

**State of California
Office of Administrative Law**

In re:
State Personnel Board

Regulatory Action:

Title 02, California Code of Regulations

Amend sections: 438, 438.1, 442, 548.130

NOTICE OF FILING AND PRINTING ONLY

Government Code Section 11343.8

OAL Matter Number: 2024-0711-01

OAL Matter Type: File and Print Only (FP)

This action by the State Personnel Board amends administrative personnel regulations related to temporary assignments or loans in general, period of time for the temporary assignment or loan, and interjurisdictional employee exchanges for both Career Executive Assignment (CEA) and non-CEA positions. This action is exempt from the Administrative Procedure Act under Government Code section 18211 and is submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations pursuant to Government Code section 18214(d)(2).

OAL filed this regulation(s) with the Secretary of State and will publish the regulation(s) in the California Code of Regulations.

Date: August 22, 2024



Nicole C. Carrillo
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Suzanne Ambrose, Executive
Officer

Copy: Michelle La Grandeur

FILE PRINT

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2024-0416-03	REGULATORY ACTION NUMBER 2024-0711-01FP	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 22 2024
2:02 PM

OFFICE OF ADMIN. LAW
2024 JUL 11 @ 4:59pm

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 Interjurisdictional Exchange		TITLE(S) 2	FIRST SECTION AFFECTED 438	2. REQUESTED PUBLICATION DATE April 26, 2024
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Michelle La Grandeur	TELEPHONE NUMBER 916-651-2740	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Interjurisdictional Exchange		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)		
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		
TITLE(S) 2		AMEND 438, 438.1, 442, 548.130		
3. TYPE OF FILING		REPEAL		
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> 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. <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)				
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> File & Print <input type="checkbox"/> Print Only				
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input checked="" type="checkbox"/> Other (Specify) <u>Gov. Code sec. 18211</u>				
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)				
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d), Cal. Code Regs., title 1, §100)				
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify)				
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY				
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify)				
7. CONTACT PERSON Michelle La Grandeur		TELEPHONE NUMBER 916-651-2740	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) michelle.lagrandeur@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 Suzanne M. Ambrose <small>Digitally signed by Suzanne M. Ambrose Date: 2024.07.10 20:27:37 -0700</small>	DATE
TYPED NAME AND TITLE OF SIGNATORY Suzanne M. Ambrose, Executive Officer	

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

AUG 22 2024

Office of Administrative Law

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 19.1 (Temporary Assignments or Loans)**

§ 438. Temporary Assignments or Loans In General.

(a) The temporary assignment or loan of an employee shall be for any of the following purposes:

(1) Provide training and development through such methods as defined in section 437 or through other types of training and development methods, such as apprenticeship programs.

(2) Enable an agency to obtain expertise needed to meet a compelling program or management need.

(3) Facilitate the return of an injured employee to work.

(b) The temporary assignment or loan of an employee may be within an agency, between agencies, or between jurisdictions. “Between jurisdictions” means situations where an employee is on a temporary assignment or loan to any of the following:

(1) a federal, county, city, local agency, board, commission, department, district or similar non-state governmental entity;

(2) a public college or university; or,

(3) a private college or university.

(c) Any temporary assignment or loan of an employee made for the purpose specified in subdivision (a)(2) shall only be made with the voluntary consent of the employee.

(d) Employees in career executive assignments are excluded from training and development assignments.

(e) Each agency's upward mobility program shall include training and development assignments.

(f) Except for those temporary assignments or loans made to meet a compelling program or management need pursuant to section 440 et seq., the employee may request in writing that their temporary loan or assignment be terminated prior to the anticipated end of the temporary assignment or loan. The employee's request for early termination of the temporary assignment or loan shall be granted within a reasonable time period, not to exceed 10 working days, upon receipt of the employee's request.

NOTE: Authority cited: Sections 18502, 18701 and 19050.8, Government Code.
Reference: Sections 19050.8 and 19401, Government Code.

§ 438.1. Period of Time for the Temporary Assignment or Loan.

(a) The temporary assignment or loan of employees within an agency or between agencies shall be for an aggregate period of not more than 24 months in any 36-month time period.

(1) Normal leave time (e.g., vacation, holidays, and sick leave) shall count toward the 24 months in any 36-month time period.

(2) Employees who work less than full-time time per month (e.g., an employee works 20 hours per week for a total of 80 hours per month) may be in the temporary assignment or loan until they reach the equivalent of working full-time for 24 months in any 36-month time period. For purposes of this rule, 173.33 hours equals one month of full-time work. The equivalent of working full-time for 24 months in any 36-month time period shall be 4,159.92 (173.33 x 24) hours within a 6,239.88 (173.33 x 36) hour time period.

(b) Notwithstanding subdivision (a), temporary assignment(s) within an agency or between agencies may be extended beyond the 24 months in any 36-month time period for up to an additional 24 months beyond the 36-month timeframe where additional time is required to complete an apprenticeship program. Approval of the extension by the Executive Officer is required before the apprenticeship program begins.

(c) The temporary assignment or loan of employees between jurisdictions shall be for an aggregate period not to exceed four years or 48 months. The four-year or 48-month time period may only be exceeded when the specified criteria in Government Code section 19050.8 have been met. ~~“Between jurisdictions” means situations where an employee is on a temporary assignment or loan to a federal, county, city, or local agency, board, commission, department, district or similar non-state governmental entity.~~

(d) If an appointing power approves an employee on a temporary assignment or loan to take a leave of absence for more than 20 continuous working days, the employee shall be reinstated to their former position upon returning to work, unless the appointing power determines that it is in the best interests of the state to allow the employee to continue their assignment or loan. No later than 10-working days after the approval to take a leave of absence, the appointing power shall inform the employee in writing of whether the employee will be reinstated to their former position or continue in the assignment or loan. Where the former position is with a different appointing power, that appointing power shall also be informed in writing of the decision within the 10-working day timeframe set forth herein.

(e) Consecutive temporary assignments as defined in section 437, subdivision (h), are prohibited.

(f) With the exception of training and development assignments, employees shall have no right of appeal to the Board or the Executive Officer concerning any temporary assignment or loan, including whether the employee was or was not selected for a temporary assignment or loan, or whether the temporary assignment or loan was terminated prior to the anticipated end of the temporary assignment or loan.

NOTE: Authority cited: Sections 18502, 18701 and 19050.8, Government Code.
Reference: Sections 18500 and 19050.8, Government Code.

§ 442. Interjurisdictional Employee Exchange.

(a) An appointing power may with the concurrence of the employee assign or loan him-
~~or her~~them to a different jurisdiction or receive an employee from a different
jurisdiction, provided that the following conditions are satisfied:

(1) The assignment or loan benefits the state and is for the purpose of training and
development or compelling management needs. The provisions of Article 19.1 related to
training and development and compelling management needs shall apply.

(2) The other jurisdiction, regardless of whether it is in or outside of California, is:

(A) A public entity at the federal, state, local, or international level, including public
colleges and universities, and public entities in other countries; or

(B) A private college or university.

(3) The exchange will not result in a layoff of employees with permanent or probationary
civil service status.

(4) Both the appointing power and other jurisdiction approve and maintain a written
document that complies with Section 438.4.

(5) Any authorizations that are necessary for funds or travel are obtained from the
Departments of Finance, Department of General Services, or other appropriate
authority. The authorization(s) shall be maintained in accordance with Section 26.

(6) Eligibility for an interjurisdictional employee exchange requires that the employee
have permanent status in ~~his or her~~their current classification.

(b) Employees from other jurisdictions who work for the state in an interjurisdictional
employee exchange gain no status in state civil service.

(c) For the purposes of state civil service laws and regulations, an employee assigned
or loaned in an interjurisdictional employee exchange shall be considered an employee
of the appointing power from which loaned or assigned, except the employee's work
and activities shall be subject to the direction and control of the jurisdiction to which ~~he-
or she~~they isare assigned or loaned.

(d) The employee's salary and benefits may be paid in any proper manner agreed upon
by the employee's current appointing power and other jurisdiction.

(e) The termination of the assignment or loan shall be in accordance with Section
~~4308~~.5.

NOTE: Authority cited: Sections 18502, 18701 and 19050.8, Government Code.
Reference: Section 19050.8, Government Code.

CALIFORNIA CODE OF REGULATIONS
TITLE 2 (Administration)
DIVISION 1 (Administrative Personnel)
CHAPTER 1 (State Personnel Board)
SUBCHAPTER 2 (Career Executive Assignment Rules)
ARTICLE 14 (Interjurisdictional Exchange)

§ 548.130. Interjurisdictional Exchange.

Participation of career executives in interjurisdictional employee exchange assignments shall be subject to the provisions of California Code of Regulations, title 2, §section 427442.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 18546, 18547, 19050.3 and 19050.8, Government Code.