



FINAL TEXT WITHOUT STRIKETHROUGH FOR BARCLAYS

Proposed text is underlined.

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.3 Classifications, Examinations, and Appointments
Article 11. Limited Term Appointments

§ 280. Purpose of Limited Term Appointments.

Limited term appointments shall be made only for temporary staffing needs, including staffing needs related to examination appointments of LEAP candidates as set forth herein in Article 28.

NOTE: Authority cited: Sections 19240 and 19083, Government Code. Reference cited: Sections 19242.4 and 19080.3, Government Code.

§ 281. Acquisition of Permanent Status.

No time that an employee or LEAP candidate serves in a limited-term appointment may count toward acquiring permanent status in any position. LEAP candidates, however, shall receive the same salary and benefits to which other state employees in temporary positions are entitled (see Article 28, section 547.58.4).

NOTE: Authority cited: Section 19083, Government Code. Reference: Sections 19080.3, 19083 and 19242.6, Government Code.

§ 282. Termination of a Limited-Term Appointment.

(a) Except for LEAP candidates competing in an examination appointment by way of a limited-term appointment, an appointing power may terminate a limited-term employee at any time prior to the expiration of the term to which the employee was appointed. The appointing power shall provide the employee oral or written notice of the termination. A limited-term employee whose term of employment has been terminated has no right of appeal with the Board.

(b) The termination of a LEAP candidate's limited-term appointment shall be in accordance with Article 28, section 547.58.8.

NOTE: Authority cited: Section 19083, Government Code. Reference: Section 19080.5, Government Code.

Article 28. Limited Examination and Appointment Program

§ 547.50. Definitions.

For purposes of this article, the following definitions shall apply:

(a) The definitions of "disability," "developmental disability," "LEAP," and "person with a developmental disability" shall have the same meanings as defined in Government Code section 19240.

(b) "LEAP-certified class or classification" means that the class or classification is included within the examination and appointment rules applicable to LEAP and has a parallel permanent civil service classification.

(c) "LEAP referral list" means a list of names of qualified persons with disabilities, including developmental disabilities, who are eligible for an examination appointment to a LEAP certified classification.

(d) "Examination appointment" means the LEAP candidate has been selected on a limited term basis to demonstrate his or her ability to perform the duties of the position to which he or she has been appointed.

(e) "Job Examination Period" means the term of the examination appointment.

(f) "Proof of Disability Documentation" means documentation from a personal doctor or physician, a licensed medical professional, a licensed rehabilitation professional, or any federal, state, District of Columbia, or US territory agency that issues or provides disability benefits, showing that the applicant has a disability or a developmental disability.

(g) "Parallel classification" means the civil service classification that is parallel to the LEAP certified class.

(h) "DOR" means the California Department of Rehabilitation.

(i) "DDS" means the California Department of Developmental Services.

NOTE: Authority cited: Sections 18701 and 19240, Government Code. Reference: Sections 19240, 19242, 19242.2, and 19242.4, Government Code.

§ 547.51. Use of the LEAP Process and Reasonable Accommodation.

(a) Appointing powers are encouraged to use the LEAP examination and appointment process to fill vacancies. Prior approval of the Board or the Department is not required.

(b) In addition to any other laws that may be applicable, the LEAP examination and appointment process as provided for herein shall comply with applicable laws related to reasonable accommodation, including Government Code section 19230, subdivision (c).

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

§ 547.52. LEAP-Certified Classes.

(a) Any job classification may be designated by the Department or its designee as a LEAP-certified class.

(b) LEAP-certified classes shall have the same qualifications, including minimum qualifications, as the parallel classification.

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

§ 547.53. LEAP Readiness Evaluations or Written Examinations.

For purposes of Article 28, LEAP readiness evaluations or written examinations shall be in a form designated by the Department and designed to determine if the applicant satisfies the minimum qualifications of the classification to which he or she seeks an examination appointment.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference cited: Section 19242, Government Code.

§ 547.54. Applicants with a Developmental Disability.

(a) An applicant with a developmental disability shall be permitted to choose to complete a LEAP readiness evaluation, written examination, or a LEAP internship, if such an internship exists for the LEAP-certified classification to which he or she seeks an examination appointment.

(b) This section shall remain in effect until January 1, 2021, and as of that date is repealed.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference cited: Section 19242, Government Code.

§ 547.55. Eligibility Criteria for Placement on a LEAP-Referral List.

(a) To participate in LEAP, applicants must first be placed on a LEAP-referral list for the LEAP-certified classification to which the applicant seeks an examination appointment. All applicants must satisfy the following eligibility criteria for placement on a LEAP-referral list:

(1) Obtain Proof of Disability Documentation and provide the documentation directly to DOR, in a manner and means determined by DOR.

(2) Obtain a verification from the DOR certifying that the Proof of Disability Documentation qualifies the person as a person with a disability for purposes of LEAP. A verification is not required if the applicant has received a referral to LEAP from a DDS Regional Center. The verification or referral shall be submitted to the Department in a manner and means determined by the Department in coordination with DOR and DDS.

(3) Satisfy the minimum qualifications of the LEAP-certified classification to which he or she seeks an examination appointment, as ascertained through a LEAP readiness evaluation, internship, or written examination.

(4) Properly complete and submit an employment application and/or any other documentation that may be required.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 18931, 19241 and 19242.2.

§ 547.55.1. LEAP Internships for Applicants with Developmental Disabilities.

(a) The Department shall be responsible for creating LEAP Internships for applicants with developmental disabilities. When creating a LEAP Internship and determining what classifications are appropriate for an internship, the Department shall coordinate with DDS and DOR.

(b) To qualify for a LEAP Internship, the applicant must satisfy section 547.55, subdivisions (a)(1), (2), and (4). The verification requirement of section 547.55, subdivision (a)(2) is not required if the applicant has received a referral to LEAP from a DDS Regional Center.

(c) At a minimum, a LEAP Internship shall:

(1) Be designed to allow applicants to meet the minimum qualifications of the LEAP classification to which he or she seeks an examination appointment.

(2) Be of at least 512 working hours in duration.

(3) Comply with the provisions of Government Code section 19242.3, subdivision (b)(1) through (2), inclusive.

(d) The appointing power shall certify on a form designated by the Department or its designee an applicant's successful completion of the LEAP Internship. The appointing power shall maintain the certification and any related records concerning the applicant's participation in the internship in accordance with section 26 of the Board's regulations.

(e) Upon certification, as specified in subdivision (d), the applicant shall be deemed to satisfy the minimum qualifications of the classification to which he or she seeks an examination appointment.

(f) Whether the internship is unpaid or paid shall be determined in accordance with Government Code section 19242.05, subdivision (c), and 19242.3, subdivision (a).

(g) The section shall remain in effect until January 1, 2021, and as of that date is repealed.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference cited: Sections 19242.05 and 19242.3, Government Code.

§ 547.55.2. Referral of Applicants for the LEAP Internship Program.

(a) The Department or its designee shall establish a process and procedure for referring the names of qualified applicants with developmental disabilities to appointing powers for selection and participation in a LEAP Internship.

(b) The section shall remain in effect until January 1, 2021, and as of that date is repealed.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference cited: Section 19242.2, Government Code.

§ 547.56. Failure to Satisfy Eligibility Criteria.

(a) If an applicant is found not to satisfy section 547.55, the Department or its designee shall provide written notice to the applicant that identifies which criterion is not satisfied

and why. The notice shall also afford the applicant a minimum of 10-working days to answer and/or correct the deficiency. If within that timeframe the applicant fails to answer or to establish that he or she satisfies section 547.55, the applicant shall not be eligible to participate in the LEAP examination and appointment process. In the event the applicant's name was mistakenly placed on a LEAP-referral list, his or her name shall be removed from the list. The Department or its designee shall promptly inform the applicant in writing of the negative finding and any actions taken related to the finding. The notification shall also inform the candidate of his or her appeal rights with the Board.

(b) An applicant's failure to satisfy eligibility criteria does not prevent the applicant from subsequently seeking to participate in LEAP or non-LEAP examinations.

NOTE: Authority cited: Sections 18701 and 19241, Government Code, Reference cited: Section 19242.2, Government Code.

§ 547.57. Length of Eligibility For a LEAP-Referral List.

(a) LEAP candidates whose names have been placed on a LEAP-referral list shall remain on the list until he or she is selected for a full-time appointment after successful completion of an examination appointment or for 24 months from the date the applicant's name is placed on the list, whichever occurs first.

(b) Notwithstanding subdivision (a), the name of a LEAP candidate who is selected for a part-time or intermittent appointment after successful completion of an examination appointment, shall remain on the LEAP-referral list unless section 547.57.1 applies.

(c) Where an applicant's name is removed from a LEAP-referral list because of the 24-month rule provided for in subdivision (a), the applicant may immediately seek to satisfy section 547.55, so that his or her name can be placed on the appropriate LEAP-referral list without unnecessary delay.

NOTE: Authority cited: Section 18701 and 19241, Government Code. Reference: Section 19242.2, Government Code.

§ 547.57.1. Removal of Names From a LEAP-Referral List.

(a) Notwithstanding section 547.57, names on LEAP-referral lists may be removed in the following circumstances:

(1) When notice of certification on the LEAP-referral list is returned as not deliverable at the candidate's last known address.

(2) Upon receipt by the Department or appointing power of a written request from the candidate that his or her name be removed.

NOTE: Authority cited: Section 18701 and 19241, Government Code. Reference: Section 19242.2, Government Code.

§ 547.57.2. Correction of a LEAP-Referral List.

(a) When it becomes evident that an omission, error, or irregularity has occurred in the preparation of a LEAP-referral list, the Department or its designee shall prepare a corrected list and the erroneous list shall be canceled.

(b) The cancellation of a LEAP-referral list shall not invalidate any examination appointment made therefrom, if the reason for the cancellation of the list would not have impacted the eligibility of the person appointed. If the reason for the cancellation of the LEAP-referral list would have made the selected candidate ineligible, his or her examination appointment shall be voided.

NOTE: Authority cited: Section 18701 and 19241, Government Code. Reference: Section 19242.2, Government Code.

§ 547.57.3. Abolishing a LEAP-Referral List.

Notwithstanding section 547.57, the Department or its designee may abolish a LEAP-referral list in the event three or fewer candidates remain on the list or when the Department or its designee determines it is in the best interests of the state to abolish the list. If the LEAP-referral list is abolished, the Department or its designee shall notify any candidates on the list that the list has been abolished.

NOTE: Authority cited: Section 18701 and 19241, Government Code. Reference: Section 19242.2, Government Code.

§ 547.57.4. Dual List Eligibility and Transfer of Eligibility.

(a) A qualified candidate may simultaneously be on both a LEAP-referral list and a non-LEAP eligibility list.

(b) A transfer between a LEAP-referral list and a non-LEAP eligibility list is not permitted.

NOTE: Authority cited: Sections 18701, 19241, and 19241.5. Government Code. Reference: Section 18532, Government Code.

§ 547.58. Examination Appointments.

(a) A LEAP candidate who has been selected for an examination appointment shall be appointed by way of a limited-term appointment under Government Code section 19080.3 for a period of time not to exceed one year, except as authorized under section 547.58.5.

(b) Prior to the examination appointment, the appointing power shall, at a minimum, provide the selected candidate with the duty statement of the position, so that the candidate knows what duties and functions he or she is expected to perform and what will be evaluated during the job examination period. Along with the duty statement, the appointing power shall also provide the selected candidate with the evaluation standards that will be applied and followed during the job examination period, as set forth in section 547.58.2.

NOTE: Authority cited: Sections 18701, 19241, and 19083, Government Code.
Reference: Sections 19242.4 and 19242.8, Government Code.

§ 547.58.1. Length of the Job Examination Period.

(a) The length of a job examination period for a LEAP-certified class shall be the same as the length of the probationary period of the parallel classification. For examination appointments to classifications in positions that have a full-time base, the length of the job examination period shall be based on monthly pay periods worked. For examination appointments to classifications in positions that have a part-time or intermittent time base, the length of the job examination period shall be based upon the following:

(1) If the probationary period for the parallel classification is six months, the job examination period shall be 840 hours.

(2) If the probationary period for the parallel classification is one year, the job examination period shall be 1680 hours.

(3) Hours worked toward completion of the job examination period must be physically worked. Time off from work shall not be counted.

(b) Where the job examination period is for a classification in a position that has an intermittent time base and the parallel classification has a one year probationary period, the appointing power may allow the candidate to work during the job examination period in excess of the 1500-hour working limitation within 12 consecutive months where there is availability of work and funds.

(c) The duration of the job examination period shall only be shortened or extended as provided herein.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 18500 and 19242.4, Government Code.

§ 547.58.2. The Evaluation Standards of the Job Examination Period.

(a) The evaluation standards of the job examination period shall be based upon the job classification as set forth in the duty statement of the position to which the candidate has been appointed for examination and include the following:

(1) Identification of the competencies necessary to successfully perform the duties of the position.

(2) Provide the candidate with sufficient opportunity to demonstrate his or her competencies to successfully perform the duties of the position.

(3) Provide guidelines for feedback.

(4) Set an evaluation schedule pursuant to section 547.58.3.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 19242.4 and 19242.8, Government Code.

§ 547.58.3. Evaluations During the Job Examination Period.

(a) During the job examination period, the appointing power shall evaluate and assess the candidate's job performance. The appointing power shall provide a written evaluation to the candidate no less than once every four weeks regardless of time base.

(b) The final evaluation shall contain a recommendation as to whether to appoint the candidate to the parallel classification.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 19242.4 and 19242.8, Government Code.

§ 547.58.4. Status of Candidate During the Job Examination Period.

During the job examination period, the candidate shall not acquire permanent civil service status, but shall receive the same salary and benefits to which other state employees in limited term positions are entitled.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Section 19242.6, Government Code.

§ 547.58.5. Absences During the Job Examination Period.

(a) For purposes of paid and unpaid leave during the job examination period, the LEAP candidate shall have the same leave benefits as other state employees in limited term positions are entitled. Where due to permissible absences the appointing power determines that further evaluation of the candidate is required, the appointing power may extend the duration of the job examination period if approved by the Department.

(b) If an extension is granted under subdivision (a) and the extension of the job examination period would exceed the one-year restriction of a limited term appointment, the job examination period may be extended without making an additional appointment. The term of the extension shall be no more than a period of time needed to determine if the candidate can successfully perform the duties and functions of the position.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 19242.6, 19243.2, 19080, and 19080.3, Government Code.

§ 547.58.6. Shortening the Duration of the Job Examination Period.

With the approval of the Department, an appointing power may shorten the duration of the job examination period only where the appointing power finds that the LEAP candidate has clearly demonstrated he or she can successfully perform all the duties and functions of the position to which he or she has examined. The appointing power shall document the reasons for seeking to shorten the duration of the job examination period in a manner prescribed by the Department. In no event may a LEAP candidate serve less than three quarters of the job examination period.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 19240 and 19243.2, Government Code.

§ 547.58.7. Successful Completion of the Job Examination Period.

(a) Upon successful completion of the job examination period, the candidate shall have qualified for appointment to the parallel class. With the approval of the Department, the appointing power shall appoint the candidate to the parallel class. If the appointment is to a parallel class in a permanent civil service position, civil service status shall accumulate. A candidate appointed into civil service in this way is not required to serve a probationary period.

(b) The date of the termination of the job examination period shall be the day before the date of the candidate's appointment to the parallel class.

(c) Upon the failure of the appointing power to terminate the appointment of a candidate within 30 days after the end of the job examination period, it shall be presumed that the candidate satisfied the evaluation standards of the job examination. The appointing power shall appoint the candidate to the parallel classification effective the day following the job examination period.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 19242.9 and 19243, Government Code.

§ 547.58.8. Unsuccessful Completion of the Job Examination Period

If during or at the end of the job examination period the appointing power determines that the candidate fails to satisfy the evaluation standards of the examination, the candidate's limited-term appointment shall be terminated. The appointing power shall give the candidate written notice of the proposed action at least five working days prior to the effective date of the termination. Such notice shall specify the reasons for the termination, the right to respond to the appointing power, and the right to appeal the action to the Board in accordance with section 547.58.9. The notice shall also include any applicable Board regulations related to appeals.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Sections 19242.8 and 19244, Government Code.

§ 547.58.9. Appeal Rights, Requirements, and Time Periods.

(a) Applicants for and candidates in LEAP may file an appeal with the Board for any of the following actions:

(1) Refusal to certify eligibility to participate in LEAP.

(2) Rejection of the application to participate in LEAP, including participation in a LEAP-internship program.

(3) Disqualification by an interview panel or as a result of any other method used to select a candidate for the examination appointment.

(4) Denial of a request for reasonable accommodation during the LEAP-internship program or job examination period.

(5) Termination of the examination appointment during the job examination period.

(b) Article 2, Filing with SPB, shall apply to all appeals filed pursuant to this section. Where the appeal is based upon termination of an examination appointment during the job examination period, the time period by which to file the appeal shall be pursuant to

section 52.4, subdivision (e)(1)(J)(i). For all other appeals under subdivision (a) of this section, the time period by which to file the appeal shall be pursuant to section 52.4, subdivision (e)(2).

(c) Subject to rebuttal by the appellant, it shall be presumed that the appointing power's action was free from fraud and bad faith and that the reason(s) for the action as stated in the written notice to the appellant is true. At the hearing, the appellant shall have the burden of proof to prove that there is no substantial evidence to support the reason(s) for the appointing power's action or that the appointing power's action was made in fraud or bad faith. If after the hearing the Board determines that the appellant satisfied his or her burden of proof as set forth herein, the Board shall take appropriate corrective action, which may include, but is not limited to any or all of the following:

(1) Certifying the appellant as eligible to participate or continue participating in LEAP or in a LEAP-internship program.

(2) Ordering the appointing power to grant the appellant's request for reasonable accommodation.

(3) Reinstating the appellant to the position in which the appellant was serving a job examination period.

(4) Restoring the appellant's name to the LEAP referral list from which the appellant received an examination appointment for the remaining period of his or her list eligibility.

(d) If the Board reinstates an appellant to the position in which the appellant was serving a job examination period, it shall direct the payment of salary to the employee for such period of time as the termination was improperly in effect as prescribed in Government Code Section 19180.

NOTE: Authority cited: Sections 18701 and 19241, Government Code. Reference: Section 19244, Government Code.