general manager Mark Garcia in support of its untimely appeal (Declaration).

On April 10, 2026, Presiding Administrative Law Judge (PALJ) Kerry Lewis issued an Order Denying Request for Leave to File Late Appeal.

On April 16, 2026, Employer served an unverified, but otherwise timely petition for reconsideration of the PALJ's Order (Petition).

On April 20, 2026, the Board notified the Employer that the Petition was not verified and requested Employer provide a verification within 5 days. Employer did not respond to the Board's request.

The Division did not answer the Petition.

ISSUE

Did Employer show there was good cause for the late appeal?

REASON FOR DENIAL OF PETITION FOR RECONSIDERATION

The Board has fully reviewed the record in this case. We have taken no new evidence. After careful review, we deny the Petition.

Labor Code section 6617 sets forth five grounds upon which a petition for reconsideration may be based:

- (a) That by such order or decision made and filed by the appeals board or hearing officer, the appeals board acted without or in excess of its powers.
- (b) That the order or decision was procured by fraud.
- (c) That the evidence does not justify the findings of fact.
- (d) That the petitioner has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.
- (e) That the findings of fact do not support the order or decision.

Employer's Petition asserts none of the statutory grounds upon which the Board may grant reconsideration, which is reason alone to deny the Petition. (*Innovation Construction Inc.*, Cal/OSHA App. 10871964, Denial of Petition for Reconsideration (Feb. 11, 2026) citing *Arodz Motorsports, LLC, dba Al Tune & Lube*, Cal/OSHA App. 1087194, Denial of Petition for Reconsideration (Nov. 22, 2017).) Even if the Petition had stated one or more of the statutory grounds for reconsideration, the Board would still be required to deny it.

An employer has 15 working days from the time the citation is received by the employer to file an appeal, and if employer is seeking to file a late appeal, it must provide a written showing of good cause. (Lab. Code, § 6601; Cal. Code Regs., tit. 8, § 359(d).) "A request to file a late appeal shall be accompanied by a declaration containing a statement that any facts therein are based on the personal knowledge of the declarant." (Cal. Code Regs., tit. 8, § 359(e).) The good cause requirement is established by demonstrating a substantial recognized legal excuse for the late appeal. (*J.G. Boswell Company dba J.G. Boswell See's* Cal/OSHA App. 1798153, Denial of Petition for Reconsideration (Nov. 4, 2025).) However, the good cause analysis for late appeals must also consider all relevant facts in context such as the cause of delay, duration of delay, external influences, employer's good faith efforts, and declarant credibility, because there is a strong public policy favoring disposition of matters on their merits (*RJS Electric*, Cal/OSHA App. 1760736, Decision After Reconsideration (Apr. 23, 2025).)

Here, Employer argues that good cause exists based upon various operational issues. All the stated reasons for delay are based on Employer having a heavy workload, relying on unpaid volunteers for staff, and a transition of leadership. Specifically, Employer claims that they were "...simultaneously attempting to address numerous operational, infrastructure, financial, compliance, and administrative issues that had accumulated over several years... [such as] wastewater system compliance, financial recordkeeping, grant administration, insurance renewal, board operations, personnel transitions, and numerous public records requests." (Employer's Petition.) Furthermore, the prior manager responsible for filing the appeal resigned on March 12, 2026, and the new manager was inexperienced. However, none of these amount to good cause.

The Appeals Board has long held that issues stemming from an employers' internal operating problems are not good cause for a late appeal. (*Innovation Construction Inc.*, *supra*, Cal/OSHA App. 10871964, citing, *Level 3 Construction, Inc.*, Cal/OSHA App. 14-9131, Denial of Petition for Reconsideration (Nov. 24, 2014).) An employers' staffing shortage causing a missed appeal deadline is an internal operating problem. (*Id.*, citing *Laselco Pacific*, Cal/OSHA App. 96-9084, Denial of Petition for Reconsideration (Jul. 16, 1996).) Failing to timely submit the appeal forms or simply make a phone call to the Appeals Board to begin the appeals process is not exercising the appropriate degree of care which a reasonably prudent person involved in an important legal matter would exercise. (*Id.* citing, *Timothy J. Kock*, App. 01-9135, Denial of Petition for Reconsideration (Nov. 20, 2001).)

For the reasons stated above, the petition for reconsideration is denied.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

/s/ Ed Lowry, Chair

/s/ Judith S. Freyman, Board Member

/s/ Marvin Kropke, Board Member

FILED ON: 05/29/2026

