

MEMORANDUM

DATE: July 1, 2026

TO: **ALL INTERESTED PARTIES**

FROM: /s/ JOSEPH RUGGIERO
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Division

**SUBJECT: WAIVER OF APPOINTMENT REGULATORY ACTION EFFECTIVE
JULY 1, 2026**

On June 28, 2024, the State Personnel Board (SPB) announced proposed changes to regulations¹ pertaining to the waiver of appointment process. A public hearing was held on August 13, 2024, and interested parties were invited to submit written comments. Public comment resulted in further revisions to the proposed text. The final regulations were submitted to the Office of Administrative Law in March 2026 and became effective on July 1, 2026.

The final regulations are posted on [SPB's website](#). For convenience, this memorandum summarizes the substantive changes and provides implementation guidance for departmental human resources offices.

These amendments reorganize the waiver of appointment rules around a clearer and more practical framework. Under the amended rules, departments should focus on whether a candidate has established interest in a specific vacancy, whether a rank has been cleared for purposes of three-rank certification, whether State Restriction of Appointment (SROA) and reemployment candidates have been contacted and considered as required, and whether the candidate remains active on the eligible list. The amendments are intended to improve consistency and efficiency while preserving the merit principle, the rule of three ranks, and priority rights for SROA and reemployment candidates.

Questions involving CalCareers or Examination and Certification Online System (ECOS)

¹ All regulations referred to in this notification pertain to California Code of Regulations, Title 2. Specific sections will be referred to as "Rule".

functionality, State Controller's Office (SCO) coding, certification system transactions, list processing, or related implementation issues should continue to be directed to CalHR or the appropriate control agency.

Summary of Regulatory Changes

Rule 249.5. Employment Contact Letters.

Rule 249.5 has been rewritten to clarify when and how departments contact candidates about job vacancies.

The rule defines "contact" to include communication by telephone, electronic mail, or written employment contact letter delivered by postal mail or other delivery service. For telephone contact, the rule recognizes both live conversations and voicemail messages. If a voicemail cannot be left, the department must use another reasonable contact method, such as email or written notice.

The most important operational clarification is the distinction between candidates who must be contacted and candidates who may be contacted. Departments must contact all State Restriction of Appointments (SROA) and reemployment candidates on a certified list unless that conflicts with a memorandum of understanding (MOU) reached pursuant to Government Code section 3517.5. In that situation, the MOU controls.

For general list candidates, the amendments do not require departments to send contact letters before clearing a rank where no one applies for the vacancy. This is a substantive operational change from the prior waiver framework. Under the amended rules, general list candidates establish interest by filing a timely job application in accordance with the job announcement and applicable application rules. If candidates in a rank do not apply for the vacancy, the department may determine that those candidates are not interested in that vacancy under Rule 258. A separate contact letter is not required solely to establish that lack of interest.

That said, departments may still use contact letters or other contacts as a recruitment tool. Nothing in the amendments prevents departments from contacting general list candidates to broaden the applicant pool, increase awareness of a vacancy, recruit for hard-to-fill positions, or encourage applications from reachable candidates. If a department elects to contact candidates, it must follow the response periods and documentation requirements in Rule 249.5.

The amendments also clarify that candidates on a certified list are not required to respond

to a contact. If a department elects to contact candidates, the department must allow the applicable minimum response period established by the rule. Once that response period expires, the department may proceed with the certification process consistent with Rule 258. A candidate's failure to respond to a contact does not, by itself, create an obligation for the department to delay certification processing beyond the required response period.

When a department contacts candidates, each contact must provide a summary of the job vacancy and explain how to apply. At a minimum, the summary must include the job control number, final filing date, hiring department's name and mailing address, job classification, salary range, job location, tenure and time base of the position, and any additional information as determined by the Department.

Departments must document the method, date, and time of each contact and the candidate's response, if any. Those records must be retained consistent with Rule 26.

Departments should also continue to avoid any contact language that could discourage candidates from pursuing appointment. The amended rule retains the prohibition against requests or statements that could be construed as discouraging a candidate from applying or pursuing appointment to a position.

Rule 254. Appointment Following Certification.

Rule 254 has been amended to align the appointment rule with the statutory rule of three ranks in Government Code sections 19057.1 and 19057.3. When certification is made under those statutes, the department fills a vacancy by selecting from the eligible candidates in the three highest ranks certified who are willing to accept employment under the specified conditions of employment. If the department has more than one vacancy in the same class at the same time, each vacancy is filled in the same manner by selection in turn from the eligible candidates in the highest three remaining ranks.

The amendments also clean up statutory references. The rule no longer refers to Government Code section 19057.2 because that section does not govern certification procedures. The rule also clarifies that Rule 254 does not apply when the certification is from a general reemployment list under Government Code section 19056.5.

Rule 254.2. Three Rank Certification.

Rule 254.2 now explains how ranks are cleared for purposes of three-rank certification. A rank is considered "cleared" when all candidates in that rank are determined to be not interested in the job vacancy under Rule 258.

Once cleared, that rank does not count as one of the highest three ranks for certification and selection. When a rank is cleared, the next rank becomes reachable under the standard three-rank certification process. The amendment does not expand the number of reachable ranks and does not reduce the rule of three ranks. It simply clarifies which ranks count when one or more higher ranks have been cleared.

For example, if no general list candidates in Rank 1 apply for the vacancy, Rank 1 may be cleared under Rules 254.2 and 258. Once Rank 1 is cleared, the next rank becomes reachable under the standard three-rank process. A department does not need to send contact letters to general list candidates before clearing a rank where the candidates do not apply.

SROA and reemployment rights remain different. The rank-clearing provisions do not diminish SROA or reemployment priority rights. Departments must continue to contact and consider SROA and reemployment candidates consistent with applicable law, rule, and any controlling MOU. Rank clearing does not authorize departments to bypass priority candidates.

Certification also remains a point-in-time snapshot. Once a certification is issued, it reflects the candidates and ranks on that certification at that time. A later examination result does not retroactively alter the certified list or invalidate rank-clearing determinations properly made based on the certification as issued. A candidate may still be written in when permitted under existing certification procedures, but the amendments do not change the point-in-time nature of certification.

Rule 258. Assessing a Candidate's Interest in a Job Vacancy.

Rule 258 is now the central rule for determining whether a candidate is interested or not interested in a specific job vacancy.

The rule provides that a candidate is interested in a job vacancy when the candidate files a timely job application in accordance with Rules 249.1.2 and 249.1.3. This is an important shift from the older waiver-of-contact structure. The focus is no longer on treating every lack of response or declined opportunity as a waiver in the abstract. The focus is now on whether the candidate established interest in the particular vacancy.

Rule 249.1.2, subdivision (b), requires that all applications and any other required documentation must be filed at the place, within the time, in the manner, and on the form or forms specified in the job announcement. It also provides that an application failing to satisfy those conditions shall not be accepted. As a practical matter, a candidate

establishes interest in a vacancy only by filing an application that satisfies the requirements stated in the job announcement and applicable rules

This matters for incomplete applications. Rule 249.1.2 draws a distinction between required application materials that are used to assess an applicant's qualifications or suitability for the vacancy and non-job-related materials that are not. The focus should remain on the application requirements identified in the job announcement. Departments may require job-related materials, such as a Statement of Qualifications, supplemental questionnaire, writing sample, or other document used to evaluate qualifications or suitability for the vacancy. If the job announcement clearly requires a job-related application component and the candidate does not timely submit that component in the required manner, the candidate has not properly applied for the vacancy as announced.

Nothing in this guidance prevents a hiring authority from contacting timely applicants to obtain missing documentation, provided all similarly situated candidates are treated the same and the department's action is consistent with the job announcement, applicable rules, and merit principles. Departments should apply this discretion consistently and document the basis for accepting any later-submitted materials.

By contrast, departments should not reject an application or treat an applicant as not interested for failing to submit non-job-related materials that are not used to assess qualifications or suitability for the vacancy, such as checklists or incidental recruitment surveys.

This should not be treated as a bypass of a candidate who properly competed. The point is narrower. A candidate who fails to submit a clearly required, job-related application component has not properly established interest in the vacancy. This discussion is limited to application requirements for the vacancy and should not be confused with qualification or certification issues that may be evaluated at a different stage of the hiring process. If the issue is whether the candidate meets MQs, holds a required credential, or is otherwise eligible for appointment, the department should use the applicable qualification, certification, or withhold process. Accordingly, a certification may be cleared when all candidates in a rank fail to apply or fail to submit the required application materials identified in the job announcement.

Rule 258 also identifies other circumstances in which a candidate may be deemed not interested in a job vacancy. A candidate on a certified eligible list is deemed not interested if the candidate does not apply for the vacancy, is unavailable for or declines a hiring

interview, withdraws interest at any stage of the hiring process, or declines an offer of employment.

The rule also retains and clarifies the 30-day availability concept. If a candidate is unavailable to begin employment within 30 calendar days following the date of a formal offer of employment, the department may treat that unavailability as a decline of the job offer. For this purpose, “unavailable” means the candidate is unable or unwilling to begin employment within 30 calendar days following the date of the formal offer, and a later start date cannot reasonably be accommodated consistent with operational needs and applicable law.

Before treating unavailability as a decline, departments must consider applicable leave rights. If a disability or pregnancy-related condition is implicated, the department must engage in the interactive process to evaluate whether a reasonable accommodation, including an adjusted start date within the 30-day period, is feasible.

A not-interested determination under Rule 258 applies only to the vacancy for which the certification was issued. It does not remove the candidate from the eligible list and does not affect the candidate’s ability to be certified for future vacancies. 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 remain active on the eligible list.

Rule 260. Failure to Appear for Work.

Rule 260 has been rewritten to address a narrow but important situation: a hired candidate accepts a formal offer of employment but fails to report to work on the agreed-upon start date and time without further agreement.

In that circumstance, notwithstanding Rule 258, subdivision (f), the candidate is deemed not interested in the job vacancy and will be made inactive on the eligible list for that classification. The candidate shall not appear on any certified eligible list for that classification unless and until eligibility is reestablished.

This is different from an ordinary not-interested determination under Rule 258. Under Rule 258, a candidate who does not apply, declines an interview, withdraws interest, or declines an offer remains active on the eligible list. Under Rule 260, the candidate has accepted the offer, an agreed-upon start date has been set, and the candidate then fails to report to work without further agreement. The rule treats that post-acceptance no-show differently because the hiring process has moved beyond ordinary candidate interest.

Departments should not apply Rule 260 mechanically. Before making a candidate inactive under Rule 260, the department should confirm and document that there was a formal offer of employment, the candidate accepted the offer, an agreed-upon start date and time existed, the candidate failed to appear, and there was no further agreement modifying the start date or excusing the failure to appear. Departments should also review any communication from the candidate and consider whether there was a misunderstanding, emergency, accommodation issue, leave issue, or other circumstance that should be evaluated before applying the rule.

Rule 260 does not apply when a department rescinds a formal offer of employment after acceptance.

Limited Examination and Appointment Program (LEAP) candidates should be evaluated under the same policy standard for failure to appear, but departments should coordinate with CalHR on the correct transaction, coding, and list-processing steps because LEAP appointments may be processed differently. Departments should also distinguish a pre-start no-show from a termination during the LEAP Job Examination Period. A candidate who never reports after accepting an offer presents a Rule 260 failure-to-appear issue. A LEAP candidate who begins the Job Examination Period (JEP) and is later separated raises different procedural and appeal considerations.

Rule 260.1. Decline a Job Offer or Failure to Appear for Work or Job Interview. (Repealed)

Rule 260.1 has been repealed because its concepts have been reorganized into the revised framework. Declining a job offer, being unavailable for or declining an interview, withdrawing interest, and failing to apply are now addressed in Rule 258 as vacancy-specific not-interested determinations. Failure to appear for work after accepting a formal offer is now addressed separately in Rule 260.

Rule 261. Conditions of Employment and Waiver of Certification.

Rule 261 has been rewritten to clarify how acceptable conditions of employment are recorded and changed.

The rule authorizes the Department (the California Department of Human Resources (CalHR)), or a delegated appointing power, to request and record the conditions under which an eligible candidate will accept appointment. Conditions may include tenure, time base, work location, and other pertinent conditions of employment.

A candidate's statement of acceptable conditions limits certification to positions that meet those conditions. It also constitutes an automatic waiver of certification to positions with different conditions of employment. This is a waiver of certification, not a waiver of appointment. In other words, the candidate is not being penalized for declining a job. The candidate's stated conditions determine the positions for which the candidate is willing to be certified.

Candidates may change acceptable conditions of employment at any time. A change to acceptable conditions is effective when received by the Department or delegated appointing power and is prospective only. The change does not affect any certification issued before the effective date of the change. The Department or delegated appointing power must record the method, date, and time the change is received in the candidate's eligibility record.

Rule 261 should not be read as a mechanism to reactivate eligibility that has been made inactive under Rule 260. Changing acceptable conditions affects future certifications based on the candidate's stated conditions of employment. It does not restore eligibility after a candidate has been made inactive under Rule 260.

Rule 261.1. Waiver of Contact. (Repealed)

Rule 261.1 has been repealed because its provisions are now addressed in Rule 258. The repeal reflects the broader shift away from the older waiver-of-contact structure and toward a clearer interested/not-interested framework.

Practical Implementation Guidance

Departments should review and update internal procedures, templates, and training materials to reflect the following principles.

1. Candidate interest is determined vacancy by vacancy. A candidate who does not apply, does not submit required application materials, declines or is unavailable for an interview, withdraws interest, or declines an offer may be deemed not interested in that vacancy. Except for a Rule 260 failure-to-appear situation, that determination does not remove the candidate from the eligible list.
2. Rank clearing for general list candidates who fail to apply does not require prior contact. A rank is cleared when all candidates in that rank are determined to be not interested in the job vacancy under Rule 258. Once cleared, that rank does not count as one of the highest three ranks for certification and selection, and the next

rank becomes reachable under the standard three-rank process.

3. SROA and reemployment candidates remain protected by their own priority rules. The amendments do not diminish those rights and do not authorize departments to bypass priority candidates. Departments must continue to contact and consider SROA and reemployment candidates consistent with applicable law, rule, and any controlling MOU.
4. Contact letters remain available as a recruitment tool for general list candidates. If a department elects to contact candidates, it must provide the required vacancy information, allow the applicable response period, avoid discouraging language, and document the method, date, time, and response, if any.
5. Job announcements should clearly identify all required application materials. Departments should distinguish between job-related materials used to assess qualifications or suitability for the vacancy and non-job-related materials, such as checklists or incidental recruitment surveys. Nothing prevents a hiring authority from contacting timely applicants to obtain missing documentation, provided all similarly situated candidates are treated the same and the department's action is consistent with the job announcement, applicable rules, and merit principles.
6. Qualification, certification, credential, and eligibility issues should not be converted into not-interested determinations. If the issue is whether the candidate meets MQs, holds a required credential, or is otherwise eligible for appointment, the department should use the applicable qualification, certification, or withhold process.
7. Certifications are fixed when issued. Later examination results do not retroactively change an existing certification, unless the certification is modified through an authorized write-in or other established process.
8. Rule 260 should be reserved for true failure-to-appear situations after a formal offer has been accepted and a start date has been agreed upon. Departments should document the offer, acceptance, agreed-upon start date, failure to appear, and absence of any further agreement before making a candidate inactive. Departments should also consider whether a misunderstanding, emergency, accommodation issue, leave issue, or other circumstance should be evaluated before applying the rule.
9. LEAP candidates should be evaluated under the same policy standard for failure to appear, but departments should consult CalHR on transaction, coding, and list-processing questions because LEAP transactions may differ from regular

appointments. Departments should also distinguish a pre-start no-show from a termination during the LEAP JEP.

10. Changes to acceptable conditions of employment are prospective only. They do not change certifications already issued and do not reactivate eligibility made inactive under Rule 260. Departments should route condition-change requests to the proper list owner and ensure that the method, date, and time of receipt are recorded.
11. Departments should retain documentation supporting contact, rank clearing, candidate interest determinations, acceptance of later-submitted materials, and Rule 260 inactivation decisions consistent with Rule 26.

The Board's amendments are intended to clarify and streamline the certification and waiver process, not to change the core merit principles governing appointment. Departments should apply the revised rules consistently, document their decisions, and seek guidance from CalHR or the appropriate control agency when policy, processing, or system questions arise.

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