

Board Meeting Notice and Agenda

**June 9, 2022
10:00 a.m.**

Meeting location:

**State Personnel Board
801 Capitol Mall, Rm 150
Sacramento, CA 95814**

Teleconference location:

**505 Van Ness Ave
Hearing Room C
San Francisco, CA 94102**

Teleconference location:

**320 West Fourth Street
1st Floor Executive
Conference Room
Los Angeles, CA 90013**

Meetings of the State Personnel Board (SPB) are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. The Board may take action on any item listed on the agenda, unless listed as informational only. Time is approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. This meeting may be cancelled without notice.

Live broadcasts of open sessions are web-streamed at:

http://www.spb.ca.gov/board/agenda_minutes.aspx

Public comments may be made in-person by attending the meeting, or by emailing BoardMeetingComments@spb.ca.gov by close of business on March 30, 2022. Emailed comments will be read aloud during the public comment period under "Information and Discussion Items" on the agenda.

The meeting facilities are accessible to individuals with disabilities. Requests for disability-related modification or accommodation require a minimum of 72 hours' notice and may be requested by calling (916) 651-2843 (voice or TTY).

California State Personnel Board
Notice and Agenda
June 9, 2022

I. Open Session - Call to Order and Roll Call

II. Information and Discussion Items

- 1. Report of the Executive Officer**
- 2. Report of the Chief Counsel**
- 3. Report on the California Public Employees' Retirement System**
- 4. New Business**
- 5. Public Comment**

III. Consent Items

Routine items are heard on the consent calendar. Consent items are approved with one motion unless a Board Member asks for discussion or separate action on any listed item. Removed items may be taken up either immediately following the consent agenda or maybe placed on a later agenda at the direction of the Board.

- 1. Approval of the Draft Summary Open Minutes
from the May 5, 2022, Board Meeting**
(materials to Board Members only) **Draft Minutes**
- 2. Approval of the Draft Closed Minutes from the
May 5, 2022, Board Meeting**
(materials to Board Members only)
- 3. Non-Hearing Items** **Attachment 1**

IV. Hearing Items **Attachment 2**

V. Oral Arguments

VI. Closed Session **Attachment 3**

California State Personnel Board
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VII. Reconvene into Open Session – Action Items

- | | | |
|----|---|----------------------------|
| 1. | Election of CalPERS Representative | <u>CalPERS</u> |
| 2. | Approval of Draft 2021 Annual Report to the Legislature Whistleblower Retaliation Complaints
(materials to Board Members only) | <u>2021 Report</u> |
| 3. | Approval of Proposed Changes to Amend Board Regulations: <ul style="list-style-type: none">• Section 52.4 regarding Requirements and Method of Delivery for Filing Appeals and Complaints with the Board• Section 243.2 regarding Correction of Unlawful Appointments• Section 243.3 regarding Compensation or Reimbursement for Voided Appointments• Section 243.5 regarding Right to Respond• Section 243.6 regarding Right to Appeal or Reconsideration• Section 171.1 regarding Calculating the Amount of Time Required to Satisfy Minimum Qualifications for Experience• Section 437 regarding Definitions for Temporary Assignments or Loans• Section 439.2 regarding Training and Development Classification• Section 439.4 regarding Completion of a Training and Development Assignment | <u>Draft Regs</u> |
| 4. | Career Executive Assignments | <u>Attachment 4</u> |
| 5. | Submitted Items | <u>Attachment 5</u> |
| 6. | Evidentiary Cases and Non-Evidentiary Cases | <u>Attachment 6</u> |

VIII. Adjournment

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Non-Hearing Items

Attachment 1

The following proposals are made to the Board by either CalHR or SPB. It is anticipated that the Board will act on these proposals without a hearing. Anyone with concerns or opposition to these proposals should submit, in writing, a notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code Section 18500 et seq.) and Article VII of the California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Monday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend that the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

A. Requests to Establish, Revise or Abolish Classifications, Alternate Range Criteria, etc.

NONE

B. California Code of Regulations, title 2 section 90 – Abolishment of Vacant Civil Service Classifications

In accordance with California Code of Regulations, title 2, section 90, CalHR identified civil service classifications that have been vacant for at least 24 months.

NONE

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Hearing Items

Attachment 2

The following items are set for hearing.

A. **Requests to Establish, Revise or Abolish Classifications, Alternate Range Criteria, etc.**

NONE

B. **Requests to Abolish Eligibility Lists that have Existed for less than 12 Months**
CalHR proposes to abolish the following eligibility lists, which have been in existence less than 12 months.

1. **REQUEST TO ABOLISH ADMINISTRATIVE LAW JUDGE III ELIGIBILITY LISTS FOR THE DEPARTMENT OF HUMAN RESOURCES**

The Department of Human Resources is requesting permission to abolish the existing Administrative Law Judge III eligibility lists.

2. **REQUEST TO ABOLISH LABORATORY ASSISTANT ELIGIBILITY LIST FOR THE DEPARTMENT OF STATE HOSPITALS**

The Department of State Hospitals is requesting permission to abolish the existing Laboratory Assistant eligibility list.

3. **REQUEST TO ABOLISH INFORMATION TECHNOLOGY ASSOCIATE, INFORMATION TECHNOLOGY SPECIALIST I AND II, INFORMATION TECHNOLOGY SUPERVISOR I AND II, AND INFORMATION TECHNOLOGY MANAGER I AND II ELIGIBILITY LISTS FOR THE DEPARTMENT OF HUMAN RESOURCES**

The Department of Human Resources is requesting permission to abolish the existing Information Technology Associate, Information Technology Specialist I and II, Information Technology Supervisor I and II, and Information Technology Manager I and II eligibility lists.

C. **California Code of Regulations, title 2 section 90 – Abolishment of Vacant Civil Service Classifications**

In accordance with California Code of Regulations, title 2, section 90, CalHR identified civil service classifications that have been vacant for at least 24 months.

NONE

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D. California Code of Regulations, title 2, section 275 – Transferring into State Civil Service

In accordance with California Code of Regulations, title 2, section 275, CalHR proposes to transfer the following to California state civil service.

1. REQUEST TO TRANSFER SEVENTEEN (17) CITY OF OROVILLE FIRE DEPARTMENT EMPLOYEES INTO CALIFORNIA STATE CIVIL SERVICE

The California Department of Human Resources, on behalf of the California Department of Forestry and Fire Protection, requests to transfer seventeen (17) City of Oroville Fire Department employees into California state civil service.

Selection Division

1515 S Street, North Building, Suite 500
Sacramento, CA 95811
(916) 322-5193 Fax (916) 322-8376

Governor Gavin Newsom
Secretary, Government Operations Agency Amy Tong
Director Eraina Ortega

DATE: June 9, 2022

TO: Five-Member State Personnel Board

FROM: Sunshine Duffy, Acting Division Chief
Selection Division



**SUBJECT: REQUEST TO ABOLISH ADMINISTRATIVE LAW JUDGE III LISTS
FOR THE DEPARTMENT OF HUMAN RESOURCES**

The Department of Human Resources is requesting permission to abolish the existing Administrative Law Judge III eligibility lists. The Department of Human Resources ceased administering the examination for the Administrative Law Judge III on February 24, 2022.

The Administrative Law Judge III classification (6132) was consolidated into the new Senior Administrative Law Judge classification by the State Personnel Board on January 13, 2022. A new examination will replace the current Administrative Law Judge III examination, and in turn establish new eligibility lists.

Currently, the Administrative Law Judge III eligibility list 12702 has 34 active individuals and list 18525 has 1 active individual.

Pursuant to Government Code section 18901, the Department of Human Resources does not have the authority to abolish eligibility lists when eligibility records are less than 12 months old. The Department of Human Resources will inform those listed on the existing eligible lists in writing that the Administrative Law Judge III lists will be abolished and encourage them to participate in the new examination.

CONSULTED:

Sunshine Duffy, Selection Services Program Manager, CalHR

RECOMMENDATION:

That effective June 9, 2022, the examination list identified in this calendar is abolished.

RESOLUTION

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution mandates that civil service appointments and promotions shall be made under a general system based on merit, as ascertained by competitive examination; and

WHEREAS, pursuant to the provisions of Article VII, Section 3, of the California Constitution, the State Personnel Board (Board) is the entity that has been tasked with the authority to oversee and enforce the State civil service statutes; and

WHEREAS, a classification consolidation changed the Administrative Law Judge III classification name to Senior Administrative Law Judge and the examination for Administrative Law Judge III is outdated. An updated Training and Experience (T&E) examination using the limited three rank model will be created; and

WHEREAS, the two current eligible lists for the Administrative Law Judge III contains eligibility records established less than 12 months prior and Board approval is needed to abolish the lists; and

WHEREAS, upon approval to abolish the current eligible lists, the California Department of Human Resources will advise all eligibles that they will need to participate in the new examination for the Senior Administrative Law Judge to re-establish list eligibility.

IT IS RESOLVED AND ORDERED THAT:

The California Department of Human Resources is hereby authorized to abolish the current Administrative Law Judge III eligible lists as outlined above.

The foregoing resolution was made and adopted by the Board during its meeting on June 9, 2022 as reflected in the record of the meeting and Board minutes.

SUZANNE M. AMBROSE
Executive Officer

Selection Division

1515 S Street, North Building, Suite 500
Sacramento, CA 95811
(916) 322-5193 Fax (916) 322-8376

Governor Gavin Newsom
Secretary, Government Operations Agency Amy Tong
Director Eraina Ortega

DATE: June 9, 2022

TO: Five-Member State Personnel Board

FROM: Sunshine Duffy, Acting Division Chief
Selection Division



**SUBJECT: REQUEST TO ABOLISH LABORATORY ASSISTANT LIST FOR THE
DEPARTMENT OF STATE HOSPITALS**

The Department of State Hospitals is requesting permission to abolish the existing Laboratory Assistant eligibility list. The Department of State Hospitals ceased administering the examination for the Laboratory Assistant on November 5, 2021.

The new job analysis indicates the examinations needs to be updated. A new examination will replace the current Laboratory Assistant examination, and in turn establish a new eligibility list.

Currently, the Laboratory Assistant eligibility list (list code 16473) has 24 active eligibles.

Pursuant to Government Code section 18901, the Department of State Hospitals does not have the authority to abolish eligibility lists when eligibility records are less than 12 months old. The Department of State Hospitals will inform those listed on the existing eligible list in writing that the Laboratory Assistant list will be abolished and encourage them to participate in the new examination.

CONSULTED:

Cheng Saephan, Selections Manager, DSH
Sunshine Duffy, Selection Services Program Manager, CalHR

RECOMMENDATION:

That effective June 9, 2022, the examination list identified in this calendar is abolished.

RESOLUTION

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution mandates that civil service appointments and promotions shall be made under a general system based on merit, as ascertained by competitive examination; and

WHEREAS, pursuant to the provisions of Article VII, Section 3, of the California Constitution, the State Personnel Board (Board) is the entity that has been tasked with the authority to oversee and enforce the State civil service statutes; and

WHEREAS, a new job analysis indicates the examination for Laboratory Assistant (LA) is outdated. An updated Training and Experience (T&E) examination using the limited three rank model will be created; and

WHEREAS, the current eligible list for the LA contains eligibility records established less than 12 months prior and Board approval is needed to abolish the list; and

WHEREAS, upon approval to abolish the current eligible list, the Department of State Hospitals will advise all eligibles that they will need to participate in the new examination for the LA to re-establish list eligibility.

IT IS RESOLVED AND ORDERED THAT:

The California Department of Human Resources is hereby authorized to abolish the current Laboratory Assistant eligible list on the behalf of the Department of State Hospitals as outlined above.

The foregoing resolution was made and adopted by the Board during its meeting on June 9, 2022, as reflected in the record of the meeting and Board minutes.

SUZANNE M. AMBROSE
Executive Officer

Selection Division

1515 S Street, North Building, Suite 500
Sacramento, CA 95811
(916) 322-5193 Fax (916) 322-8376

Governor Gavin Newsom
Secretary, Government Operations Agency Amy Tong
Director Eraina Ortega

DATE: June 9, 2022

TO: Five-Member State Personnel Board

FROM: Sunshine Duffy, Acting Division Chief
Selection Division



**SUBJECT: REQUEST TO ABOLISH INFORMATION TECHNOLOGY
ASSOCIATE, INFORMATION TECHNOLOGY SPECIALIST I AND II,
INFORMATION TECHNOLOGY SUPERVISOR I AND II, AND
INFORMATION TECHNOLOGY MANAGER I AND II LISTS FOR THE
DEPARTMENT OF HUMAN RESOURCES.**

The Department of Human Resources is requesting permission to abolish the existing Information Technology Associate, Information Technology Specialist I and II, Information Technology Supervisor I and II, and Information Technology Manager I and II eligibility lists. The Department of Human Resources ceased administering the examination for the Information Technology Technician on November 10, 2021 and will cease examinations for Information Technology Associate, Information Technology Specialist I and II, Information Technology Supervisor I and II, and Information Technology Manager I and II in July of 2022.

The new job analyses indicate the examinations need to be updated. New examinations will replace the current Information Technology Associate, Information Technology Specialist I and II, Information Technology Supervisor I and II, and Information Technology Manager I and II examinations, and in turn establish new eligibility lists.

Currently, the Information Technology Associate, Information Technology Specialist I and II, Information Technology Supervisor I and II, and Information Technology Manager I and II have the following eligibility lists:

List Code	Class Title	Active Eligibles
15692	Information Technology Associate	2683
15694	Information Technology Specialist I	2453
15695	Information Technology Specialist II	1190
15699	Information Technology Supervisor I	84
15700	Information Technology Supervisor II	523
15697	Information Technology Manager I	557
15698	Information Technology Manager II	301

Pursuant to Government Code section 18901, the Department of Human Resources does not have the authority to abolish eligibility lists when eligibility records are less than 12 months old. The Department of Human Resources will inform those listed on the existing eligible lists in writing that the Information Technology Associate, Information Technology Specialist I and II, Information Technology Supervisor I and II, and Information Technology Manager I and II lists will be abolished and encourage them to participate in the new examination(s).

CONSULTED:

Sunshine Duffy, Selection Services Program Manager, CalHR

RECOMMENDATION:

That effective June 9, 2022, the examination list identified in this calendar is abolished.

RESOLUTION

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution mandates that civil service appointments and promotions shall be made under a general system based on merit, as ascertained by competitive examination; and

WHEREAS, pursuant to the provisions of Article VII, Section 3, of the California Constitution, the State Personnel Board (Board) is the entity that has been tasked with the authority to oversee and enforce the State civil service statutes; and

WHEREAS, a new job analysis indicates the examination for Information Technology Associate (ISA) is outdated. An updated Training and Experience (T&E) examination using the limited three rank model will be created; and

WHEREAS, the current eligible list for the ISA contains eligibility records established less than 12 months prior and Board approval is needed to abolish the list; and

WHEREAS, upon approval to abolish the current eligible list, the California Department of Human Resources will advise all eligibles that they will need to participate in the new examination for the ISA to re-establish list eligibility.

IT IS RESOLVED AND ORDERED THAT:

The California Department of Human Resources is hereby authorized to abolish the current Information Technology Associate eligible list as outlined above.

The foregoing resolution was made and adopted by the Board during its meeting on June 9, 2022, as reflected in the record of the meeting and Board minutes.

SUZANNE M. AMBROSE
Executive Officer

RESOLUTION

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution mandates that civil service appointments and promotions shall be made under a general system based on merit, as ascertained by competitive examination; and

WHEREAS, pursuant to the provisions of Article VII, Section 3, of the California Constitution, the State Personnel Board (Board) is the entity that has been tasked with the authority to oversee and enforce the State civil service statutes; and

WHEREAS, new job analyses indicate the examinations for Information Technology Specialist (ITSp) I and II are outdated. Updated Training and Experience (T&E) examinations using the limited three rank model will be created; and

WHEREAS, the current eligible lists for the ITSp I and II contain eligibility records established less than 12 months prior and Board approval is needed to abolish the lists; and

WHEREAS, upon approval to abolish the current eligible lists, the California Department of Human Resources will advise all eligibles that they will need to participate in the new examination(s) for the ITSp I and II to re-establish list eligibility.

IT IS RESOLVED AND ORDERED THAT:

The California Department of Human Resources is hereby authorized to abolish the current Information Technology Specialist I and II eligible lists as outlined above.

The foregoing resolution was made and adopted by the Board during its meeting on June 9, 2022, as reflected in the record of the meeting and Board minutes.

SUZANNE M. AMBROSE
Executive Officer

RESOLUTION

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution mandates that civil service appointments and promotions shall be made under a general system based on merit, as ascertained by competitive examination; and

WHEREAS, pursuant to the provisions of Article VII, Section 3, of the California Constitution, the State Personnel Board (Board) is the entity that has been tasked with the authority to oversee and enforce the State civil service statutes; and

WHEREAS, new job analyses indicate the examinations for Information Technology Supervisor (ITSu) I and II are outdated. Updated Training and Experience (T&E) examinations using the limited three rank model will be created; and

WHEREAS, the current eligible lists for the ITSu I and II contain eligibility records established less than 12 months prior and Board approval is needed to abolish the lists; and

WHEREAS, upon approval to abolish the current eligible lists, the California Department of Human Resources will advise all eligibles that they will need to participate in the new examination(s) for the ITSu I and II to re-establish list eligibility.

IT IS RESOLVED AND ORDERED THAT:

The California Department of Human Resources is hereby authorized to abolish the current Information Technology Supervisor I and II eligible lists as outlined above.

The foregoing resolution was made and adopted by the Board during its meeting on June 9, 2022, as reflected in the record of the meeting and Board minutes.

SUZANNE M. AMBROSE
Executive Officer

RESOLUTION

WHEREAS, Article VII, Section 1, subdivision (b) of the California Constitution mandates that civil service appointments and promotions shall be made under a general system based on merit, as ascertained by competitive examination; and

WHEREAS, pursuant to the provisions of Article VII, Section 3, of the California Constitution, the State Personnel Board (Board) is the entity that has been tasked with the authority to oversee and enforce the State civil service statutes; and

WHEREAS, new job analyses indicate the examinations for Information Technology Manager (ITM) I and II are outdated. Updated Training and Experience (T&E) examinations using the limited three rank model will be created; and

WHEREAS, the current eligible lists for the ITM I and II contain eligibility records established less than 12 months prior and Board approval is needed to abolish the lists; and

WHEREAS, upon approval to abolish the current eligible lists California Department of Human Resources will advise all eligibles that they will need to participate in the new examination(s) for the ITM I and II to re-establish list eligibility.

IT IS RESOLVED AND ORDERED THAT:

The California Department of Human Resources is hereby authorized to abolish the current Information Technology Manager I and II eligible lists as outlined above.

The foregoing resolution was made and adopted by the Board during its meeting on June 9, 2022, as reflected in the record of the meeting and Board minutes.

SUZANNE M. AMBROSE
Executive Officer

Personnel Management Division

1515 S Street, North Building, Suite 500
Sacramento, CA 95811
(916) 324-9381 Fax (916) 327-1886

Governor Gavin Newsom
Secretary, Government Operations Agency Amy Tong
Director Eraina Ortega

DATE: June 9, 2022

TO: The Five-Member State Personnel Board

FROM: Melissa Russell, Chief *Melissa Russell*
Melony Harris, Personnel Management Consultant
Personnel Management Division
California Department of Human Resources

SUBJECT: Proposed Blanketing City of Oroville Fire Department Employees into California State Civil Service

SUMMARY OF ISSUES:

The California Department of Forestry and Fire Protection (CAL FIRE) requests to transfer seventeen (17) City of Oroville Fire Department employees into California state civil service.

CONSULTED:

Trisha Addison, Assistant Deputy Director, Human Resources, CAL FIRE
Danielle Greco, Assistant Personnel Officer, Human Resources, CAL FIRE
Jennifer Jufiar, Manager, Classification and Pay Unit, CAL FIRE
Megan Cadd, Associate Personnel Analyst, Classification and Pay Unit, CAL FIRE
Lily Cervantes, Labor Relations Officer, CalHR, Labor Relations Division

NOTIFICATION:

The notice requirement is not applicable at this level as the employees are not yet represented by CAL FIRE Local 2881 (L2881). However, L2881 was informed of the proposal and the local jurisdiction provides notice to the respective labor organization regarding the change.

BACKGROUND:

CAL FIRE currently has a contractual agreement with the County of Butte to provide fire protection services. Effective July 1, 2022, the County of Butte will enter into an agreement with the City of Oroville Fire Department to provide fire protection services. Therefore, CAL FIRE will assume responsibility for the operation and maintenance of the City of Oroville Fire Department through a cooperative fire agreement.

A cooperative fire agreement sets forth the fire protection services to be furnished by the state, administered by the CAL FIRE's Unit Chief, with reimbursement of costs made to the state by the local agency.

The authorized positions will be within the state civil service; and the salaries, hours, benefits, and working conditions are established in accordance with state civil service law and rules.

To ensure continuity of operation and a minimum amount of disruption to ongoing functions, it is proposed to transfer the seventeen (17) City of Oroville Fire Department employees to equivalent state civil service classifications without examination effective July 1, 2022.

CLASSIFICATION CONSIDERATIONS:

All persons subject to transfer under this proposal will be allocated to existing state civil service classes in accordance with California Code of Regulations, title 2, section 275, Transferring into State Civil Service. No new classes are proposed.

As provided in California Code of Regulations, title 2, section 275, "When it is necessary for the State of California to assume work previously performed by a county, city, federal department or agency, or public district, the Board by resolution shall permit the employees who previously performed the work to qualify in State service in their positions upon allocation of their positions to an appropriate class in the State classification plan and in accordance with standards and procedures established by the executive officer."

Government Code section 19994 further provides in part that "...the department [California Department of Human Resources] may determine the extent, if any, to which the employees employed by the other public agency on the date of transfer are entitled to have credited to them in the State civil service, seniority credits, accumulated sick leave, and accumulated vacation because of service with the former agency...The department shall limit that determination to the time any transferred employees were employed in the specific function or a function substantially similar while in the former agency and the seniority credits and accumulated sick leave and accumulated vacation shall not exceed that to which each employee would be entitled if he or she had been continuously employed by the State of California."

CAL FIRE staff has reviewed and compared duties and salaries of employees to be transitioned and is satisfied that they can appropriately be classified as follows: one (1) Assistant Chief, two (2) Battalion Chiefs, three (3) Fire Captains, seven (7) Fire Apparatus Engineers, and four (4) Fire Fighter IIs.

CAL FIRE states that layoffs will not occur as a result of this action. The current incumbents are already performing these duties at the local level and positions are being established. However, in the event of a layoff in the classes being used in the City of Oroville Fire Department contract, the blanketed-in employees will be subject to the layoff rules of the California state civil service.

The City of Oroville Fire Department has no employees currently on non-pay status. Any City of Oroville Fire Department employee who is injured or becomes ill on the job prior to the effective date of July 1, 2022, shall not be transferred to the equivalent state classification until such time as the employee is medically released to full duty.

RECOMMENDATIONS:

That the following resolution be adopted:

WHEREAS California Code of Regulations, title 2, section 275, "When it is necessary for the State of California to assume work previously performed by a county, city, federal department or

agency, or public district, the Board by resolution shall permit the employees who previously performed the work to qualify in State service in their positions upon allocation of their positions to an appropriate class in the State classification plan and in accordance with standards and procedures established by the executive officer"; and

WHEREAS effective July 1, 2022, the California Department of Forestry and Fire Protection will assume responsibility for the operation and maintenance of the City of Oroville Fire Department: Therefore, be it

RESOLVED, That effective July 1, 2022, the civil service employees now employed by the City of Oroville Fire Department shall be transferred to equivalent State classifications as determined by the California Department of Forestry and Fire Protection as shown below without examination; and be it further

RESOLVED, That all identified persons holding City of Oroville Fire Department positions for one year or more immediately preceding the effective date of such action shall continue to hold their positions as permanent civil service employees in the equivalent State classifications; and be it further

RESOLVED, That all identified persons holding City of Oroville Fire Department positions for less than one year immediately preceding the effective date of such action shall continue to hold their positions subject to the probationary period established for the State classification to which assigned; and be it further

RESOLVED, That all identified persons who have previously held City of Oroville Fire Department positions that are now to be under the California Department of Forestry and Fire Protection shall have all civil service rights that would have accrued if such former service had been under State civil service.

Column I

Deputy Fire Chief
Battalion Chief
Fire Captain
Fire Lieutenant
Fire Engineer
Fire Fighter

Column II

Assistant Chief
Battalion Chief
Fire Captain
Fire Apparatus Engineer
Fire Apparatus Engineer
Fire Fighter II

Employee	City of Oroville Classification	Proposed State Classification
1. Tenna, Christopher	Deputy Fire Chief	Assistant Chief
2. Ruiz, Issac	Battalion Chief	Battalion Chief
3. Buckout, Robert	Battalion Chief	Battalion Chief
4. Copeland, Aaron	Fire Captain	Fire Captain
5. Khan, Phillip	Fire Captain	Fire Captain
6. Robinson, Donald	Fire Captain	Fire Captain
7. Harper, Joel	Fire Lieutenant	Fire Apparatus Engineer
8. Perondi, Christopher	Fire Lieutenant	Fire Apparatus Engineer

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Employee	City of Oroville Classification	Proposed State Classification
9. Gedney, Marnie	Fire Engineer	Fire Apparatus Engineer
10. Woodard, Tyler	Fire Engineer	Fire Apparatus Engineer
11. Larson, Bradley	Fire Engineer	Fire Apparatus Engineer
12. Long, Bradley	Fire Engineer	Fire Apparatus Engineer
13. Marglin, Scott	Fire Engineer	Fire Apparatus Engineer
14. Perez, Branden	Fire Fighter	Fire Fighter II
15. Shull, Shea	Fire Fighter	Fire Fighter II
16. Poblano, Noah	Fire Fighter	Fire Fighter II
17. Gorkavchuk, Nikolya	Fire Fighter	Fire Fighter II

**CALIFORNIA DEPARTMENT OF HUMAN RESOURCES
CLASSIFICATION ITEM TRANSMITTAL**

Board Meeting Date: June 9, 2022	Location: Sacramento	ROUTING:	
		ANALYST	
		Melony Harris <i>Melony Harris</i>	
Calendar:	Hearing items will be scheduled for 30 minutes unless otherwise specified: _____ Minutes		
<input type="checkbox"/> Non-Hearing		<i>Manpreet Singh</i>	
<input type="checkbox"/> Staff		MANAGER	DIVISION CHIEF
<input checked="" type="checkbox"/> Hearing		Manpreet Singh	Melissa Russell <i>Melissa Russell</i>
SUBJECT		SECRETARIAT	
CAL FIRE is blanketing 17 City of Oroville employees into state civil service classifications.			
1. Certificate of Conformance (Form 137):		<input type="checkbox"/> Attached	<input checked="" type="checkbox"/> Not Required
2. Specifications:		<input type="checkbox"/> Attached	
3. Allocation Standards:		<input type="checkbox"/> Submitted	<input type="checkbox"/> Spec Only
4. Class Data Sheet:		<input checked="" type="checkbox"/> Submitted	
5. Salary Analysis:		<input type="checkbox"/> Submitted	<input checked="" type="checkbox"/> Not Required
6. Salary Comp Resolution (Deep Class Only):		<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not Applicable
7. Draft Item Sent to Employee Union(s):		Date:	<u>Not Applicable</u>
NOTIFIED AND COPIES SENT TO: Not Applicable			
OTHER REVIEWS			
1. Nontesting Class:	<input type="checkbox"/> Examination Processing Unit Notified		
2. Entry-Level Class:	<input type="checkbox"/> Health Questionnaire	<input type="checkbox"/> Medical Exam	
3. Type of Certification:	<input type="checkbox"/> 3 Ranks	<input type="checkbox"/> 3 Names	
4. Status/Exam Resolution Approved:	<input type="checkbox"/> Date	<input type="checkbox"/> Policy Analyst	
5. Prob Periods (other than 6 mos):	<input type="checkbox"/> Reviewed	<input type="checkbox"/> Not applicable	
6. Job Category/Categories:	<input type="checkbox"/> Submitted	<input type="checkbox"/> Reviewed	
SECRETARIAT REVIEW			
<input type="checkbox"/> Before Letters Mailed on _____(Date)			
<input type="checkbox"/> After Letters Mailed on _____(Date)			

RETURN TRANSMITTAL AND ALL ATTACHMENTS TO:
PERSONNEL MANAGEMENT DIVISION
CALIFORNIA DEPARTMENT OF HUMAN RESOURCES

(Rev. 3/15)

California State Personnel Board
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June 9, 2022

Closed Session

Attachment 3

Employee Appointments, Disciplinary Matters, and Other Appeals

Deliberations to consider matters submitted at prior hearing.
[Government Code Sections 11126(c)(3), 18653(3)]

Deliberation on Non-Evidentiary Cases and Adverse Actions, Discrimination Complaints and other Proposed Decisions Submitted by Administrative Law Judges

Deliberations on proposed, rejected, remanded, and submitted decisions, petitions for rehearing, and other matters related to cases heard by Administrative Law Judges of the SPB or by the Board itself.
[Government Code sections 11126(c)(3), 18653]

Pending Litigation

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. Counsel will submit a list of SPB litigations and writ litigations for the Board to review and confer. Case name unspecified. (Disclosure of case name would jeopardize existing settlement negotiations and litigation strategy.)
[Government Code sections 11126(e), 18653]
[Government Code sections 11126(e)(1), 11126(e)(2)(A)]

Recommendations to the Legislature

Deliberations on recommendations to the Legislature.
[Government Code section 18653]

Recommendations to the Governor

Deliberations on recommendations to the Governor.
[Government Code section 18653]

California State Personnel Board
Notice and Agenda
June 9, 2022

Election of CalPERS Representative

In accordance with Government Code section 20090 the Board will select one of its members to serve as their representative to the California Public Employees' Retirement System Board.

MEMORANDUM

DATE: May 20, 2022

TO: State Personnel Board Members

FROM: Lori Gillihan, Chief
Policy and Compliance Review Division

SUBJECT: RECOMMENDATION FOR ADOPTING NEW BOARD REGULATIONS

BACKGROUND

The attached changes to the State Personnel Board (the Board)'s regulations concern clarify the appeal procedures applicable to voided appointments and orders for reimbursement of compensation.). Because the changes relate to the Board's hearing procedures, these regulations are subject to the requirements of the Administrative Procedure Act (APA), which includes submission to the Office of Administrative Law (OAL) for public comment. (Gov. Code, § 18216.) The subject matter of these regulations required that the provisions of the Administrative Procedures Act be followed without exception, including the requirement that the regulatory package be sent to the Department of Finance (DOF) for written concurrence as to the Board's estimate of the economic and fiscal impact of the regulations.

A 45-day public comment period on this rulemaking action was held from November 6, 2020, through December 21, 2020. A public hearing was held on December 29, 2020. Based on comments received, a 15-day public comment period on this rulemaking action was held from May 28, 2021 and June 14, 2021. A second 15-day public comment period on this rulemaking action was held from July 22, 2021, through August 6, 2021. A third 15-day public comment period on this rulemaking action was held from March 12, 2022, through March 28, 2022. Lastly, an OAL requested fourth 15-day public comment period on this rulemaking action was held from April 29, 2022 through May 16, 2022. The Board received comments during those comment periods. As a result of the comments, modifications were made to the proposed regulations.

Accordingly, the final draft of the text of the regulations was submitted to DOF. DOF concurred with the Board's economic and fiscal impact estimate for the regulations, including the determination that the regulations will have a minimal fiscal impact, as it is anticipated state agencies will absorb any additional costs within existing budgets/resources.

RECOMMENDATION

The Policy Division staff recommends that, at the June 9, 2022, meeting, the Board approve the enclosed regulations as the final text of the regulations for filing with the Office of Administrative Law.

FINAL TEXT FOR BOARD APPROVAL

For the 45-day comment period, proposed text is underlined; and
For the 45-day comment period, text proposed to be deleted is shown in ~~strikethrough~~.
For the 15-day comment period, proposed text is double underlined; and
For the 15-day comment period, text proposed to be deleted is shown in ~~double
strikethrough~~.
For the Second 15-day comment period, text proposed to be added is show in **underline**
For the Third 15-day comment period, text proposed to be added is show in **italicized**
bold underline
For the Third 15-day comment period, text proposed to be deleted is shown in ~~**italicized**~~ ~~**strikethrough**~~

TITLE 2. ADMINISTRATION Division 1. Administrative Personnel Chapter 1. State Personnel Board Subchapter 1.2 Hearings and Appeals Article 2. Filing with the Board

§ 52.4. Requirements and Method of Delivery for Filing Appeals and Complaints with the Board.

Appeals filed with the Board shall be subject to the following:

- (a) All appeals and complaints shall be in writing.
- (b) Except as otherwise provided in these Regulations, each appeal and complaint shall be filed with the Appeals Division and shall:
 - (1) Identify the name, address, and telephone number of the Appellant or Complainant;
 - (2) If different than the Appellant or Complainant, identify the name, address, and telephone number of the person filing the appeal or complaint, including the State Bar number if the person filing the appeal or complaint is an attorney;
 - (3) Except as provided in Government Code section 19575, state the facts that form the basis for appeal or complaint; and
 - (4) Identify all Respondents known to the Appellant or Complainant including, for individually-named Respondents, first and last name, job title, and business address.
- (c) Unless the appeal or complaint names some other Respondent, the Appellant's or Complainant's appointing power shall be considered the only Respondent.
- (d) The Appeals Division shall mail or serve a copy of the appeal or complaint to or on the Respondent(s).
- (e) Time Limitations for Filing Appeals or Complaints with the Board.

Except as otherwise provided in the act or these regulations, every appeal or complaint shall:

- (1) be filed with the Appeals Division within the following time limits;
- (A) Appeals from disciplinary action filed pursuant to the provisions of Government Code sections 19575, shall be filed within 30 days after the effective date of the notice of adverse action;
 - (B) Appeals from disciplinary action filed pursuant to the provisions of Education Code section 89539, subdivision (a), or Government Code section 19590, subdivision (c), shall be within 30 days of the employee's receipt of the notice of adverse action;
 - (C) Appeals from rejection during probationary period filed pursuant to the provisions of Government Code section 19175 shall be filed within 15 days of the effective date of the notice of rejection during probationary period;
 - (D) Appeals from non-punitive transfer, demotion or termination filed pursuant to the provisions of Government Code section 19585 shall be filed within 30 days after the effective date of the notice of non-punitive action;
 - (E) Appeals from medical transfer, demotion or termination filed pursuant to the provisions of Government Code section 19253.5, subdivision (f), shall be filed within 15 days of service of the notice of medical action;
 - (F) Appeals from a CEA termination filed pursuant to the provisions of Government Code section 19889.2 shall be filed within 30 days of the employee's receipt of the notice of termination;
 - (G) Complaints of whistleblower retaliation filed pursuant to the provisions of Education Code section 87164 or Government Code sections 8547.8 and 19683, shall be filed within one year from the most recent act of reprisal complained about;
 - (H) Requests-to-File-Charges filed pursuant to the provisions of Government Code section 19583.5 shall be filed within one year of the event or events upon which the appeal is based;
 - (I) Appeals from constructive medical transfer, suspension, demotion, or termination shall be filed within 30 days of the employee being notified that he or she would not be permitted to resume the duties of their position;
 - (J) Appeals from the following types of cases shall be filed within 30 days of the effective date of the action:
 - (i) Termination of appointment from the Limited Examination and Appointment Program (LEAP); and
 - (ii) Termination or automatic resignation from a Permanent Intermittent appointment;
 - (K) Appeals from pre-employment medical disqualification, pre-employment psychological disqualification, and pre-employment drug test failure, shall be filed within 30 days of the date of service of the notice of disqualification;
 - (L) Appeals from improprieties in the civil service examination process, including the CEA examination process, shall be filed as follows:
 - (i) Appeals from qualification appraisal interviews shall be filed within 30 days of the date that examination results are mailed to the Appellant;

(ii) Appeals from written examinations shall be filed within 30 days of the date that examination results are mailed to the Appellant.

(iii) Appeals from online examinations shall be filed within 30 days of the date that the examination results are available to the Appellant.

(M) Petitions to Set Aside Resignations pursuant to Education Code section 89542 shall be filed within 30 days after the last date upon which services to the state university or college are rendered, or the date the resignation is tendered, whichever is later;

(N) Appeals from Automatic Resignation for Absence Without Leave pursuant to Education Code section 89541 shall be filed within 90 days of the effective date of such separation. If the appointing authority has notified the employee of the automatic resignation, any request for reinstatement must be filed within 15 days of the service of notice of separation;

(O) Appeals from disciplinary action, rejection during probationary period, medical transfer or termination, automatic resignation, layoff, refusal to hire from a re-employment list, or grievance involving discrimination or political affiliation, filed pursuant to the provisions of Government Code section 19800 - 19810, pertaining to Local Agencies, shall be filed in accordance with the provisions of Title 2, Division 5, Chapter 2, Article 8, Subarticle 1, section 17550.

(P) Appeals from Withhold from Certification and ~~Voiced Appointment~~ shall be filed within 30 days of the date that the Notice of Withhold from Certification or ~~Notice of Voiced Appointment~~ is mailed to the Appellant.

(Q) Appeals challenging a Voiced Appointment, including the amount of any reimbursement ordered pursuant to section 243.3, subdivision (c), shall be filed within 30 days of the date that the Notice of Voiced Appointment is ~~sent~~ mailed to the Appellant. **The Notice of Voiced Appointment shall specify the amount of reimbursement ordered and inform the Appellant of their right to challenge the amount of reimbursement and/or the Voiced Appointment itself pursuant to section 243.6, subdivision (a).**

~~(Q)-(R)~~ Back pay claims and requests for back pay hearings, as described in section 61, shall be filed within one year of the date of the board's decision giving rise to the back pay obligation.

(2) In all other cases, the appeal or complaint shall be filed within 30 days after the event upon which the appeal or complaint is based.

(3) Any Appellant or complainant seeking to file an appeal or complaint beyond the time limits in this section, must file a petition with the Chief ALJ or his or her designee demonstrating good cause as to why the appeal or complaint should be accepted. Upon good cause being shown, the Chief ALJ or his or her designee may allow an appeal or complaint, except as otherwise limited by statute, to be filed within 30 days after the end of the period in which the appeal or complaint should have been filed.

(f) Methods of Delivery for Filing Appeals or Complaints with the Board.

(1) Appeals or complaints delivered by electronic mail (e-mail), will be filed on the date received by the Board.

(2) Appeals or complaints delivered by the U.S. Postal Service are filed on the date received by the Board. An Appellant or Complainant may obtain proof of the filing of the appeal or complaint by submitting either an extra copy of the appeal or complaint or the first page only, with a self-addressed, return envelope, postage prepaid. The Appeals Division shall return the copy marked with the date of filing.

(3) Appeals or complaints hand delivered to the Board during regular business hours will be filed on the date received by the Board after the filing party has complied with applicable statutory and regulatory filing requirements.

Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18675 and 19889.2, Government Code.

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.3 Classifications, Examinations, and Appointments
Article 10. Appointments

§ 243.2. Correction of Unlawful Appointments.

(a) When the Board, Executive Officer, or Department determines that an appointment is unlawful, the Board, Executive Officer, or Department may take corrective action up to and including voiding the appointment under the following circumstances:

(1) The action to correct or void the appointment is taken within one year after the appointment; and

(A) The appointing power or employee or both the appointing power and employee did not act in other than good faith in accordance with section 243; or

(B) The appointment was accepted and made in good faith by both the appointing power and employee; and the appointment would not have been made but for some mistake of law or fact that if known to the parties would have rendered the appointment unlawful when made.

(b) When the Board or Executive Officer determines that an appointment is unlawful and the appointment has been in effect for longer than one year, the Board or Executive Officer may take corrective action up to and including voiding the appointment under any or all of the following circumstances:

(1) The employee did not act in other than good faith in accordance with section 243, subdivision (c).

(2) The appointing power did not act in other than good faith in accordance with section 243, subdivision (b).

(3) The action(s) or omission(s) found to render the appointment(s) unlawful resulted in a selection process not based solely on merit or that significantly disadvantaged the other candidates.

(c) Where corrective action includes voiding an appointment(s), the Board, Executive Officer, or Department, whichever has decided to take the action, may order the appointing power to void the appointment(s) and provide the affected employee(s) the right to respond to the appointing power, as set forth in section 243.5.

(d) The provisions herein shall not limit or restrict the authority to delegate powers and duties related to the correction of unlawful appointments, as expressed in section 37.

Note: Authority cited: Sections 18502, 18701 and 18660, Government Code. Reference: Cal. Const., Art. VII, §§ 1 and 3; and Sections 18502, 18654, 18710, 19050 and 19257.5, Government Code.

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.3 Classifications, Examinations, and Appointments
Article 10. Appointments

§ 243.3. Compensation or Reimbursement for Voided Appointments.

(a) For purposes of this section, the meaning of compensation as defined in section 9 shall apply.

(b) An employee who accepted an appointment in good faith that is subsequently voided or corrected shall retain only the compensation provided for in section 9 of the Board's regulations. In all cases, compensation shall be corrected on a prospective basis.

(c) An employee who does not act in good faith in accordance with section 243, subdivision (c), when accepting an appointment that is subsequently voided or corrected shall reimburse all compensation resulting from the appointment. In the event of an appeal to the Board challenging the amount of reimbursement, the Board may require the employee to reimburse all or a portion of the compensation resulting from the appointment based upon the evidence presented.

~~(c) In instances in which the Executive Officer or Board voids or corrects an appointment based on a finding that the employee acted in other than good faith in securing the appointment, the Executive Officer or Board may require the employee to reimburse all or a portion of the compensation resulting from the appointment. In instances in which the Department voids or corrects an appointment based on a finding that the employee acted in other than good faith in securing the appointment, the Department shall refer the matter to the Executive Officer to make a determination whether to require the employee to reimburse all or a portion of the compensation resulting from the appointment.~~

~~(c) An employee who acts in ways other than in good faith when accepting an appointment that is subsequently voided or corrected shall reimburse all compensation resulting from the appointment. In the event of an appeal to the Board challenging the~~

amount of reimbursement, the Board may provide for less than full reimbursement of compensation based upon the evidence presented.

(d) On appeal, the Board may consider any factors relevant to its determination regarding the appropriate reimbursement of compensation, including, but not limited to the following:

(1) The duration of the work performed by the employee;

(2) The quality of the work performed by the employee;

(3) The culpability of the employee in obtaining and accepting the appointment;

(4) The culpability of the appointing authority in making the unlawful appointment;

(5) The position of the appointing authority regarding the appropriate reimbursement of compensation based on, but not limited to, the factors specified under subdivisions (d) 1 - 4; and

(6) The amount of reimbursement necessary to sufficiently deter future unlawful appointments.

Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Cal. Const., Art. VII, § 3; and Section 19257, Government Code.

TITLE 2. ADMINISTRATION

Division 1. Administrative Personnel

Chapter 1. State Personnel Board

Subchapter 1.3 Classifications, Examinations, and Appointments

Article 10. Appointments

§ 243.5. Right to Respond.

Unless otherwise ordered pursuant to section 243.2, subdivision (c), where corrective action of an unlawful appointment(s) is determined appropriate the Board, Executive Officer, or Department, whichever has decided to take the action, shall notify the affected employee(s) and appointing power of the proposed action at least 15 calendar days prior to the effective date of the proposed action. The notice shall state the reason(s) for the proposed action and notify the employee(s) and the appointing power of their right to respond, either verbally or in writing, within 15 calendar days of the date of the notice.

The notice shall specify the amount of reimbursement ordered and inform the Appellant of their right to challenge the amount of reimbursement and/or the Voided Appointment itself pursuant to section 243.6, subdivision (a).

Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18670, Government Code.

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.3 Classifications, Examinations, and Appointments
Article 10. Appointments

§ 243.6. Right to Appeal or Reconsideration.

(a) When the Executive Officer ~~or Department~~ or Department takes action to correct an unlawful appointment(s) that includes voiding the appointment(s) **and/or requiring reimbursement of compensation pursuant to section 243.3, subdivision (c)** ~~and/or when the Executive Officer requires reimbursement of compensation pursuant to section 243.3, subdivision (c)~~, the employee(s) and/or the appointing power may file a written appeal to the Board within 30 calendar days of receipt of the final decision to take corrective action in accordance with section 52.4, subdivision (e)(1)(Q). ~~Where the corrective action is taken solely as to the appointing power and does not impact the appointment, the appointing power may file a written appeal to the Board within 30 calendar days of receipt of the final decision to take corrective action.~~

(b) When the Board takes action to correct an unlawful appointment(s) that includes voiding the appointment(s) and/or requiring reimbursement of compensation pursuant to section 243.3, subdivision (c), the employee(s) and/or the appointing power may file a written petition for reconsideration to the Board within 30 calendar days of receipt of the final Board decision. Where the corrective action is taken solely as to the appointing power and does not impact the appointment, the appointing power may file a written petition for reconsideration to the Board within 30 calendar days of receipt of the final Board ~~decision to take corrective action.~~

Note: Authority cited: Section 18701, Government Code. Reference: Section 18670, 18654.5 and 18710, Government Code.

MEMORANDUM

DATE: May 26, 2022

TO: State Personnel Board Members

FROM: Lori Gillihan
Chief, Policy Division

SUBJECT: RECOMMENDATION FOR CHANGES TO THE BOARD'S REGULATIONS

PROPOSAL SUMMARY

The attached changes to the State Personnel Board (SPB or Board) California Code of Regulations, title 2, sections 171.1, 437, 439.2, and 439.4 simplify which classifications may be used for training and development assignments. Additionally, the changes also clarify how the experience gained under training and development assignments and/or out-of-class assignments shall be considered by appointing powers when determining if an applicant meets the minimum qualifications of a class. (Cal. Code Regs., tit. 2, §§ 171.1, 437, 439.2, 439.4)

PROBLEM

Existing California Code of Regulations, title 2, section 439.2, places unnecessary restrictions on training and development assignments to promotional classifications. Namely, section 439.2, subdivision (a)(3)(C), prohibits training and development assignments to a higher salary class that is in the same class series as the employee's current class. As such, appointing powers may not consider readily available, qualified and experienced candidates for training and development assignments. Instead, when the classification is deemed promotional, appointing powers may only consider applicants who do not currently serve in a position within the same class series as the training and development classification. As such, in many cases, current section 439.2 denies more qualified and experienced candidates, who have already demonstrated the knowledge, skills, abilities, and competencies to succeed at the training and development assignment, the same opportunity as lesser qualified candidates to obtain broader or more specialized competencies in order to improve their performance and prepare for future promotions. In short, the current restriction runs counter to the merit-based civil service system wherein qualified candidates should be able to fairly compete for opportunities that may advance their employment and unduly hinders the state's career development and upward mobility efforts.

Additionally, California Code of Regulations, title 2, sections 171.1 and 439.4 fail to address if time served in an out-of-class or training and development assignment may be credited as qualifying experience in the employee's current class and/or the class of the assignment.

PURPOSE OF REGULATIONS

The purpose of the proposed amendment to section 439.2 is to broaden which classifications may be considered for training and development assignments. Specifically, by eliminating section 439.2, subdivision (a)(3)(C), an employee will be able to apply to and serve in a training and development assignment to a higher salary class that is in the same class series as the employee's current class. The less-restrictive criteria ensures that qualified candidates are afforded the same employment opportunity to compete for and obtain broader or more specialized competencies in order to support their career development and upward mobility.

Additionally, the proposed amendments to section 171.1 and 439.4 will make explicit that time served in an out-of-class or training and development assignment will count as qualifying experience in both the employee's current class and/or the class of the assignment. Moreover, California Code of Regulations, title 2, section 437 has been amended to provide a definition for "current class" in order to coincide with the proposed amendment to section 439.4.

RECOMMENDATION

The SPB Policy Division staff recommends that, at the June 9, 2022, meeting, the Board approve the attached changes to the Board's regulations and authorize the Board staff to initiate the public comment period. At the conclusion of the public comment period, a final version of the proposed regulations will be placed on the Board agenda for adoption.

Text added to the Board's regulations is shown in underline.

Text deleted from the Board's regulations is shown in ~~strikethrough~~.

CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 1. ADMINISTRATIVE PERSONNEL
CHAPTER 1. STATE PERSONNEL BOARD
SUBCHAPTER 1.3 CLASSIFICATIONS, EXAMINATIONS, AND APPOINTMENTS
ARTICLE 8. EXAMINATIONS

§ 171.1. Calculating the Amount of Time Required to Satisfy Minimum Qualifications for Experience.

When determining whether an applicant satisfies the minimum amounts of time that may be required to satisfy the minimum qualifications for experience, as prescribed in the class specification, the following shall apply:

- (a) The time required shall have been in a full-time job or its part-time equivalent. A full-time job is the maximum number of hours a person can spend on a job without a requirement that ~~he or she~~ they be given overtime compensation or, where overtime is not applicable, the number of hours required for a person to receive full-time pay for the applicable work period.
- (b) When calculating part-time equivalent experience toward satisfying the minimum amounts of full-time experience, 173.33 hours of actual time worked equals one month. To determine the years and months worked, an appointing power may use either 52 weeks to equal one year or 4.35 to equal the number of weeks in one month, whichever calculation results in greater time worked. As an example, an applicant has three years of qualifying part-time work experience at 10 hours per week. The 52-weeks yearly calculation would be 3 years x 52 weeks x 10 hours = 1560/173.33 = 9.00 months. The 4.35-weeks monthly calculation would be 3 years equals 36 months x 10 hours x 4.35 weeks = 1566/173.33 = 9.03 months. Because the 4.35-weeks monthly calculation results in greater time worked, the 4.35-week monthly calculation must be used.
- (c) Where an applicant works in more than one job concurrently, the hours worked per week in each job shall be added together, if the experience gained in the jobs relates to the same or substantially the same requirements enumerated in the minimum qualifications. Calculating the total sum of the applicant's part-time

equivalent experience toward satisfying the minimum amounts of full-time experience shall be in accordance with subdivision (b).

- (d) To receive experience credit, the applicant's job responsibilities or duties must be performed on a routine basis, either daily, weekly, monthly, or certain times of the year. Experience which may have been gained as an occasional or incidental aspect of the applicant's job is not acceptable. If the applicant is a state employee and the experience in question was gained in an out-of-class assignment, section 212 of the Board's regulations shall apply.
- (e) Overtime hours worked on the same job for which the employee is entitled to pay for those extra hours worked under the federal Fair Labor and Standards Act (29 U.S.C.A § 201 et seq.) shall be credited as additional time.
- (f) An applicant shall receive credit for qualifying experience in a full-time or part-time job while enrolled in and attending a school, college, university, or similar institution, except where the experience is required as part of the applicant's educational curriculum and the minimum qualifications require those courses of study and/or related academic degree.
- (g) If an applicant's position in state service has been reclassified, credit for time in the new class may be given from the date the reclassification was officially approved, even though the actual appointment did not occur until a later date.
- (h) If the applicant is a state employee and the experience in question was gained in an out-of-class or training and development assignment, the applicant shall receive credit for qualifying experience in the employee's class of appointment and the class of the assignment.

Note: Authority cited: Section 18701, Government Code. Reference: Section 18931, Government Code.

**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 1. ADMINISTRATIVE PERSONNEL
CHAPTER 1. STATE PERSONNEL BOARD
SUBCHAPTER 1.3 CLASSIFICATIONS, EXAMINATIONS, AND APPOINTMENTS
ARTICLE 19.1 TEMPORARY ASSIGNMENTS OR LOANS**

§ 437. Definitions.

- (a) “Coaching” means a manager, supervisor, or peer acts as a guide and tutor for the employee. Coaching involves demonstration, instruction, discussion, feedback, encouragement, objective evaluation, and correction where appropriate.
- (b) “Committee assignment” or “working group assignment” means the employee is assigned to be a member of a committee or working group that is tasked with problem solving and making recommendations.
- (c) “Cross training” means under appropriate guidance and supervision an employee performs the duties and functions of another position within the same or different classification.
- (d) “Job rotation” means under appropriate guidance and supervision an employee changes positions on regular intervals within the same classification and appointing power and eventually returns to his or her original position. A job rotation allows the employee to gain broader and/or more specialized competencies.
- (e) “On-the-job training” or “OJT” means an employee learns a job by actually performing the duties and tasks of the job under appropriate guidance and supervision.
- (f) “Special project assignment” means an individual or collaborative enterprise that the employee is to perform and accomplish over a fixed period of time and may include certain other limitations.
- (g) “Appropriate training experience” means that for purposes of training and development assignments the level of duties, functions, and responsibilities of

the “to” classification shall provide a reasonable opportunity for the employee to achieve the purpose(s) of the training and development assignment.

- (h) “Consecutive temporary assignment or loan” means that within 12 months of the conclusion of the temporary assignment or loan the employee is reassigned or loaned to perform the same level of duties and responsibilities as the temporary assignment or loan previously concluded, without regard to location or reporting structure.
- (i) “Former position” shall have the same meaning as in Government Code section 18522.
- (j) “Current class” means the classification of the position to which the employee has been appointed and holds prior to a training and development assignment.

Note: Authority cited: Sections 18502, 18701 and 19050.8, Government Code.
Reference: Sections 18522 and 19050.8, Government Code.

§ 439.2. Training and Development Classification.

- (a) Subject to the eligibility criteria of section 439.1, training and development assignments may be made to any of the following classifications:
 - (1) The same classification as the employee's current classification, but a different position.
 - (2) A different classification with substantially the same salary range as the employee's “from” classification.
 - (3) A different classification with a promotional salary range provided that:
 - (A) The higher salaried class is the class in the employee's desired occupational area that will provide the appropriate training experience.
 - (B) There is not another class nearer in salary to the employee's current class that will provide the appropriate training experience. If such a class exists, that class shall be used for purposes of the training and development assignment.

~~(C) The higher salaried class is not in the same class series as the employee's current class, unless the training and development assignment involves an apprenticeship program approved by the Department of Industrial Relations, Division of Apprenticeship Standards.~~

(4) A different classification with a demotional salary range provided that the assignment to the lower class is not used where other action, such as voluntary demotion, medical demotion, corrective action, or disciplinary action, is relevant to the employee's situation.

(b) Subject to the eligibility criteria of section 439.1, training and development assignments may be made to any classifications without regard to section 439.2 (a) for training and development assignments involving an apprenticeship program approved by the Department of Industrial Relations, Division of Apprenticeship Standards.

Note: Authority cited: Section 19050.8, Government Code. Reference: Section 19050.8, Government Code.

§ 439.4. Completion of a Training and Development Assignment.

- (a) After completion of a training and development assignment that was not in the position the employee held prior to the assignment, the employee shall have the absolute right to return to his or her former position.
- (b) Notwithstanding subdivision (a), an employee who successfully completes a training and development assignment in a different position, regardless of whether the classification is the same or different or whether the appointing power is the same or different, may be appointed to the same position in which ~~he or she~~ they served the training and development assignment provided that all of the following apply:
 - (1) The appointment is by way of transfer, list appointment, or demotion.
 - (2) The employee satisfies the minimum qualifications of the classification.
 - (3) The employee competed for the assignment pursuant to section 439.3 and the assignment was advertised pursuant to sections 249.1, 249.1.1, and 249.2, unless otherwise exempted.

- (c) If an employee is appointed pursuant to subdivision (b), the employee shall serve the applicable probationary period, unless the employee serves in the same class at the same appointing power.
- (d) The experience and training earned in the training and development assignment may be used by the employee to satisfy minimum qualifications for a classification. The time spent in the training and development assignment shall be considered as qualifying experience in the employee's current class and the class of the training and development assignment.

Note: Authority cited: Sections 18502, 18701 and 19050.8, Government Code.

Reference: Section 19050.8, Government Code.

California State Personnel Board
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June 9, 2022

Career Executive Assignments

Attachment 4

This section of the Agenda serves to inform interested individuals and departments of objections to proposed Career Executive Assignment (CEA) position actions set for hearing before the Board.

NONE

California State Personnel Board
Notice and Agenda
June 9, 2022

Submitted Items

Attachment 5

These items were taken under submission by the Board at a prior meeting.

A. Items Scheduled for Action

NONE

B. Items to be Scheduled for Action at a Later Date

NONE

California State Personnel Board
Notice and Agenda
June 9, 2022

Evidentiary Cases

Attachment 6

A. Administrative Law Judges' Proposed Decision after Hearing

The Board Administrative Law Judges (ALJ) conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A01. CASE NO. 21-1350

Classification: Maintenance Mechanic

Department: California Department of General Services

A02. CASE NO. 21-0930

Classification: Caltrans Maintenance Supervisor

Department: California Department of Transportation

A03. CASE NO. 20-1237

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

A04. CASE NO. 21-0935

Classification: Police Officer

Department: California State University, San Bernardino

A05. CASE NO. 22-0148

Classification: Certified Nursing Assistant

Department: California Department of Veterans Affairs

A06. CASE NO. 21-1330

Classification: Motor Vehicle Representative

Department: Department of Motor Vehicles

A07. CASE NOS. 21-1337K and 21-1338K

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

A08. CASE NO. 21-1082

Classification: Correctional Counselor III

Department: California Department of Corrections and Rehabilitation

A09. CASE NO. 22-0113

Classification: Certified Nursing Assistant

Department: California Department of Veterans Affairs

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A10. CASE NO. 20-0786

Classification: Physician and Surgeon

Department: California Department of Corrections and Rehabilitation

B. Petitions for Rehearing

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

B1. CASE NO. 21-0022KP (Closed Session)

Classification: Correctional Sergeant

Department: California Department of Corrections and Rehabilitation

B2. CASE NO. 21-0580KP (Closed Session)

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

B3. CASE NO. 21-0578KP (Closed Session)

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

B4. CASE NO. 21-0581KP (Closed Session)

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

C. Pending Board Review

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

C01. CASE NO. 21-0986A (Closed Session)

Classification: Correctional Captain

Department: California Department of Corrections and Rehabilitation

D. Oral Arguments

These cases will be argued at this meeting or will be considered by the Board in closed session based on written arguments submitted by the parties.

D01. CASE NO. 21-0032KA (Closed Session)

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

E. Chief Counsel Resolutions

None

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F. Pending Board Decisions

These Evidentiary and Non-Evidentiary items have been taken under submission by the Board at a prior meeting.

F01. CASE NO. 20-0511KA (Closed Session)

Classification: Officer, California Highway Patrol

Department: Department of California Highway Patrol

Non-Evidentiary Cases

G. Withhold from Certification Appeals

Cases are heard by an attorney, a managerial staff member of SPB, or investigated by Appeals Division staff. The Board will be presented recommendations on each appeal.

G01. CASE NO. 21-1188N

Classification: Associate Accounting Analyst

Department: California State Treasurer's Office

G02. CASE NO. 21-1130N

Classification: Correctional Health Services Administrator II, Correctional Facility

Department: California Correctional Health Care Services

G03. CASE NO. 21-1204N

Classification: Associate Governmental Program Analyst.

Department: California Student Aid Commission.

G04. CASE NO. 21-1285N

Classification: Associate Governmental Program Analyst

Department: California Department of Corrections and Rehabilitation

G05. CASE NO. 21-1063N

Classification: Disability Insurance Program Representative

Department: California Employment Development Department

G06. CASE NO. 21-1087N

Classification: Office Technician (Typing)

Department: California Correctional Health Care Services

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H. Medical and Psychological Screening Appeals

Cases are heard by an attorney. The Board will be presented recommendations on each appeal.

H01. CASE NO. 21-1270N

Classification: Cadet

Department: California Highway Patrol

I. Request to File Charges Cases

Cases are investigated by Appeals Division staff. The Board will be presented recommendations on each request.

NONE

J. Examination Appeals, Minimum Qualifications, Merit Issue Complaints

Cases are heard by an attorney, a managerial staff member of SPB, or investigated by Appeals Division staff. The Board will be presented recommendations on each appeal.

J01. CASE NO. 21-1001N

Classification: Medical Assistant

Department: California Correctional Health Care Services

J02. CASE NO. 21-1000N

Classification: Correctional Administrator

Department: California Department of Corrections and Rehabilitation

J03. CASE NO. 21-1070N

Classification: Child Development Consultant

Department: California Department of Education

J04. CASE NO. 21-0612N

Classification: Research Scientist Supervisor II Chemical Sciences

Department: California Department of Public Health

K. Section 211 Appeals, Section 212 Out of Class Appeals, Voided Appointment Appeals

Cases are heard by an attorney or a managerial staff member of SPB. The Board will be presented recommendations on each appeal.

K01. CASE NO. 21-1158N

Classification: Information Technology Specialist I

Department: California Military Department

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K02. CASE NO. 21-1403N

Classification: Food Service Supervisor II

Department: State Personnel Board

K03. CASE NO. 21-1258N

Classification: Information Technology Manager I

Department: California Military Department