STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

FILE PRINT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2016-0628-02	2017-0315-05FP	

For use by Office of Administrative Law (OAL) only

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OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California
APR 27 2017
1:45 PM

NOTICE | REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California State Personnel Board

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
Classification, Exam, and Selection Process	2	27	July 8, 2016

3. NOTICE TYPE	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
[X] Notice re Proposed Regulatory Action [ ] Other	Jeanne R. Wolfe	916-651-0924	916-653-1280

OAL USE ONLY	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE
	[ ] Approved as Submitted [ ] Approved as Modified [ ] Disapproved/ Withdrawn	2016, 28-Z	7/8/2016

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
Classification, Exam, and Selection Process	

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) **(Including title 26, if toxics related)**

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	
	ADOPT: See Attached Sheet.
	AMEND: See Attached Sheet.
TITLE(S): 2	REPEAL: See Attached Sheet.

3. TYPE OF FILING

- [ ] Regular Rulemaking (Gov. Code §11346)
- [ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- [ ] Emergency (Gov. Code, §11346.1(b))
- [ ] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- [ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- [ ] Emergency Readopt (Gov. Code, §11346.1(h))
- [X] File & Print
- [ ] Other (Specify) _____
- [ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- [ ] Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
First Date of Availability: Dec. 1, 2016 - Dec. 15, 2016. Second Date of Availability: Jan. 26, 2017 - Feb. 10, 2017

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- [X] Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- [ ] Effective on filing with Secretary of State
- [ ] §100 Changes Without Regulatory Effect
- [ ] Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- [ ] Department of Finance (Form STD. 399) (SAM §6660)
- [ ] Fair Political Practices Commission
- [ ] State Fire Marshal
- [ ] Other (Specify) _____

7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Jeanne R. Wolfe	916-651-0924	916-653-1280	jeanne.wolfe@spb.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
[signature]	3/15/17

TYPED NAME AND TITLE OF SIGNATORY
Suzanne M. Ambrose, Executive Officer

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APR 27 2017
Office of Administrative Law

STATE PERSONNEL BOARD

Final Text
Classifications, Exams, and Selection Process

FINAL TEXT OF PROPOSED REGULATIONS

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1. General Civil Service Regulations
Article 2. General Provisions

§ 27. Human Resources Liaison Training.

Any employee who has been designated by his or her agency to coordinate or act as a liaison for human resources activities, regardless of his or her specific working title, shall obtain training as deemed appropriate by the Department. A certificate of completion of training shall be maintained pursuant to section 26.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 18720, Government Code.

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

§ 75. Class or Classification.

Any references to "class" or "classification" have the same meaning as used in Government Code section 18523 and are used in this chapter interchangeably.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18523 and 18800, Government Code.

§ 75.1. Class Series.

"Class series" means any vertically related group of classes, covering the same occupational specialty and same program area, which constitute a primary promotional pattern for a specifically identifiable group of employees.

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NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18800, Government Code.

§ 75.2. Class Specification.

"Class specification" means the description of a class or class series that is approved by the Board.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18800, Government Code.

§ 75.3. Classification Plan.

The "Classification Plan" means classes adopted by the Board and includes a descriptive class title and a definition of the scope of duties and responsibilities of each class of positions. The Classification Plan is administered by the Department pursuant to Government Code section 19818.6.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18800 and 19818.6, Government Code.

§ 76. Qualifications.

"Qualifications" means, in addition to minimum qualifications, the possession of preferred or desirable qualifications.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 76.1. Minimum Qualifications.

"Minimum qualifications" means the minimum amounts of education or competencies gained from experience or minimum levels of licensure or certification necessary to perform the essential tasks and functions of a classification.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 18931, Government Code.

§ 76.2. Preferred or Desirable Qualifications.

"Preferred" or "desirable" qualifications means the possession of education, experience, or competencies above the minimum qualifications that are job-related and would

enhance a person's capacity to successfully perform the tasks and functions of a classification or particular position of a classification.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 76.3. Competencies.

"Competencies" means the knowledge, skills, abilities, behaviors, or special personal characteristics that contribute to individual or organizational job-related performance. Competencies may relate to practical or theoretical understanding of subjects, the capacities to perform acts, patterns of action or conduct, critical or strategic thinking, decision making or judgment, interdisciplinary skills, or transferable skills.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 76.4. Special Personal Characteristics.

"Special personal characteristics" means particularly important personal attributes, traits, or other qualities that are job related.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 77. Equivalency.

"Equivalency" means experience that may be substituted for educational requirements or educational requirements that may be substituted for experience requirements.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 18800, Government Code.

§ 77.1. Equivalent Combination.

"Equivalent combination" means education and experience that may be combined to satisfy the minimum qualifications of a classification.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

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§ 78. Selection Process.

"Selection process" means the procedures, practices, and activities used by the appointing power to appoint and promote employees in the state civil service and includes the phases of recruitment, examination, establishment of eligible lists, screening and rating of a candidate's qualifications, the hiring process, and any required probationary period.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 19050, Government Code.

§ 78.1. Hiring Process.

"Hiring process" means such activities as interviews, performance tests, written tests, role plays, simulations, reference and background checks, as well as the use of any other instrument or procedure designed to assess fairly and objectively a candidate's qualifications to be successful in the position the appointing power is hiring to fill.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 19050, Government Code.

§ 78.2. Reemployment List.

"Reemployment list" means a departmental reemployment list, subdivisional reemployment list, or general reemployment list.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18534, 18535 and 18536, Government Code.

§ 79. Job Analysis.

A "job analysis" means the process of systematically identifying the essential tasks and functions performed in a classification and identifying the competencies that are required to perform those essential tasks and functions.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18800, Government Code.

§ 80. Examination Process.

"Examination process" means the procedures, practices, and activities that are part of administering formal examinations to establish employment lists for classifications.

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NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 18930, Government Code.

§ 80.1. Employment Inquiry.

"Employment inquiry" refers to any communication, including, but not limited to, by way of letter, telephone, email, or other electronic means, used to contact candidates to determine their interest in a job vacancy.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 19050, Government Code.

§ 80.2. Personal List Eligibility.

"Personal list eligibility" means a candidate's individual eligibility for appointment from an employment list that has not expired.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18900, Government Code.

§ 80.3. Qualifications Appraisal Panel.

"QAP" means a Qualifications Appraisal Panel.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.

§ 80.4. Qualifications Appraisal Interview or QAP Interview.

A "qualifications appraisal interview" or "QAP interview" means a civil service examination that is given as an oral examination or oral interview by a qualifications appraisal panel.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.

§ 81. Temporary Appointment.

"Temporary appointment" means a temporary appointment as defined in the California Constitution, Article VII, section 5.

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NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 5 of Article VII, California Constitution.

§ 82. Intra-agency Reassignment.

An "intra-agency reassignment" means a job assignment change from one position to another position within the same agency and same classification, such as a change of work schedule or shift, or reporting location, unit, division, plant, facility, or equivalent.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 19050.5, Government Code.

§ 82.1. External Agency Transfer.

An "external agency transfer" means an appointment from one agency to another agency in the same class or a different class, as defined in Government Code section 18525.3, and for which the employee meets the minimum qualifications of the lateral position.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18525.3 and 19050.3, Government Code.

§ 83. From and To Classes.

The "from" class refers to the classification that the employee currently holds. The "to" class refers to the classification to which the employee may or will be appointed.

NOTE: Authority cited: Section 18502 and 18701, Government Code. Reference: Section 19050, Government Code.

§ 83.1. Unit.

"Unit" means the unit in which the employee routinely and regularly works.

NOTE: Authority cited: Sections 18502, 18701 and 18804, Government Code. Reference: Section 19050, Government Code.

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§ 83.2. True Vacancy.

For purposes of a promotion in place, a "true vacancy" means a vacant position in the employee's unit that is in the employee's "from" or "to" class for which the appointing power is actively recruiting.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 19050, Government Code.

§ 83.3. Vacant Position.

A "vacant position" means an unfilled or unoccupied position.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 19050, Government Code.

§ 83.4. Merit and Fitness.

"Merit and fitness" means job-related qualifications and/or personal special characteristics for a classification or particular position of a classification.

NOTE: Authority cited: Sections 18502 and 18660, Government Code. Reference: Section 19050, Government Code.

Article 1.1. General Provisions

§ 85. Obligations Under Other Federal or State Laws.

Nothing in Subchapter 1.3 or Subchapter 2 shall be construed to relieve appointing powers of their obligations under any applicable federal or state laws or regulations that concern persons with disabilities, upward mobility for state employees, or equal employment opportunity for any protected class.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 18720, Government Code.

§ 86. Appointments Shall Be Based On Merit and Fitness.

(a) Unless otherwise mandated by law, appointments to positions in state civil service shall be made on the basis of the selected candidate's merit and fitness for the position.

(b) An appointing power shall assess and determine a candidate's merit and fitness for appointment to a position by his or her qualifications and performance during the selection process, which may include, but is not limited to, performance and ranking on the examination, hiring interviews, reference checks, background checks, or any other procedure that involves an assessment and comparative evaluation of the job-related qualifications of candidates and is designed and administered to hire candidates who can be successful in the position to be filled.

NOTE: Authority cited: Sections 18502 and 18660, Government Code. Reference: Section 19050, Government Code.

§ 86.1. Creation of Lists Shall Be Based On Merit and Fitness.

(a) Unless otherwise mandated by law, lists created for the purpose of selecting candidates for appointment into civil service shall be based upon the merit and fitness of candidates and result from:

(1) Recruitment strategies designed to be as broad and inclusive as necessary to best satisfy the selection need.

(2) Competitive examinations that are fairly and objectively administered to assess, compare, and rank the qualifications and performance of candidates as related to other candidates and the classification that is the subject of the examination.

NOTE: Authority cited: Sections 18502 and 18660, Government Code. Reference: Sections 18900 and 18930, Government Code.

§ 86.2. Probationary Period.

(a) Except as provided in the laws and rules related to LEAP, the following applies to employees required to serve a probationary period:

(1) The final phase of the selection process shall be the probationary period.

(2) Permanent status in permanent appointments to the civil service shall only be achieved after successful completion of the required probationary period.

(b) The assessment of an employee's job performance during the probationary period shall only be made on the basis of the employee's merit and fitness for the position.

NOTE: Authority cited: Sections 18502 and 18660, Government Code. Reference: Sections 19170 and 19171, Government Code.

§ 86.3. Fair and Equitable Treatment in All Phases of the Selection Process.

All phases of the selection process shall provide applicants, candidates, and employees with equal employment opportunity and fair and equitable treatment without regard to any characteristic protected under Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000e-2) or the California Fair Employment and Housing Act (Gov. Code § 12940, subd. (a)).

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18720, Government Code.

Article 2. Classifications

§ 89. Review of the Classification Plan.

(a) All agencies, including the Department, shall periodically and routinely review the Classification Plan to determine if the Classification Plan should be changed to reflect new procedures, technology, or other changes significantly impacting the tasks or duties of a classification. The Department shall be responsible for presenting to the Board any recommended changes. Accordingly, if an agency determines that a change in the Classification Plan is warranted, the agency shall coordinate with the Department and provide the Department with whatever information the Department determines is relevant and necessary.

(b) All positions within state civil service shall be properly allocated to the classification that is appropriate for the work to be performed. In the interests of efficiency and economy, no class shall be established unnecessarily. When the Department proposes a new class for Board approval, the Department shall consider and balance the impact of increasing the number of classes with the need to have classifications appropriate for the jobs that are required to be performed in state civil service.

(c) The use of agency or division names in the class title shall be avoided to prevent the necessity of changing the class title should the agency or division name be changed.

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NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 89.1. Legal and Professional Standards for Job Analysis Methods.

Job analysis methods shall be consistent with civil service laws and regulations, other legal requirements, including the federal Americans with Disabilities Act (ADA), and generally accepted professional standards, standard textbooks, and journals in the field of personnel selection and job analysis methods, including the federal *Uniform Guidelines on Employment Selection Procedures* (1978) and any updates and/or amendments to those guidelines.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 89.2. Factors to Consider for Minimum Qualifications:

(a) Factors to consider when developing the minimum qualifications for a class include:

(1) Whether the requirement is necessary for performing the essential tasks and functions of the classification.

(2) The minimum qualifications of related classes.

(3) The minimum qualifications of similar classes in other jurisdictions.

(4) Whether minimum qualifications for higher level classes in a series provide opportunities for entry-level class incumbents to compete for promotion to the higher class.

(5) Whether requiring a certain level of education, experience, or other prerequisite will likely result in an adverse impact on persons with disabilities, upward mobility for state employees, or equal employment opportunity for any protected class.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 18931, Government Code.

§ 89.3. Factors to Consider for Preferred or Desirable Qualifications.

Factors to consider when developing preferred or desirable qualifications for a class include whether certain education, experience, or competencies are job related and

would enhance a person's capacity to successfully perform the tasks and functions of the classification.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 89.4. Class Specification Format.

(a) A Board class specification shall include the following segments:

(1) A class title.

(2) A concise description of the job functions, including duties, level of responsibility, supervision received or exercised, and typical tasks performed by incumbents.

(3) An identification of the minimum qualifications.

(4) An identification of the preferred or desirable qualifications, if applicable.

(5) Pay range criteria or the link to the website where information on the pay range criteria can be found.

(6) The duration of the probationary period.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 89.5. Board Approval for Changes to Class Specifications.

Any changes or revisions to a class specification requires Board approval.

NOTE: Authority cited: Article VII, section 3, California Constitution; Sections 18502 and 18701, Government Code. Reference: Section 18802, Government Code.

§ 89.6. Class Abolishment in General.

When any class is abolished, provisions shall be made for the future status of any incumbents remaining in the class or others with mandatory reinstatement rights to the class. All lists associated with the class shall be abolished.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18802, Government Code.

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§ 89.7. Standards for Writing a Class Specification.

A class specification shall be clear and understandable. The descriptive words and terms used shall be precise and consistent. Generalized and vague terminology subject to varying or unintended interpretations shall be avoided.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18702 and 18800, Government Code.

§ 91. Casual Employment Classes.

Casual employment classes shall only be established to provide skilled trades persons for short-term construction or maintenance projects of a nonrecurring nature. Appointments to these classes shall only be made by way of temporary appointments.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18702 Government Code.

§ 92. Special Consultant.

(a) Special Consultant classes shall only be established if:

(1) The work or project is of an expert, unique, or technical nature that is short-term but may involve multiple phases and goals; and

(2) Specialized skills, knowledge, and experience are needed for the work or project that are not available within existing civil service classifications.

(b) Special Consultant appointments shall only be made by way of temporary appointments.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18702, Government Code.

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Article 7. Employment Lists

§ 156. Creating a Hiring Manager's Report Where a Corresponding LEAP-Referral List Exists.

Where a LEAP-referral list exists in accordance with section 155, the Department or the Department's designee shall create a Hiring Manager's Report for the appointing power that combines the names of all persons who are eligible on the LEAP-referral list with the names of all persons who are eligible on the non-LEAP employment list(s). The Hiring Manager's Report shall not specifically identify whether a candidate's eligibility is based upon a LEAP-referral list, non-LEAP employment list, or both. The name of candidates with dual eligibility shall be listed only once. ~~The rank of eligible candidates shall not be identified.~~ The disclosure of the rank of eligible candidates during the hiring process shall be in accordance with section 249.7. The names of eligible candidates may be arranged in alphabetical or random order, and may include the names of candidates who have eligibility for the job vacancy other than by way of a LEAP-referral list or non-LEAP employment list.

Note: Authority cited: Sections 18502, 18701, 19240 and 19241, Government Code. Reference: Sections 19050, 19240, 19241, 19242, 19243 and 19244, Government Code.

~~§ 157. Non-Disclosure of a Candidate's Eligibility During the Selection Process.~~

~~Where a corresponding LEAP-referral list has been provided to or generated for the appointing power, the basis of any candidate's eligibility shall not be available to the hiring manager, any member of an interview panel, or any other person with the authority to approve the appointment at any time before the selection and offer of appointment is made, unless the LEAP candidate chooses to voluntarily disclose his or her LEAP eligibility.~~

~~Note: Authority cited: Sections 18502, 18701, 19240 and 19241, Government Code. Reference: Sections 19050, 19240, 19241, 19242, 19243 and 19244, Government Code.~~

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Article 8. Examinations

§ ~~171~~ 170. ~~Announcement.~~ Civil Service Examinations and Announcements.

(a) ~~Examinations~~ Civil service examinations shall be held at such times and places, and in a format or manner, including online and web-based, as the Department or designated appointing power may determine is appropriate for the classification that is the subject of the examination. The Department shall direct the preparation of every examination ~~and the publication of an announcement thereof~~. Examinations may contain any combination of components, including written tests, physical tests, and performance tests. The type and scoring methods of examinations to be administered shall be determined by the Department or designated appointing power. ~~The announcement shall specify the basis of competition to be permitted in the examination. An examination may be given on a promotional only basis, a combined open and promotional basis, an open only basis, or an open, nonpromotional basis. Each announcement shall state the title, salary range, and where appropriate, the duties of the class; the method of evaluating the education, experience, and personal qualifications of the competitors; such information as is required by the act and these rules; and such additional information as the Department may deem proper.~~

(b) Announcements for civil service examinations shall comply with Government Code section 18933. In addition, each announcement shall state the title, salary range, preferred or desirable qualifications, and any additional information the Department deems proper.

(c) ~~An~~ A civil service examination may be canceled by the Department or designated appointing power at any time prior to the establishment of the employment list.

NOTE: Authority cited: Section 18502, Government Code. Reference: Sections ~~18950~~ 18930 and 18933, Government Code.

§ 171. Experience Requirements to Satisfy Minimum Qualifications.

In determining whether an applicant has the appropriate experience to satisfy minimum qualifications, consideration shall be given to experience gained in a part-time or full-time job, regardless of whether the job was a paid or volunteer position or was within or outside of State service.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 18931, Government Code.

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

~~Unless otherwise provided in the class specification adopted by the board, when~~ When determining whether an applicant ~~has completed~~ satisfies the minimum amounts of time that may be required ~~by the experience component in~~ to satisfy the minimum qualifications for experience, as prescribed in the class specification ~~for the class~~, the following shall apply:

(a) The ~~calendar~~ time required shall have been in a full-time job or ~~work assignment~~ its part-time equivalent. A full-time job ~~or work assignment~~ is the maximum number of hours ~~an individual~~ a person can spend on a job without a requirement that ~~he/she~~ he or she be given overtime compensation or, where overtime is not applicable, the number of hours required for ~~an individual~~ a person to receive full-time pay for the applicable work period.

~~(b) An applicant must have the required calendar time unless the applicant worked two different jobs concurrently. the time spent on two different qualifying jobs worked concurrently shall be added together to determine the total amount of qualifying experience.~~

(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) Hours worked on the same job in excess of full-time (i.e., overtime hours) shall not be credited as additional time.~~

(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) Less than full-time experience shall be credited based upon the percentage of full-time worked while employed less than full-time [e.g., half-time (50%) employment for six months equals three months of full-time experience].~~

(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.

NOTE: Authority cited: Government Code Section 18701. Reference: Government Code Section 18931.

§ 171.2. Eligibility to Take a Civil Service Examination.

Except as otherwise provided by law or regulation, any person who establishes that he or she satisfies the minimum qualifications for any state position, as defined in Government Code section 18522, is eligible, regardless of his or her age, to take any civil service examination given for that position.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18932, Government Code.

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§ 174. Applications.

(a) All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement. A separate application shall be filed for each examination unless otherwise specified in the examination announcement. ~~All applications shall remain on file for at least two years.~~ Under no circumstances will applications for examinations in progress or ~~examinations~~ testing materials for examinations be returned to applicants. The names of applicants shall not be made public.

(b) Filing an application "within the time" shall mean that the application is postmarked by the postal service, or date stamped at one of the Department's offices ~~(~~or at the appropriate office of the agency administering the examination~~) by the date specified~~ no later than the final filing date specified on the examination announcement.

(c) An application not ~~postmarked or date stamped by the specified date~~ timely filed as specified in subdivision (b) shall be accepted ~~under~~ if one of the following conditions applies:

~~(a)~~ (1) The application was delayed due to a verified error on the part of the staff of the Department or other agency conducting the examination or through a documented administrative error by postal authorities.

~~(b)~~ (2) An application for an examination is ~~submitted~~ filed in error to the wrong ~~State~~ agency and was ~~either~~ postmarked by the postal service or date stamped by the receiving agency ~~to which addressed~~ on or before the final filing date specified on the examination announcement.

~~(c)~~ (3) ~~The employing agency~~ For a promotional examination, the appointing power verifies distribution problems with the examination announcement ~~distribution problems which~~ that prevented timely notification to an employee seeking to take the examination. ~~of a promotional examination.~~ Posting in a centralized location of each branch, district, institution, region, or office of the ~~employing agency~~ appointing power shall constitute notification of the promotional examination to ~~an~~ employees. ~~The examination must be one in which the employing agency would typically have competitors and receive announcements for internal distribution.~~

~~(d)~~ (4) The ~~employing agency~~ appointing power verifies that the ~~applicant~~ employee seeking to take a promotional examination failed to receive timely notice of ~~a~~ the ~~promotional~~ examination because the employee was away from ~~his/her~~ his or her ~~normal~~ place of work during the entire examination ~~publicity~~ announcement period due

to a work assignment, vacation, sick leave, or leave of absence. ~~The examination must be one the employee would typically be expected to compete in.~~

(d) This section shall become inoperative on July 1, 2017.

NOTE: Authority cited: Sections 18502~~, 18573~~ and 18701, Government Code. Reference: Section 18934, Government Code. ~~; Section 1602.31, Title 29, Chapter XIV, Code of Federal Regulations.~~

§ 174. Applications.

(a) All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement. A separate application shall be filed for each examination unless otherwise specified in the examination announcement. Under no circumstances will applications for examinations in progress or testing materials for examinations be returned to applicants. The names of applicants shall not be made public.

(b) Filing an application "within the time" shall mean that the application is electronically transmitted, or postmarked by the postal service, or date stamped at one of the Department's offices or at the appropriate office of the agency administering the examination no later than the final filing date specified on the examination announcement.

(c) An application not timely filed as specified in subdivision (b) shall be accepted if one of the following conditions applies:

(1) The application was delayed due to a verified error on the part of the staff of the Department or other agency conducting the examination or through a documented administrative error by postal authorities.

(2) An application for an examination is filed in error to the wrong agency and was postmarked by the postal service or date stamped by the receiving agency on or before the final filing date specified on the examination announcement.

(3) For a promotional examination, the appointing power verifies distribution problems with the examination announcement that prevented timely notification to an employee seeking to take the examination. Posting in a centralized location of each branch, district, institution, region, or office of the appointing power shall constitute notification of the promotional examination to employees.

(4) The appointing power verifies that the employee seeking to take a promotional examination failed to receive timely notice of the examination because the employee was away from his or her place of work during the entire examination announcement period due to a work assignment, vacation, sick leave, or leave of absence.

(d) This section shall become operative on July 1, 2017.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18934, Government Code.

§ 193. Formula Rating.

In any examination, the appraisal of education and experience of ~~the~~ competitors may be made by a formula rating approved by the Department or designated appointing power and applied to the information and data given by the competitor. ~~on their official applications.~~ Such appraisal may be made with or without an interview. ~~and without evaluating the personal qualifications of the competitors.~~

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18930 and 18936, Government Code.

§ 193.1. Scoring and Ratings for Examinations.

(a) In any examination, including CEA examinations, the minimum qualifying ratings for each phase of the examination and final earned rating of each candidate shall be established by the Department or designated appointing power in accordance with Government Code sections 18936 and 18937.

(b) Each candidate shall be scored and rated by assessing his or her qualifications, responses, and/or performance with the pre-established, job-related scoring criteria of the examination. Based upon this assessment, each candidate shall be compared and ranked against all other candidates.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18936 and 18937, Government Code.

§ 193.2. Exam Considerations for Education and Experience.

(a) When assessing and rating a competitor's education and experience, consideration shall be given to the following:

(1) The breadth, quality, and length of time of the education and experience.

(2) The relevance of the education and experience to the qualifications of the classification.

(3) The degree to which the competitor's total education and work history represent suitable preparation to successfully perform the duties and tasks of the class.

(b) A statement to this effect shall not appear in the class specification, but shall be included on the examination announcement.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Section 18930, Government Code.

~~§ 194. Rating by Interview.~~

~~In any examination the education, experience, and personal qualifications of competitors may be rated after a qualifications appraisal interview and such investigations as may be necessary.~~

~~The interview shall be conducted and the ratings made either by a qualifications appraisal panel of two or more members or by a single representative of the Department. The representative of the Department, either when acting alone or as a member of a panel, may be other than a staff member of the Department. The Department shall determine the number of interviewers required to conduct each qualifications appraisal interview and shall select and appoint such interviewers.~~

~~Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.~~

§ 194. Limited Three Rank Examinations.

(a) A Limited Three Rank Examination is one which has a failing score and passing scores that result in three passing ranks. The ranking of the candidates shall be competitive and in accordance with section 193.1. The scores of candidates in the first rank shall reflect higher scores than the candidates in the second or third rank, and the scores of candidates in the second rank shall reflect higher scores than candidates in

the third rank. All candidates in the passing three ranks are eligible for appointment. The names of candidates with a failing score shall not be included on the eligible list.

(b) The failing score and passing scores shall be determined by the Department or a designated appointing power. The factors to consider when determining the appropriate scores include:

(1) The competitive assessment and evaluation of applicants.

(2) The likely size and scope of the applicant pool.

(3) Relevant classification requirements and performance expectations.

(c) Limited Three Rank Examinations are not required for every examination. The use of Limited Three Rank Examinations is within the discretion of the Department or designated appointing power.

NOTE: Authority cited: Sections 18502, 18660 and 18701, Government Code. Reference: Sections 18930, 18936 and 18937, Government Code.

~~§ 195. Conduct of Interviews.~~

(a) ~~Qualifications appraisal interviews for an examination shall be conducted by the same interviewer or qualifications appraisal panel except the Department may appoint more than one interviewer or qualifications appraisal panel to conduct interviews simultaneously or in different locations if the Department finds:~~

~~(1) The needs of the state service require more than one interviewer or qualifications appraisal panel; or~~

~~(2) More than one interviewer or qualifications appraisal panel is necessary in order to fill urgent and immediate vacancies in the state service.~~

~~(b) If one or more of the members of the qualifications appraisal panel is not present during all or part of the proceedings, the panel may nevertheless proceed. The Department or chairperson may fill any vacancy on the qualifications appraisal panel by appointment of a qualified person.~~

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

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§ 195. Composition of Qualifications Appraisal Panels.

(a) The Department or a designated appointing power shall determine the number of QAP members required to conduct the qualification appraisal interview and shall select and appoint such members. The number of members shall be no less than two. When selecting members, consideration shall be given to selecting members who represent the diversity of the State civil service workforce.

(b) The members shall understand and be familiar with the class qualifications for which the examination is being held. The members shall also be familiar with and understand the merit principle, equal employment opportunity laws, and Board rules related to examinations.

(c) For each QAP examination, the Department or designated appointing power shall select a chairperson to preside over the QAP interviews. The chairperson and any member acting as chairperson in the chairperson's absence shall be certified as deemed appropriate by the Department.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.

§ 195.1. QAP Interviews and Responsibilities.

(a) The Department, or an appointing power that has been designated under section 195, may allow QAP interviews for an examination to be conducted by the same QAP members or a different composition of QAP members. The same QAP panel, however, should be used whenever operationally feasible. If the chairperson is unable to attend an interview, he or she shall select another member to act as the chairperson in his or her absence.

(b) All QAP interviews for an examination shall be structured and use the same pre-determined, job related questions. The QAP shall not rephrase or clarify any candidate inquiries; however, a member of the QAP may repeat an examination question.

(c) All members of the QAP shall evaluate each candidate's qualifications on an equal and fair basis, and complete the applicable qualifications appraisal rating form or sheet. Each member shall also document candidate responses to all interview questions.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.

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§ 195.2. Ratings for QAP Examinations.

(a) Competitors shall be rated independently by each panel member after the examination interview and before any background checks and/or investigations that may be required for the classification that is the subject of the examination. Panel members may rate candidates before or after discussion with other members. The ratings shall be competitive and in accordance with section 193.1.

(b) Each member shall sign, complete, and record his or her ratings on forms or in a manner prescribed by the Department.

NOTE: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.

~~§ 196. Composition of Panels.~~

~~Each qualifications appraisal panel shall include a representative of the Department who shall be the chairperson and, except when the Department finds that the State's interest will not benefit therefrom:~~

~~(a) One or more persons within the state service, preferably from the agency or agencies for which the employment list is being established, who are familiar with the job requirements of the class for which the examination is being held; and~~

~~(b) One or more citizens not in the state service.~~

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

~~§ 198. Competitive Ratings.~~

~~Ratings of education, experience, and personal qualifications shall be made on a competitive basis in that each competitor shall be rated thereon in relation to the minimum qualifications for the class in question and in relation to the comparable qualifications of other competitors. The term "personal qualifications" includes all such personality traits and personal, moral, and physical characteristics as are necessarily comprehended by the minimum qualifications established for the class. When rating competitor's education and experience, interviewers shall consider the quality, length, and pertinence of such education and experience, and the degree to which competitor's~~

~~total education and work histories represent suitable preparation for the work of the class.~~

~~§ 199. Minimum Qualifying Ratings.~~

~~In qualifications appraisal interviews, ratings accorded competitors shall all be expressed in percentages, with 70 percent being the minimum qualifying rating or shall all be expressed as qualified or eliminated without the assignment of percentage ratings. For each examination the Department shall determine whether percentage ratings or ratings of qualified or eliminated shall be used. Ratings shall be made independently by each interviewer either before or after discussion with other interviewers if there is a panel interviewing the candidate. Ratings shall be made on forms prescribed by the Department, which shall be signed by the interviewer~~

~~A competitor shall be eliminated only if a majority of the members of the qualifications appraisal panel assign the competitor ratings below 70 percent or ratings of "eliminated."~~

~~When the ratings are expressed in percentages, the ratings of the several members of a qualifications appraisal panel shall be averaged to determine each competitor's final rating on education, experience, and personal qualifications, except that, if the average rating is below 70 percent but there is not a majority of the members who assign ratings below 70 percent, the competitor shall be given a rating of 70 percent, and except that, if a majority of the members assign a rating below 70 percent, the competitor shall be eliminated regardless of the fact that competitor's average rating may be 70 percent or more. If the average rating is below 70 percent, but there is not a majority of the QAP members who assign ratings below 70 percent the competitor shall be given a rating of 70 percent. If a majority of the QAP members assign a rating below 70 percent, the competitor shall be eliminated regardless of the fact that competitor's average rating may be 70 percent or more.~~

~~Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18930 and 18936, Government Code.~~

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~~§ 199.1. Alternate Ratings.~~

~~When the only reason for the elimination of a competitor by an oral interview panel is the competitor's failure to possess the minimum education or experience qualifications established for the class or possession of required licenses or certificates, the panel shall, in addition to the procedure described in section 199, make an alternate rating as though the candidate possessed such qualifications, which rating shall be not less than 70 percent. If the competitor appeals the elimination and the Board grants that appeal, the competitor's rating shall be the alternate rating. The alternate rating assigned under the provisions of this section is confidential and may not be revealed to the competitor or the Board until the Board grants an appeal and orders that the alternate rating be used.~~

~~Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.~~

§ 195.3. Alternate Rating for a QAP Examination.

(a) If during the course of a QAP examination interview, it is determined that a candidate does not satisfy the minimum qualifications of the classification that is the subject of the examination and the only reason for eliminating the candidate from the examination is the failure to satisfy the minimum qualifications, the panel shall nonetheless rate the candidate as though he or she satisfies the minimum qualifications. The rating shall be known as the alternate rating and shall not be less than the minimum rating required to pass the examination.

(b) If the candidate appeals the QAP's determination to the Board, the alternate rating shall be confidential during the appeal process and not revealed to the candidate or the Board. If the Board grants the appeal, the alternate rating shall become the candidate's rating for the examination.

Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 18930, Government Code.

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~~§ 200. Reports on Promotional Competitors.~~

~~In any promotional examination, the Department may establish procedures for furnishing qualifications appraisal interviewers with reports concerning the performance of competitors.~~

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

~~§ 205. Computing Examination Score.~~

~~All percentage ratings derived from the various parts of an examination shall be rounded to the second decimal place and considered accurate to that degree for the purpose of computing examination scores. Wherever minimum ratings are specified in these rules, they shall be considered binding to the second decimal place; that is, "70 percent" shall imply 70.00 percent, and "85 percent" shall imply 85.00 percent.~~

~~The weights assigned to the various parts of an examination represent the relative value of each part in the whole examination. The method of obtaining the average percentage of the examination is as follows: Multiply the rating obtained in each part by the relative weight of that part, add the products, and divide the sum of the products by the sum of the relative weights. The quotient thus obtained will be the average percentage for the examination. For the purpose of establishing employment lists, this average percentage shall be: (1) rounded to the second decimal place for examinations in which certification from the resulting employment list will be on the basis of the three highest names under Government Code section 19057; or (2) rounded to the nearest whole number for examinations in which certification from the resulting employment list will be on the basis of the three highest ranks under Government Code sections 19057.1, 19057.2 and 19057.3.~~

~~In an examination for a class in which certification of eligibles is on the basis of the three highest ranks, the ranking of eligibles on the resulting employment list shall be on the basis of scores rounded to the nearest whole percentage number. Upon request of an appointing power, the Department shall also provide an informational listing of the competitors' average percentage scores rounded to the second decimal place.~~

~~Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18936, 19057, 19057.1, 19057.2 and 19057.3, Government Code.~~

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~~§ 206. Minimum Rating Required.~~

~~Competitors shall be required to attain a score of not less than 70 percent in each part of the examination and a general average score of not less than 70 percent in order to qualify in an examination; except that, in a promotional examination, it is within the discretion of the Department to require a higher general minimum average, which minimum shall in no case exceed 85 percent. In written tests, the 70 percent used to represent the minimum score need not be the arithmetic 70 percent of the total possible score but may be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition, and the needs of the service. Any such adjusted score shall be established before the identification of the competitors' examination papers. Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 18936 and 18937, Government Code.~~

~~§ 210. Establishing List in Case of Tie.~~

~~In an examination in which certification from the resulting employment list is on the basis of the three highest names, two or more competitors receiving the same percentage rating shall be placed on the list according to their respective percentage ratings attained in the chief essential of the examination; except that, if one of such competitors is a veteran, that competitor shall be given the preference if the examination is one in which veterans preference is granted. If the tie continues it shall be broken by lot.~~

~~Note: Reference: Sections 18973, 19057 and 19057.1, Government Code.~~

Article 9. Promotion

§ 242. Promotions In Place.

(a) Except as otherwise provided in subdivision (b), an employee with permanent civil service status, regardless of time base, may receive a promotion in place where all of the following apply:

(1) The employee has demonstrated satisfactory or higher job performance in his or her current position and shown the ability and willingness to succeed at the higher level classification.

(2) The position currently occupied by the employee is reallocated to the "to" class without a change of unit or location.

(3) The employee competed in and passed an examination for the "to" class and is currently placed on the employment list for that examination in one of the top three ranks.

(i) When determining whether the employee is in one of the top three ranks, reemployment and the Department's State Restriction of appointment (SROA) lists shall not be considered, since the promotion in place is an appointment to a classification to which the employee's position has been reallocated, rather than an appointment to a vacant position.

(ii) If the employee to be promoted is not in one of the top three ranks, the appointing power may not try to clear ranks by sending employment inquiries to candidates ranked higher than the employee.

(4) The appointing power documents the reasons why the selected employee was chosen for the promotion in place. The documentation shall be maintained pursuant to section 26.

(b) If some, but not all, eligible employees are selected for a promotion in place, the appointing power shall ensure that those eligible employees not selected are informed in person and in writing of the reasons for the decision and provided the opportunity to obtain the competencies necessary for a promotion in the future. In addition to documenting the reasons for the decision, the appointing power shall document the date and time and any other relevant information regarding the meeting with the employee. This documentation shall be maintained pursuant to section 26.

(c) If there is a true vacancy in the unit, the appointing power may promote in place the employee before filling the true vacancy, if the criteria set forth in subdivision (a) are satisfied. Filling the true vacancy may be subject to the provisions of the Department's SROA program.

NOTE: Authority cited: Sections 18502, 18660, 18701, and 18804, Government Code. Reference: Sections 18500, 18951, and 19050, Government Code.

Article 10. Appointments

§ 249.1. Standard Measurement Criteria.

Before the hiring process begins, the appointing power shall develop standard measurement criteria for assessing and comparing the qualifications of candidates

based upon job-related information about each candidate, such as information provided on applications, interviews, or, where appropriate, reference and background checks.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050, Government Code.

§ 249.2. Postings of Job Announcements on Websites or by Other Electronic Means.

(a) All job announcements shall be posted on the Department's designated website. An appointing power may also post job announcements on other websites, such as relevant career center, career fair, or academic institution websites, or by other electronic means designed to provide fair, equitable notice to eligible candidates.

(b) Unless a collective bargaining contract between a recognized public employee organization and the state provides otherwise, all online job announcements shall be posted for a minimum period of ten calendar days, except the appointing power may post a job announcement for a shorter period of time where there is a critical hiring need. In such an instance, the appointing power shall maintain the following documentation pursuant to section 26:

(1) Identify the position(s) that must be filled;

(2) Describe the event or circumstance that created the critical hiring need;

(3) Specify the duration of and location where the job announcement was posted; and

(4) Any supporting evidence that demonstrates why the critical hiring need was created.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 18933 and 19050, Government Code.

§ 249.3. Conditions for Not Re-Announcing A Job Vacancy.

(a) A job vacancy is not required to be re-announced if an identical vacancy was announced previously and fewer than 180 calendar days have elapsed since the identical announcement's closing date.

(b) Identical vacancies must have the same position title, classification code, base, tenure, reporting location, and duties.

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NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050, Government Code.

§ 249.4. Verification of Minimum Qualifications Prior to Appointment.

(a) Verification of minimum qualifications is not required for candidates on reemployment lists or candidates who have mandatory reinstatement rights. For all other candidates, including promotions and transfers, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

(b) If a candidate is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate specifying which minimum qualifications are not satisfied and the reason(s) why and provide an opportunity for the candidate to establish that he or she satisfies the minimum qualifications of the classification. The candidate shall have 10-working days to answer.

(1) Where a candidate fails to answer within the specified timeframe, the candidate may be considered to have abandoned the selection process. If such a determination is made and the candidate's eligibility was based upon list eligibility, his or her name shall be removed from the employment list. The appointing power shall promptly inform the candidate in writing that his or her name has been removed. The notification shall also inform the candidate of his or her appeal rights.

(2) If the candidate timely answers, but fails to establish that he or she satisfies the minimum qualifications, the candidate shall not be appointed to the position, and, if the candidate's eligibility was based upon list eligibility, his or her name shall be removed from the employment list. The appointing power shall promptly inform the candidate in writing of the finding and any actions taken by the appointing power related to the finding, including, for instance, removing the candidate's name from the employment list. The notification shall also inform the candidate of his or her appeal rights.

(c) For purposes of this section, a holiday as defined in Government Code sections 19853 and 19853.1 is not a working day.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050, Government Code.

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§ 249.5. Employment Inquiries.

(a) When making employment inquiries to determine an eligible candidate's interest in a job vacancy, the appointing power shall document which candidates were contacted, how and when they were contacted, and any response. These records shall be maintained in accordance with section 26.

(b) When sending employment inquiries, appointing powers shall not make requests or statements that can be construed as discouraging eligible candidates from pursuing an appointment to a position.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050, Government Code.

§ 249.6. Redaction of Confidential Information on Candidate Documentation.

(a) During the hiring process, the appointing power shall ensure that all confidential information on candidate related documentation, including applications, resumes, and forms, is redacted or removed before providing copies to any person who is not assigned to work in the appointing power's human resources or personnel unit, including the hiring manager, any employee in the hiring manager's unit or division, any member of the interview panel, any employee who acts as a human resources or personnel liaison, or any other person, including employees with the authority to approve the appointment. Confidential information includes, but is not limited to, social security numbers, marital status, date of birth, equal employment opportunity data, list eligibility as covered under section 249.7, or any other information considered confidential under law or regulation.

(b) Nothing herein shall be construed to relieve appointing powers from the duties and obligations of other laws, regulations, or policies related to privacy and confidentiality.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050, Government Code.

§ 249.7. Non-Disclosure of a Candidate's List Eligibility.

(a) If a candidate has employment list and/or LEAP referral-list eligibility, the list upon which the candidate is eligible shall not be disclosed during the hiring process to any person who is not assigned to work in the appointing power's human resources or personnel unit, including the hiring manager, any employee in the hiring manager's unit or division, any employee who acts as a human resources or personnel liaison, any member of an interview panel, or any employee with the authority to approve the

appointment. However, the ranking of list eligible candidates shall be available to the hiring manager or any other employee involved in the hiring decision. If there are eligible LEAP candidates, those candidates shall be placed in the first rank in no particular order with the other non-LEAP candidates in the first rank.

(b) Subdivision (a) does not apply to candidates who have reemployment or SROA list eligibility.

(c) If a candidate with employment list or LEAP-referral list eligibility has been selected and a tentative offer of employment extended, the selected candidate's list eligibility may be disclosed but only to those employees who are required to know the basis of eligibility in order to complete the formal appointment process.

NOTE: Authority cited: Sections 18502, 18701, 19240 and 19241, Government Code. Reference: Section 19050, Government Code.

~~§ 250. Requirement That Selection Be Based on Merit and Fitness.~~

~~(a) Appointments to positions in the State civil service made from eligible lists in a manner consistent with provisions of Sections 254, 254.1, and 254.2 as related to the certification of eligibles, by way of transfer, as defined in Government Code Section 18525.3, or by way of reinstatement, as defined in Government Code Section 19140, shall be made on the basis of merit and fitness, defined exclusively as the consideration of each individual's job-related qualifications for a position, including his/her knowledge, skills, abilities, experience, education, training, physical and mental fitness, and any other personal characteristics relative to job requirements, as determined by candidate performance in selection procedures, including, but not limited to, hiring interviews, reference checks, background checks, and/or any other procedures, which assess job-related qualifications and are designed and administered to select those individuals who best meet the selection need.~~

~~(b) Eligible lists shall be created on the basis of merit and fitness, and, as such, shall result from: recruitment strategies designed to be as broad and inclusive as necessary to best meet the selection need; and candidate performance in selection procedures that assess job-related qualifications, are competitive in nature, are designed and administered to fairly and objectively identify those candidates who meet the selection need, and result in the ranking of candidates based on their job-related qualifications.~~

~~(c) Permanent status in permanent appointments to the civil service is achieved after completion of the required probationary period, the final phase of the selection process. Assessment of employee performance during the probationary period shall be made on the basis of merit and fitness, with regard to the individual's qualifications, including his/her knowledge, skills, abilities, experience, education, training, physical and mental fitness, and any other personal characteristics relative to job requirements, and his/her job related performance.~~

~~(d) All phases of the selection process, including recruitment and examining, eligible list creation, appointment, and completion of the civil service probationary period, shall provide for the fair and equitable treatment of applicants and employees on an equal opportunity basis without regard to political affiliation, race, color, ancestry, national origin, sex, sexual orientation, religion, disability, medical condition, age, or marital status.~~

~~(e) Nothing herein shall be construed to relieve appointing powers from the obligation to reasonably accommodate individuals with disabilities as required under the Americans with Disabilities Act, the Fair Employment and Housing Act, and the Civil Service Act.~~

~~(f) Nothing herein shall be construed so as to contravene the intent and purpose of Article VII, Section 6, of the California Constitution, which provides for the granting of preferences in state civil service to veterans and their surviving spouses.~~

~~(g) Intra-departmental job assignment transfers within the same job classification, such as assignments to different work shifts or work locations, or time base changes pursuant to Section 277 do not constitute appointments for purposes of this regulation.~~

~~Note: Authority cited: Sections 18211 and 18701, Government Code. Reference: Article VII, Sections 1 and 6, California Constitution; Sections 18213, 18500, 18525.3, 18900, 18930, 18950, 18951, 18971-18979, 19050, 19052, 19140, 19171, 19173 and 19702.2, Government Code.~~

§ 250. Determining Merit and Fitness During the Hiring Process.

(a) This regulation shall govern the hiring process for the following types of appointments:

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(1) Employment list appointments, as defined in Government Code section 18537, except reemployment and SROA list appointments;

(2) Transfers, as defined in Government Code section 18525.3; and

(3) Permissive reinstatements, as defined in Government Code section 19140.

(b) The hiring process for eligible candidates chosen for job interviews shall be competitive and involve an assessment of the qualifications of the candidates and be designed and administered to hire candidates who will be successful. Interviews shall be conducted by using job-related criteria. The hiring process may include standardized performance tests, written tests, role-plays, simulations, as well as any other selection instrument or procedure designed to objectively and fairly evaluate each candidate's qualifications to be successful in the position.

(c) Prior to making the hiring decision, the appointing power should conduct reference checks and review the official personnel file of the candidate, regardless of whether the candidate is currently an employee of the state or employed outside the state.

(d) Unless otherwise specified in subdivision (f), persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications.

(e) In accordance with section 26, the appointing power shall prepare and retain documentation summarizing the subdivision (b) activities that were conducted during the hiring process and the reasons for the hiring decision.

(f) This section does not apply to intra-agency job reassignments. Intra-agency job reassignments may be approved by the appointing power with consideration of any applicable collective bargaining contract between a recognized public employee organization and the state.

(g) Nothing herein shall be construed to relieve appointing powers from the obligation to reasonably accommodate individuals with disabilities as required under the Americans with Disabilities Act, the Fair Employment and Housing Act, and the Civil Service Act.

(h) Nothing herein shall be construed so as to contravene the intent and purpose of Article VII, Section 6, of the California Constitution, which provides for the granting of preferences in state civil service to veterans and their surviving spouses.

NOTE: Authority cited: Sections 18502, 18660, and 18701, Government Code. Reference: Section 19050, Government Code.

§ 250.2. Hires From Certified Employment Lists.

(a) If the candidate chosen for hire is eligible based upon an employment list certified pursuant to Government Code section 19057.1, the job offer shall be made no later than 180 calendar days after the certification date for non-peace officer classifications and no later than 365 working days after the certification date for classifications requiring background checks.

(b) The appointing power may extend the 180-calendar-day period up to 30 working days by submitting to the Department a written justification for the extension.

(c) During the job offer period specified in this section, including any period of extension under subdivision (b), candidates named on the certified list shall maintain both their certification list eligibility and personal list eligibility for appointment.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050.

§ 258. Time Periods for ~~Reply~~ Replies to ~~Inquiry~~ Employment Inquiries Following Certification.

It shall be the duty of every eligible candidate to respond within a reasonable time to an inquiry to ascertain his or her interest in appointment to a position. An eligible candidate does not need to respond when he or she is not interested in the position.

(a) The Department or appointing power shall provide an eligible candidate the following minimum time periods ~~following standards shall constitute reasonable response time frames~~ by which to respond to an employment inquiry:

(1) Telephone: A minimum of two business ~~days' response time following~~ days after the initial contact, including a voicemail message;

(2) Mail: A minimum of six business days after the date the written notice is sent;

(3) ~~E-mail~~ Electronic Communication: A minimum of six business days after the date the electronic notice is sent.

(b) For purposes of this section, the term "electronic communication" means any communication that is transferred electronically to the eligible candidate, including, by way of electronic mail or e-mail, an online account, or similar methods that use computers or the internet for transmission and that the eligible candidate has agreed to use. "Electronic communication" does not include verbal communication.

(c) Where an employment inquiry for a job opening is sent to an eligible candidate and the date by which to respond to the inquiry is prior to the final filing date for the job posting, the Department or appointing power shall not act upon the candidate's failure to reply to the employment inquiry if the candidate files his or her application by the final filing date, thereby verifying his or her interest in the position.

If the eligible candidate is unavailable for employment within 30 calendar days following the date of the job offer, the appointing power may consider this a waiver of appointment.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19050.

~~§ 265. Temporary Authorization.~~

~~If fewer than three names of persons willing to accept appointment are on the open eligible list for the class to which a position belongs and no other employment list for such class is available, the Department may authorize the appointing authority to make a temporary appointment.~~

~~Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Sections 19057 and 19058, Government Code.~~

§ 265. Employment List With Three or Fewer Names.

For purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1.

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Note: Authority cited: Sections 18502 and 18701, Government Code. Reference: Section 5 of Article VII, California Constitution and Section 19050, Government Code.

§ 265.1. Counting Time for Temporary Appointments.

(a) A temporary appointment to a classification shall only be made when there is no employment list for the classification. In no instance shall temporary appointments or counting time as specified herein be used by an appointing power to avoid or delay the use of an employment list.

(b) Except as provided in subdivision (d), the 9-month in 12-consecutive months working limit on temporary appointments, as set forth in Article VII, section 5, of the California Constitution, shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling 9 months. When counting 189 days, every day worked, including partial days worked and paid absences, is counted. The hours worked in one day is not limited by this rule. The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. The employee shall serve no longer than 189 days in a 12 consecutive month period. A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe or any subsequent month.

(c) The 189-days working limit set forth in subdivision (b) shall be calculated per-employee, not per-agency.

(d) For student, youth, and seasonal classifications, a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation set forth in subdivision (b).

(e) Persons hired as a retired annuitant into a temporary position are subject to applicable retirement law requirements, including any wait-period restrictions and the working restriction of 960 hours per fiscal year.

(f) The appointing power shall monitor and control the days worked to ensure that the limitations set forth in this section are not exceeded.

(g) An appointing power shall periodically review temporary appointments to ascertain the appropriateness of continuing to retain a temporary employee over a long period of time. In accordance with section 26 of the Board's regulations, the appointing power shall maintain written records of its periodic reviews and written records of the days, months, and hours worked by temporary employees.

Final Text
Classifications, Exams, and Selection Process

NOTE: Authority cited: and Section 18701, Government Code. Reference: Section 5 of Article VII, California Constitution and Section 19050, Government Code.

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 2. Career Executive Assignment Rules
Article 5. Examinations

§ 548.40. Competitive Examinations.

(a) Examinations for appointment to Career Executive Assignment positions shall be competitive and of such a character as fairly to test and determine the qualifications of candidates actually to perform the duties of the position to be filled. Examinations may include, but need not be limited to, an assessment of the candidates' character, education, experience, knowledge, skills, and ability. Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skill, or any combination of these.

(b) Examinations may include a review of applications, use of supplemental applications, appraisals of performance and executive potential, management exercises, ~~and/or~~ or structured interviews.

(c) The appointing power shall promulgate the job-related evaluation criteria that will be used to assess the qualifications of each candidate for the position. The appointing power shall assess each candidate's qualifications for the position based upon the evaluation criteria~~,~~ and shall compare and rank each candidate against all other candidates based upon this assessment. Successful candidates shall be divided into ~~6~~ ranks based upon their scores~~. The first rank shall consist of candidates who receive scores of 95 percent or higher. The second rank shall consist of candidates who receive scores of 90 to 94 percent. The third rank shall consist of candidates who receive scores of 85 to 89 percent. The fourth rank shall consist of candidates who receive scores of 80 to 84 percent. The fifth rank shall consist of candidates who receive scores of 75 to 79 percent. The sixth rank shall consist of candidates who receive scores of 70 to 74 percent. Unsuccessful candidates shall receive a score of 65. All examination scores shall be rounded to the nearest whole percent.~~ Limited scoring examinations may be used in the discretion of the Department or designated appointing power.

Each candidate shall be notified in writing of his or her final score and ranking.

~~The appointing power shall appoint a candidate who is well qualified to perform the duties of the position, and who is within one of the top three ranks. If there are fewer than a total of 5 candidates in the top three ranks, then the appointing power may consider candidates in the next lower ranks in rank order until there are at least 5 candidates available for consideration. For each examination, the appointing power shall maintain an examination file for a period of three years that includes, but is not limited to, the specific job-related evaluation criteria and selection procedures that were used in the examination; documentation on how those criteria were applied to the candidates; documentation as to the competitiveness of the candidates' qualifications relative to each other; and the appointing power's rationale for selecting the successful candidate.~~

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 18546, 19889, 19889.2 and 19889.3, Government Code; and *Alexander v. State Personnel Board* (2000) 80 Cal.App.4th 526.

§ 548.41. Examination Announcements.

(a) ~~It is the policy of the State Personnel Board that examinations~~ Examinations for ~~appointment to~~ Career Executive Assignment positions shall be publicized as widely as appears practicable. When it is in the best interest of the State and of economy and efficiency, examinations may be conducted with restricted publicity subject to the approval of the ~~executive officer~~ Department. ~~The executive officer may authorize appointing powers to prepare and distribute examination announcements, to conduct examinations for Career Executive Assignment appointments, and to establish standards for the review and interpretation of such minimum qualifications as the board may establish for the Career Executive Assignment category. Such interpretive standards shall be expressed on the examination announcement as desirable knowledge, skills, abilities, or personal characteristics that are actually necessary to perform the duties of the position to be filled. Specific amounts, kinds and levels of education and experience shall not be required but may be indicated as desirable and as the most likely sources of the requisite knowledges, skills, abilities and personal characteristics. Examination announcements shall identify the position for which the competition is being conducted and the evaluation standards and methods to be applied. If the results of the examination may be used to make additional appointments,~~

~~the announcement shall conform to the provisions of Article 4 of these regulations on employment lists. The appointing power shall provide information on the content and scope of the examination publicity and on the methods and results of the evaluation used on forms and by procedures prescribed by the executive officer. When examinations are announced there shall be reasonable assurance that potential competitors are provided opportunity to be informed of their general nature and scope.~~

(b) Examination announcements shall conform to the provisions of Article 8, section 170.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 18933 ~~18935, 18546~~, and 19889, ~~19889.2 and 19889.3,~~ Government Code.

§ 548.53. Recordkeeping Requirements.

Appointing powers shall retain the following records in a systematic and orderly fashion for a minimum period of five years from the date of creation of the record:

For each CEA examination, the appointing power shall maintain an examination file that includes, but is not limited to, the content and scope of the examination publicity and announcement; specific job-related evaluation criteria and selection procedures that were used in the examination; documentation on how those criteria were applied to the candidates; documentation as to the competitiveness of the candidates's qualifications relative to each other; and the appointing power's rationale for selecting the successful candidate.

NOTE: Authority cited: Section 18701, Government Code. Reference: Section 19889, Government Code.

Article 7. Appointments

~~§ 548.70. Eligibility for Appointments.~~

~~(a) Except as provided in this chapter, eligibility for appointment to a Career Executive Assignment position shall be established as the result of competitive examination of persons with permanent status; or who previously had permanent status in the state civil service; or persons who have been employed by the Legislature as defined in~~

~~Government Code section 18990; or have held nonelected exempt positions in the executive branch of government as defined in Government Code sections 18992 and 19889.3; or persons retired from the United States military, honorably discharged from active military duty with a service-connected disability, or honorably discharged from active duty as defined in Government Code section 18991; who are well qualified to perform high administrative and policy-influencing functions. The scope and nature of such examinations may be determined by the appointing power subject to these regulations and the approval of the executive officer.~~

~~(b) This section will remain in effect until January 1, 2013, unless statutes are enacted before January 1, 2013, extending the sunset date of January 1, 2013, or making permanent Government Code sections 18546, 18990, 18992, and 19889.3.~~

~~Note: Authority cited: Section 18701, Government Code. Reference: Sections 18546, 18990, 18991, 18992, 19889, 19889.2 and 19889.3, Government Code.~~

~~§ 548.70. Eligibility for Appointments. [Provisionally effective January 1, 2013]~~

~~*If Government Code sections 18546, 18990, 18992, and 19889.3 sunset on January 1, 2013, this section shall read:*~~

~~(a) Except as provided in this chapter, eligibility for appointment to a Career Executive Assignment position shall be established as the result of competitive examination of persons with permanent status in the state civil service or persons retired from the United States military, honorably discharged from active military duty with a service-connected disability, or honorably discharged from active duty as defined in Government Code section 18991, who are well qualified to perform high administrative and policy-influencing functions. The scope and nature of such examinations may be determined by the appointing power subject to these regulations and the approval of the executive officer.~~

~~(b) This section shall become operative on January 1, 2013.~~

~~Note: Authority cited: Section 18701, Government Code. Reference: Sections 18546, 18990, 18991, 18992, 19889, 19889.2 and 19889.3, Government Code.~~