



STATE PERSONNEL BOARD

FREQUENTLY ASKED QUESTIONS

CALIFORNIA CODE OF REGULATIONS, TITLE 2, RULE 250

INTRODUCTION

On November 7, 2013, the State Personnel Board (SPB) issued a decision in *Cynthia McReynolds v. California Public Utilities Commission* (Case No. 13-0396N) (*McReynolds*) clarifying that California Code of Regulations (CCR), title 2, section 250 (Rule 250) requires that an employee transferring from one classification to another must meet the minimum qualifications (MQs) of the new classification.

On December 3, 2013, an email from the Department of Human Resources (CalHR) was sent to departments informing them of the *McReynolds* ruling and instructing departments to ensure that all employees transferring to another position without examination meet the MQs of the new position.

A task force was convened to identify the impact of the *McReynolds* decision. This document provides guidance regarding issues identified by the task force. For specific questions, departments should contact their assigned analyst in CalHR's Personnel Management Division at: pmd@calhr.ca.gov.

1 – What is the effective date by which departments must comply with the <i>McReynolds</i> policy?

The effective date that departments must comply with the *McReynolds* interpretation of Rule 250 (hereafter also referred to as the *McReynolds* policy) is December 3, 2013, the date that CalHR sent an email to departments informing them of the Board's decision in *McReynolds*. The Board will apply the *McReynolds* policy to merit issue complaints that are newly filed or currently pending with the SPB Appeals Division. In addition, if an appointment made on or after December 3, 2013, is found by the Appeals Division or by another review or investigatory process to be an illegal appointment based upon the failure of the employee to meet the MQs of the new classification to which he or she is appointed, the appointment may be voided.



However, for purposes of SPB compliance reviews of appointments that are effective between December 3, 2013, and July 1, 2015, a department may avoid a deficiency finding for appointments where the employee does not meet the classification MQs if the department has developed and taken steps to implement a written action plan that identifies classifications negatively impacted by the *McReynolds* policy and sets forth a strategy to minimize the impact of the *McReynolds* policy on employees. For example, the action plan may include strategies to assist employees in meeting educational requirements that will enable them to satisfy the minimum qualifications, revisions to department-specific classes, or training and development assignments for certain employees.

2 – Does the *McReynolds* policy impact transfers pending as of December 3, 2013?

No. Transfers that were in process as of December 3, 2013, will not be impacted by the *McReynolds* interpretation of Rule 250. Therefore, any transfers in process on or before December 3, 2013, may be completed. However, departments should maintain documentation reflecting that the transfer was in process at the time of the decision.

3 – Does the *McReynolds* policy apply retroactively?

No. The *McReynolds* policy applies **prospectively** to transfer appointments made after December 3, 2013. Since appointments made prior to December 3, 2013, were made prior to the *McReynolds* policy, departments are not required to review transfer appointments made prior to December 3, 2013, to determine if the employee meets the MQs of the classification.

4 – What impact will the *McReynolds* policy have on the Staff Services Analyst (SSA) transfer exam?

Concerns have been raised about the validity of the minimum qualification of “six college units” contained in the Staff Services Analyst (SSA) classification specification. CalHR will prioritize its review of the SSA class specification and recommend any appropriate revisions to the Board that will minimize the impact of the *McReynolds* policy on employees’ ability to transfer into the SSA classification. During the review process, Departments may continue to administer and appoint candidates using the SSA transfer exam regardless of whether they meet the MQs of the SSA class.

5 – How does the *McReynolds* policy impact an individual’s reinstatement rights?

An employee's mandatory reinstatement rights are not affected by the *McReynolds* policy. For permissive reinstatements, employees who have passed probation and gained permanent status in a classification are also not affected by the *McReynolds* policy. However, if an employee, prior to leaving his or her classification, did not pass probation and thus did not gain permanent status in the classification, the employee may not permissively reinstate into that classification unless the employee meets the classification MQs at the time of reinstatement.

6 – Does the *McReynolds* policy impact subsequent transfers in the same class?

Yes. Employees who meet the MQs or who have acquired permanent status (i.e. successfully completed probation and thus demonstrated the ability to successfully perform the duties of the classification) will be permitted to transfer to that **same** classification.

7 – Does the *McReynolds* policy impact a department’s ability to demote an employee through adverse action?

Yes. When considering demotion as the penalty in an adverse action, departments can only demote the employee to a classification for which the employee meets the MQs or the employee has previously acquired permanent status in the demotional classification. If the employee does not meet the MQs of the next lowest classification in the class series, the department must pursue another form of penalty (e.g., suspension or pay reduction.)