

## MEMORANDUM

**DATE:** April 22, 2022

**TO:** Personnel Officers

**FROM:** /s/ LORI GILLIHAN  
Lori Gillihan  
Chief, Policy Division

**SUBJECT: TIMELY VOIDING OF AN UNLAWFUL APPOINTMENT**

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This memorandum is to make appointing authorities aware of a recent court decision significantly affecting the processing of a voided civil service appointment.

Government Code section 19257.5 imposes a one-year limitation on the voiding of an unlawful civil service appointment that has been made and accepted in good faith. Specifically, section 19257.5 provides that an appointment may be voided “*if the action is taken within one year after the appointment.*” (Italics added.) Recently, the Third District Court of Appeal in *Nancy Michaels v. State Personnel Board* (March 21, 2022) 2022 WL 831202 interpreted the definition of a state employee’s “appointment” date for purposes of voiding a good faith unlawful appointment under Government Code section 19257.5 as the date an employee *accepts* a job offer. The court applied the plain language of the definition of civil service “appointment” in Government Code section 18525 as “the offer to and acceptance by a person of a position in the State civil service”.

The court’s decision changes the SPB’s historical practice of voiding good faith unlawful appointments within one year of the employee’s first day of work.

**Therefore, effective immediately, in light of the court’s holding, when voiding a good faith unlawful appointment, the void must be effective no later than one year from the date the employee *accepted the job offer*, and *not* from the date the employee began performing the duties of the position.** Since the job offer is typically accepted weeks before the actual start date, appointing authorities must be mindful of this difference to ensure timely processing of a voided appointment.

While SPB is considering a legislative change, the court’s holding applies until further notice.