

FINAL TEXT

**CALIFORNIA CODE OF REGULATIONS
TITLE 2 (Administration)
DIVISION 1 (Administrative Personnel)
CHAPTER 1 (State Personnel Board)
SUBCHAPTER 1.3 (Classifications, Examinations, and Appointments)
ARTICLE 10 (Appointments)**

§ 249.5. ~~Employment Inquiries~~ Employment Contact Letters.

~~(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.~~

(a) Definitions

(1) For purposes of this article, "contact" means communication by telephone, electronic mail, or written employment contact letter delivered by postal mail or other delivery service. Telephone contact means a live conversation with the candidate or a voicemail message left at the telephone number of record. If a voicemail cannot be left, the appointing power shall use another reasonable contact method, such as electronic mail or a written employment contact letter. The applicable response period in subdivision (c) runs from the date and time the live conversation occurs, the voicemail message is left, or the alternate contact is sent.

(2) For purposes of this article, "eligible candidate" means an individual whose name appears on an employment list certified pursuant to Government Code section 19057.1 or 19057.3, including any combined certified list issued under those sections, and who has indicated a willingness to accept appointment under the specified conditions of employment. The term does not include persons whose names appear on State Restriction of Appointment and reemployment lists, unless expressly stated.

(b) Appointing powers shall contact all State Restriction of Appointments (SROA) and reemployment candidates on a certified list unless doing so conflicts with a memorandum of understanding reached pursuant to Government Code section 3517.5. In such cases the memorandum of understanding shall be controlling. Appointing powers may, at their discretion, contact any other eligible candidates on the certified eligible list.

(c) When an appointing power contacts a candidate under subdivision (b), the appointing power shall allow at least the following minimum time to respond. These minimum periods apply to all candidates contacted, including SROA and reemployment candidates:

(1) Telephone: At least two business days after the date and time of the initial contact;

(2) Mail: At least six business days after the date the written notice is sent;

(3) Electronic Communication: At least six business days after the date the electronic notice is sent.

(d) Each contact shall provide candidates with a summary of the job vacancy and explain how to apply. At a minimum, the summary shall include:

(1) The job control number;

(2) The final filing date;

(3) The hiring department's name and mailing address;

(4) The job classification;

(5) The salary range;

(6) The job location;

(7) The tenure and time base of the position; and,

(8) Any additional information as determined by the Department.

(e) The appointing power shall document the method, date, and time of each contact and the candidate's response, if any, and shall maintain these records in accordance with section 26.

(f) Candidates on a certified list are not required to respond to a contact. After the applicable minimum response period expires, the appointing power may proceed with the certification process consistent with section 258.

(g) Appointing powers shall not make requests or statements that can be construed as discouraging candidates from pursuing appointment to a position.

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

§ 254. Appointment Following Certification.

~~For a class in which the certification of eligible is under Government Code section 19057.1 and 19057.3, the appointing power shall fill a vacancy in a class by selection from the highest three eligible certified who are willing to accept employment under the conditions of employment specified. If the appointing power has at the same time more than one vacancy in the same class, the first and every succeeding vacancy shall be filled in like manner by selection in turn from the highest three remaining names.~~

(a) For a class in which the certification of eligibles candidates is under Government Code sections 19057.1, ~~19057.2~~ and 19057.3, the appointing power shall fill a vacancy in a class by selection from the eligibles candidates in the three highest ranks certified who are willing to accept employment under the conditions of employment specified. If the appointing power has at the same time more than one vacancy in the same class,

the first and every succeeding vacancy shall be filled in like manner by selection in turn from the eligibles candidates in the highest three remaining ranks.

(b) The provisions of this rule do not apply if the certification is from a general reemployment list under Government Code Section 19056.5.

Note: Reference: Sections 19056.5, 19057, 19057.1, ~~19057.2~~ and 19057.3, Government Code.

§ 254.2. Three Rank Certification.

(a) The number of names certified to an appointing power to fill vacancies as provided by Government Code Sections 19057.1, ~~19057.2~~ and 19057.3 shall, at the option of the appointing power, be one of the following:

(1) All eligible candidates in the highest three ranks; or

(2) Any specific eligible candidate(s), identified by the appointing power, who is in one of the highest three ranks.

(b) A rank shall be considered "cleared" if all candidates within that rank are determined to be not interested in the job vacancy in accordance with section 258. A cleared rank shall not count as one of the highest three ranks for purposes of certification and selection.

(c) The appointing power shall maintain documentation of the basis for clearing any rank in accordance with section 26.

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

§ 258. Time Periods for Eligible Candidate Replies to Employment Inquiries Following Certification Assessing a Candidate's Interest in a Job Vacancy.

~~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 by which to respond to an employment inquiry:~~

~~(1) Telephone: A minimum of two business 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) 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.~~

(a) A candidate is considered interested in a job vacancy when they file a timely job application in accordance with sections 249.1.2 and 249.1.3.

(b) Any candidate who is deemed not interested in a job vacancy shall not be considered for that vacancy.

(c) A candidate on a certified eligible list is deemed not interested in a job vacancy if they:

(1) Do not apply for a job vacancy;

(2) Are unavailable for or decline a hiring interview;

(3) Withdraw interest at any stage of the hiring process; or,

(4) Decline an offer of employment.

(d) If a candidate is unavailable for employment within 30 calendar days following the date of a formal offer of employment, the appointing power may treat their unavailability as a decline of the job offer. For purposes of this provision, "unavailable" means the candidate is unable or unwilling to begin employment within 30 calendar days following the date of a formal offer of employment, and a later start date cannot reasonably be accommodated consistent with operational needs and applicable law. Before determining unavailability, the appointing power shall consider applicable leave rights and, when a disability or pregnancy-related condition is implicated, engage in the interactive process to evaluate whether a reasonable accommodation, including an adjusted start date within the 30-day period, is feasible.

(e) Candidates certified from any eligible list may decline an unlimited number of hiring interviews or job offers, or withdraw interest at any stage of the hiring process, and shall remain active on the eligible list.

(f) A determination of not interested or a decline under this section applies to the vacancy for which the certification was issued and does not remove the candidate from the eligible list.

(g) When an appointing power elects to contact a candidate, the method-specific minimum response periods and recordkeeping requirements in section 249.5 apply.

(h) Nothing in this section alters the rule of three ranks. Selection must be made from among candidates in the three highest ranks on the certified list, consistent with section 254 and Government Code sections 19057.1 and 19057.3.

(i) A candidate's statement of acceptable conditions of employment and any changes to those conditions are governed by section 261.

(j) Nothing in this section diminishes priority rights for State Restriction of Appointment or reemployment candidates. If the provisions of this section conflict with a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding controls.

Note: Authority cited: Section 18701, Government Code. Reference: Sections 18901, 19050, 19057.1, 19057.3, and 3517.5, Government Code.

§ 260. Failure to Respond~~Failure to Appear for Work.~~

~~When the board, executive officer, or a state agency transmits to an eligible any communication concerning availability for any type of employment requiring an answer, if the eligible's response is not received within the time provided by Section 258, the eligible may not be considered for that vacancy and, in the case of certification, is a waiver of contact.~~

~~Note: Authority cited: Section 18930, Government Code. Reference: Section 18935, Government Code.~~

Notwithstanding section 258, subdivision (f), if a hired candidate fails to appear for work on an agreed upon start date and time without any further agreement, the candidate will be deemed not interested in the job vacancy and will be made inactive on the eligible list for that classification and shall not appear on any certified eligible list for that classification unless and until eligibility is reestablished.

This section addresses a candidate's failure to appear for work after acceptance of a formal offer of employment and does not apply to situations in which an appointing power rescinds a formal offer of employment after acceptance. Rescission after acceptance is governed by California Code of Regulations, title 2, sections 243 through 243.6, and applicable Government Code provisions.

~~Note: Authority cited: Section 18701, Government Code. Reference: Section 18935, Government Code.~~

§ 260.1. Decline a Job Offer or Failure to Appear for Work or Job.

~~In the case of certification, if the eligible declines a job offer, it is considered a waiver of appointment. If the eligible fails to appear for a job interview or work, the eligible's name will be placed on inactive status of the eligible list, and it is considered a waiver of appointment.~~

~~Note: Authority cited: Section 18701, Government Code. Reference: Section 18935, Government Code.~~

§ 261. Conditions of Employment and Waiver of Certification.

~~The executive officer may ascertain from each eligible the salary, tenure, location, and other pertinent conditions of employment under which the eligible will accept appointment. Such statement of acceptable conditions of employment shall constitute an automatic waiver of certification to positions having other conditions of employment. The conditions of employment acceptable to an eligible may at any time be changed ~~at~~ that eligible's candidate's written request; but, in such event, that eligible shall not be entitled to consideration for appointment to any position for which certification has already been forwarded to the appointing power.~~

(a) The Department, or a delegated appointing power, may request and record for each eligible candidate the conditions of employment under which the candidate will accept appointment. Conditions may include tenure, time base, work location, and other pertinent conditions of employment.

(b) A candidate's statement of acceptable conditions limits certification to positions that meet those conditions and constitutes an automatic waiver of certification to positions with different conditions of employment.

(c) A candidate may change acceptable conditions of employment at any time as follows:

(1) For a statewide eligible list, by submitting an electronic or written request to the Department. Electronic submissions shall be made through the Department's designated online system.

(2) For a departmental eligible list, by submitting an electronic or written request to the Department or delegated appointing power that administers the examination and the eligible list.

(d) A change to acceptable conditions is effective when received by the Department, or by a delegated appointing power, and is prospective only. The change does not affect any certification issued before the effective date of the change.

(e) The Department, or a delegated appointing power, shall record the method, date, and time the change is received in the candidate's eligibility record.

Note: Authority cited: Section 18701, Government Code. Reference: Section 19057, Government Code.

§ 261.1. ~~Waiver of Contact.~~

~~(a) If, after being contacted to ascertain interest in a position, and the eligible is not interested, the eligible will not be considered for the vacancy, and, in the case of certification, the eligible is deemed to have waived contact for that certified list. An eligible is considered not interested when any of the following occur:~~

~~(1) Eligible fails to respond to a contact, or fails to respond in accordance with rule 258;~~

~~(2) Eligible responds to a contact as not interested;~~

~~(3) Eligible is either unavailable or declines to interview for a position;~~

~~(4) Eligible withdraws interest in a position at any time during the recruitment process to fill the vacancy.~~

~~Eligibles certified from any open list may decline an unlimited number of employment inquiries and hiring interview offers without penalty of being charged a waiver of appointment.~~

~~Note: Authority cited: Section 18701, Government Code. Reference: Section 18935, Government Code.~~