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CCR Sect. 151. Eligibility After Appointment.

When an eligible receives a limited term appointment, that eligible's name shall be continued on the employment list for permanent certification. When an eligible receives a permanent appointment, that eligible's name shall be removed from the employment list.

CCR Sect. 151.3. Restoration of Name for Limited-Term Certification.

Upon the recommendation of an appointing power and with the approval of the executive officer, the name of an employee who has served satisfactorily under limited-term appointment and who resigns may be restored to the employment list for further limited-term certification.

CCR Sect. 151.5. Limited Term Eligible Lists.

When the needs of the service require, the executive officer may hold examinations and establish eligible lists therefrom for use exclusively in making limited term appointments. No person shall be given a permanent appointment nor gain permanent status by appointment from such a limited term eligible list.

CCR Sect. 152. Preferred Limited Term List.

A preferred limited term list may be established for any class, containing the names of limited term employees who have served satisfactorily in positions recurring seasonally in a given state agency and who have been recommended by the appointing power for inclusion on such list. Such preferred limited term list shall be established to correspond to the same geographical, organizational, or functional subdivisions of state agencies as may be observed in establishing the departmental reemployment lists for the same class. Names shall be included on the preferred limited term list in the relative order of the original examination ratings of the eligibles. In filling limited term vacancies in a given state agency, the preferred limited term list for that agency shall be given preference over the eligible list but not over any other employment list. The name of any eligible included on the preferred limited term list may be continued on such list after the abolishment of the eligible list from which the eligible was originally certified; but under no circumstances and at no time shall any person be certified from the preferred limited term list to a permanent position or be permitted to acquire permanent status as a result of certification and appointment from any such list.

CCR Sect. 153. Inactive Status.

If a person's name is placed on inactive status at that person's request, it may, upon that person's written request and in the discretion of the executive officer, be restored to active status on the list. If a person's name is placed on inactive status without that person's request, it will be restored to active status only if the board or the executive officer finds that there is good cause therefor. In any case, the person's name may be re stored to active status only if the employment list on which the person has inactive status is still in existence; and the name shall be restored to active status according to the person's earned rating in the examination or combined score for efficiency and seniority, when restored to a reemployment list in a class designated as professional, scientific, administrative, management or executive, as the case may be.

CCR Sect. 154. Transfer of Promotional List Eligibility.

Employees with promotional list eligibility who move from one agency or subdivision to another agency or subdivision without a break in service may transfer such promotional list eligibility to the appropriate promotional list of the new agency or subdivision if such list was established as a result of an examination for the same subject matter and with the same education and experience admittance requirements.

An employee who reenters State service in a new agency or subdivision within 6 months after a resignation and who, had he/she returned to the former agency or subdivision, would have been eligible for certification from a promotional list under (the) provisions of Section 240, may apply to have eligibility transferred to the appropriate list or lists of the new agency or subdivision under the provisions of this rule.

Eligibility shall be transferred upon receipt of the written request of the employee with the concurrence of the employee's new appointing power and the employee's name shall then be placed on the appropriate promotional list or lists in accordance with the score received in the examination.

When the movement of an employee is the result of the transfer of a function or the administration of a law from one State agency to another State agency, the above restrictions are not applicable.

CCR Sect. 172. General Qualifications.

All candidates for, appointees to, and employees in the state civil service shall possess the general qualifications of integrity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume the responsibilities and to conform to the conditions of work characteristic of the employment, and a state of health, consistent with the ability to perform the assigned duties of the class. Where the position requires the driving of an automobile, the employee must have a valid state driver's license, a good driving record and is expected to drive the car safely. The foregoing general qualifications shall be deemed to be a part of the personal characteristics of the minimum qualifications of each class specification and need not be specifically set forth therein. The board may prescribe alternative or additional qualifications for individual classes and such shall be made a part of the class specifications.

CCR Sect. 172.1. Waiver of Additional Special Personal Characteristics.

An alternative or additional special personal characteristic stated in the specification for an individual class may, upon the recommendation of the State Medical Officer, be waived for a "subject to proper placement" eligible for a specific position within the class wherein such waiver would not affect the satisfactory performance of the duties assigned to the specific position. Incumbents with "subject to proper placement" status may not transfer to another position within the class without a reevaluation of the incumbent's medical capabilities in relation to the new position. (Persons who are "subject to proper placement" have completed the medical examination; however, they have certain medical conditions that may hazardously conflict with the job duties or the performance required of most, but not all, positions within the classification.)

CCR Sect. 172.2. Citizenship. [Repealed]

CCR Sect. 172.3. Medical Examinations During Employment.

In accordance with Government Code Section 19253.5, the appointing power may require an employee to submit to a medical examination.

CCR Sect. 172.4. Definition of Psychological Screening.

Psychological screening is the mandatory pre-employment assessment of the psychological fitness of candidates for appointment as peace officers including peace officers in either a youth or adult correctional facility.

CCR Sect. 172.5. Definition of Qualified Professional.

A qualified professional shall meet the criteria set forth in Government Code Section 1031, subdivision (f).

CCR Sect. 172.6. Responsibility for Psychological Screening.

The Board shall psychologically screen candidates for peace officer classifications, unless the Board delegates to an appointing power the authority to conduct psychological screenings in accordance with this regulation. No appointing power shall conduct any psychological screenings without prior Board authorization, except as otherwise authorized by law. Any request for authorization must be submitted in writing to the Board. An appointing power authorized by the Board to conduct psychological screening shall do so in accordance with the procedures defined in Sections 172.7, 172.8, 172.9, 172.10, and 172.11.

CCR Sect. 172.7. Standards and Procedures for Psychological Screening.

The standards and procedures for conducting psychological screening shall be as follows:

- (a) **Minimum Psychological Standards.** In order to be certified as a peace officer, a candidate must be found to be free from any job relevant psychological, emotional or mental traits, characteristics, or conditions that might adversely affect the performance of the duties and powers of a peace officer.
- (b) **Psychological Tests.** Each candidate shall take a minimum of two written psychological tests (inventories) consistent with the requirements of the Commission on Peace Officer Standards and Training (POST).
- (c) **Evaluation Interview.** Each candidate shall have a face-to-face evaluation interview conducted by a qualified professional as defined in Section 172.5 and selected by the Board's Chief Psychologist. With respect to each candidate, the interviewing qualified professional shall have prior access to all psychological screening tests and questionnaire data, summaries of available prior screening reports, summaries of available prior mental health evaluation/treatment records and salient medical records, and a summary of the appointing power's background investigation report.
- (d) **Report of Findings.** The interviewing qualified professional shall submit to the Board's Chief Psychologist a recommendation as to whether the candidate meets the minimum psychological standards for appointment as a peace officer, together with a detailed report of findings and opinions that explain and support the recommended decision.

(e) Screening Determination. The Board's Chief Psychologist shall determine whether candidates should be certified as meeting the psychological standards for appointment as peace officers, subject to the right of appeal to the Board. In determining whether a candidate meets the psychological standards for appointment as a peace officer, the Board's Chief Psychologist shall consider the qualified professional's report of findings, written psychological test data, and substantiating behavioral evidence derived from one or more of the following sources: prior evaluation and/or treatment records; background investigation or other information collected by the appointing power or the Board; the candidate's self-report of personal history; and behavior manifested in the evaluation interview.

CCR Sect. 172.8. Psychological Screening Withhold from Certification.

The Board shall withhold or withdraw from certification, prior to appointment, any candidate who does not meet the minimum psychological standards as defined in Section 172.7(a).

CCR Sect. 172.9. Dispute Resolution.

Candidates disqualified in the psychological screening process may dispute the decision utilizing the following Dispute Resolution Process.

(a) Prior to a final determination by the Board to withhold a candidate from certification based upon the Chief Psychologist's decision to accept the Report of Findings disqualifying the candidate from consideration, the Psychological Screening Program shall mail to the candidate:

(1) A letter of disqualification with instructions for disputing the decision, including information relative to obtaining an evaluation from one outside qualified professional; and

(2) A release form to be signed by:

(A) The candidate authorizing the Board to release the candidate's psychological screening records to the candidate's outside qualified professional; and

(B) The outside qualified professional certifying that licensure requirements are met pursuant to section 172.5.

(3) Failure to return the authorization signed by the candidate within 10 working days prior to the conclusion of the 90 day time frame in subdivision (b) shall result in the closing of the Dispute Resolution Process and a final determination that the candidate will be withheld from certification in meeting the minimum psychological standards for appointment as a peace officer.

(b) Within 90 calendar days of the date of disqualification, the outside qualified professional shall submit a signed written report stating an opinion as to whether the candidate meets the minimum psychological standards for appointment as a peace officer as provided in section 172.7, together with the documentation of findings that explain and support that opinion.

(c) The candidate's dispute shall be closed if the outside qualified professional fails to submit a report within the 90 day timeframe, or where the outside qualified professional submits a negative report not recommending that the candidate meets the minimum psychological standards for appointment as a peace officer.

(d) The 90 day period for the outside qualified professional to submit a report may be extended based upon a showing of good cause.

(e) Upon timely receipt of a positive report from the outside qualified professional recommending that the candidate meets the minimum psychological standards for appointment as a peace officer, the candidate's dispute shall be scheduled for review by the Chief Psychologist who will render one of the following decisions:

(1) Where the Chief Psychologist reverses the disqualification following the review, the candidate will be certified as meeting the minimum psychological standards for appointment as a peace officer, and the dispute will be closed; or

(2) Where the Chief Psychologist does not reverse the disqualification following the review, the decision of the Chief Psychologist as the Board's designee, to withhold certification of the candidate remains final unless and until an appeal is filed by the candidate pursuant to section 172.10.

CCR Sect. 172.10. Appeal of Psychological Screening Withhold.

Candidates who have obtained a positive report from an outside qualified professional, but who are withheld from certification by the Board's designee, may file a written appeal with the Appeals Division. Any such appeal shall be filed within 30 days after the candidate is notified that he or she has been withheld from certification.

(a) Upon timely receipt of the appeal, an informal hearing shall be scheduled as provided in section 54.1.

CCR Sect. 172.11. Retention of Psychological Screening Records.

The Board shall retain all psychological screening testing materials, written reports and related records for a minimum of five years. These records shall be the exclusive property of the Board. Confidentiality of these materials and related information shall be maintained consistent with laws governing the collection, maintenance, and release of medical and psychological information, including but not limited to the Information Practices Act of 1977 (Title 1.8 of Division Third, Part 4 of the Civil Code, commencing with Section 1798) and the Confidentiality of Medical Information Act (Part 2.6 of Division First of the Civil Code, commencing with Section 56).

CCR Sect. 172.12. Retention of Psychological Screening Testing Materials. [Renumbered]

CCR Sect. 250. Requirement That Selection Be Based on Merit and Fitness.

(a) Appointments to positions in the State civil service made from eligible lists in a manner consistent with provisions of Sections 254, 254.1, and 254.2 as related to the certification of eligibles, by way of transfer, as defined in Government Code Section 18525.3, or by way of reinstatement, as defined in Government Code Section 19140, shall be made on the basis of merit and fitness, defined exclusively as the consideration of each individual's job-related qualifications for a position, including his/her knowledge, skills, abilities, experience, education, training, physical and mental fitness, and any other personal characteristics relative to job requirements, as determined by candidate performance in selection procedures, including, but not limited to,

hiring interviews, reference checks, background checks, and/or any other procedures, which assess job-related qualifications and are designed and administered to select those individuals who best meet the selection need.

(b) Eligible lists shall be created on the basis of merit and fitness, and, as such, shall result from: recruitment strategies designed to be as broad and inclusive as necessary to best meet the selection need; and candidate performance in selection procedures that assess job-related qualifications, are competitive in nature, are designed and administered to fairly and objectively identify those candidates who meet the selection need, and result in the ranking of candidates based on their job-related qualifications.

(c) Permanent status in permanent appointments to the civil service is achieved after completion of the required probationary period, the final phase of the selection process. Assessment of employee performance during the probationary period shall be made on the basis of merit and fitness, with regard to the individual's qualifications, including his/her knowledge, skills, abilities, experience, education, training, physical and mental fitness, and any other personal characteristics relative to job requirements, and his/her job-related performance.

(d) All phases of the selection process, including recruitment and examining, eligible list creation, appointment, and completion of the civil service probationary period, shall provide for the fair and equitable treatment of applicants and employees on an equal opportunity basis without regard to political affiliation, race, color, ancestry, national origin, sex, sexual orientation, religion, disability, medical condition, age, or marital status.

(e) Nothing herein shall be construed to relieve appointing powers from the obligation to reasonably accommodate individuals with disabilities as required under the Americans with Disabilities Act, the Fair Employment and Housing Act, and the Civil Service Act.

(f) Nothing herein shall be construed so as to contravene the intent and purpose of Article VII, Section 6, of the California Constitution, which provides for the granting of preferences in state civil service to veterans and their surviving spouses.

(g) Intra-departmental job assignment transfers within the same job classification, such as assignments to different work shifts or work locations, or time base changes pursuant to Section 277 do not constitute appointments for purposes of this regulation.

CCR Sect. 250.1. Skills-Based Certification.

(a) Notwithstanding Section 250(a) and (b) as they pertain to eligible lists, appointments to positions in the State civil service for information technology classifications may utilize skills-based certification, as defined by Government Code section 18900.6(a). All such appointments shall be made on the basis of merit and fitness pursuant to all other provisions of Section 250.

(b) Examinations may be administered on an open basis, promotional basis, or open non-promotional basis.

(c) Selection procedures shall be competitive in nature, and designed and administered to fairly and objectively identify those candidates who meet the selection need for the position, and result in the certified ranking of candidates based on their job-related qualifications.

(d) Individuals who are successful in examinations for these classes shall be assigned a score relative to their job-related qualifications and placed in a pool for the respective class and skills set(s) tested for. For purposes of scoring, raw scores will be assigned.

(e) Whenever a vacancy is to be filled, the appointing power shall prepare a detailed statement of the duties and requirements of the position, which shall be maintained by the appointing power for audit purposes by the SPB. Such statement of duties and requirements of the position shall constitute the justification for creating a skills-based certification list for the position.

(f) Traditional eligible lists will not be created as a result of testing. Skills-based certification lists shall be created on a position-by-position basis, and shall replace the traditional eligible lists. A skills-based certification list shall be created by weighting the final score(s) of eligible competitors attained in the core examination, if applicable, and functional skills set(s). No more than four (4) skills sets, equaling a combined total of 100%, may be used when creating a certification list. A core examination component, if utilized in the testing process, may be used for purposes of creating a skills-based certification list. Its weighting shall be determined by a job analysis. Eligibles will be ranked on the certification list according to their test scores and the percentage weightings utilized to create the certification list. For example, a skills-based certification list created utilizing two functional skills-sets, each weighted 50%, would yield a list of only those eligibles who successfully passed the test for each of the skills-sets and ranked in descending order based on their respective weight and functional skill set test scores.

(g) If it is found that the statement of duties and requirements of the position is inconsistent with the skills-sets utilized to create the certification list, the appointment shall be deemed illegal and voided.

(h) Hiring departments shall utilize a job-related structured interview process for purposes of conducting hiring interviews, and shall verify minimum qualifications and perform reference checks for all prospective hires. In order to ensure that the hiring process is fair and competitive, the hiring interviews shall use a job-related structured interview process that shall conform to the following minimum standards: (1) relevant criteria shall be developed for determining which candidates shall be selected to interview; (2) a series of job-related questions shall be developed to assess the fitness and qualifications of each candidate to perform the duties of the position in question; (3) valid criteria shall be developed for scoring the candidates' responses to the interview questions; and (4) each candidate shall be required to respond to the same interview questions. The appointing authority shall also develop a summary of the hiring process which shall include a discussion of the job-relatedness and structure of the interview process.

CCR Sect. 251. Request for Certification.

Whenever a vacancy is to be filled under Section 19052 of the act, the appointing power shall make written request for certification unless otherwise prescribed by the executive officer. Such request shall contain the statements required by the act and shall include a statement of the salary, tenure, and location of the position. Certification shall be made by the executive officer.

CCR Sect. 252. To Fill New Positions.

Whenever a new position is created, the appointing power shall notify the executive officer of the proposed new position and, at the same time, furnish a detailed statement of the duties and requirements of the proposed position.

CCR Sect. 253. Certification to 60-Day Position.

Where the employment is for a period of 60 days or less, only the names of those eligibles who live in the vicinity of the employment need be certified.

CCR Sect. 254. Appointment Following Certification.

For a class in which the certification of eligibles 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 eligibles 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. For a class in which the certification of eligibles 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 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 in the highest three remaining ranks. The provisions of this rule do not apply if the certification is from a reemployment list under Government Code Section 19056.

CCR Sect. 254.1. Designation of Classes as Professional, Scientific, Administrative, Management or Executive.

For the purpose of administering Section 19057.1 of the Government Code, the executive officer shall designate those classes of positions which are considered to be professional, scientific, administrative, management, or executive and meet the definition in subsections (a) or (b) below.

- (a) The work performed either involves supervision of employees as a primary duty; or,
- (b) The work is predominantly intellectual and varied in character and requires the consistent exercise of discretion and judgment.

CCR Sect. 254.2. Three Rank Certification.

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

CCR Sect. 255. Certification in Case of Waiver. [Repealed]

CCR Sect. 256. Certification to Laborers' Positions. [Repealed]

CCR Sect. 257. Cancellation of Request for Certification. [Repealed]

CCR Sect. 258. Reply to Inquiry Following Certification.

It shall be the duty of every eligible to respond within a reasonable time to an inquiry to ascertain his interest in appointment to a position. An eligible does not need to respond when he or she is not interested in the position. The following standards shall constitute reasonable response time frames:

- (1) Telephone: two business days' response time following the initial contact;
- (2) Mail: six business days after the date the notice is sent;
- (3) E-mail: six business days after the date the notice is sent. If the eligible 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.

CCR Sect. 259. Failure to Respond to Telegram. [Repealed]

CCR Sect. 260. Failure to Respond.

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.

CCR Sect. 260.1. Decline a Job Offer or Failure to Appear for Work or Job Interview.

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.

CCR Sect. 261. 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 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.

CCR Sect. 261.1. Waiver of Contact.

If after being contacted to ascertain interest in a position an 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.

CCR Sect. 262. Waiver of Appointment.

After three waivers of appointment to positions in any given class where the eligible's record was placed on a certification list in accordance with all applicable certification rules, that eligible's record shall not be certified for future vacancies.

CCR Sect. 263. Appointment Substantiation.

The appointing power shall (1) immediately report each appointment to the executive officer, and (2) maintain an official employee file including the executed loyalty oath in the manner prescribed by the executive officer.

CCR Sect. 264. Certification from Comparable List.

If fewer than three names of persons willing to accept appointment are on the open eligible list for the class to which a position belongs and no other employment list for such class is available the executive officer may authorize certification of additional names from an employment list or lists for an appropriate class of substantially the same or a higher level.

CCR Sect. 265. Temporary Authorization.

If fewer than three names of persons willing to accept appointment are on the open eligible list for the class to which a position belongs and no other employment list for such class is available the executive officer may authorize the appointing authority to make a temporary appointment.

CCR Sect. 266. Correction of Appointments.

When the executive officer determines that an appointment is unlawful, the executive officer shall determine the good faith of the appointing power and the employee under Section 8 and shall take corrective action up to and including voiding the appointment, provided that:

(a) No corrective action shall be taken on any appointment which has been in effect for one year or longer if both the appointing power and the employee acted in good faith; and

(b) No corrective action shall be taken on any appointment which has been in effect for five years or longer unless:

(1) the employee acted in other than good faith; or

(2) the executive officer determines that the rights of another employee are significantly endangered by the retention of the appointment in question.

When an unlawful appointment is terminated or corrected, the employee who acted in good faith shall retain only the compensation as defined in Section 9. In all cases, compensation shall be corrected on a prospective basis. The employee who acted in other than good faith shall reimburse all compensation resulting from the appointment. The board in reviewing cases on appeal may, based upon the evidence, provide for less than full reimbursement of compensation.

CCR Sect. 266.1. Remedial Measures.

When the appointment of an employee who acted in good faith is being terminated pursuant to Section 266, the employee shall be afforded:

(1) deferred competition in examinations in which, in the judgment of the executive officer, the employee would be likely to have competed if he or she had not accepted the terminated appointment, provided that the examination is in progress or that the eligible list which resulted from the last examination for the class is still existing and valid; and

(2) placement back on the eligible list from which the employee was unlawfully appointed, provided that the eligible list still exists and is valid.

CCR Sect. 266.2. Right to Respond.

At least fifteen days prior to the date the board plans to take corrective action on an unlawful appointment, the executive officer shall notify the employee and the employee's appointing power of the proposed action. This notice shall state the reason(s) for the proposed action and notify the employee and the appointing power of their right to respond to the notice within the fifteen days either verbally or in writing.

CCR Sect. 266.3. Right to Appeal.

When corrective action is taken on an unlawful appointment, the employee and the appointing power may file a written appeal with the board within 30 calendar days after the date of notification of the board's final decision to take the corrective action upon which the appeal is based.

CCR Sect. 275. Transferring into State Civil Service.

When it is necessary for the State of California to assume work previously performed by a county, city, federal department or agency or public district, the board by resolution shall permit the employees who previously performed the work to qualify in state service in their positions upon allocation of their positions to an appropriate class in the state classification plan and in accordance with standards and procedures established by the executive officer.

CCR Sect. 276.2. Transferring into State Civil Service. [Repealed]

CCR Sect. 277. Change in Time Base.

The following provisions specify when employees are eligible for various time base changes without an appointment from an employment list. They are not to be construed, by themselves, as entitling employees to

such changes or as enabling appointing powers to make such changes without the employee's consent. These provisions do not extend or modify an employee's eligibility to reinstate to a position in a different class:

(a) Increases in time base of part-time or intermittent employees to full time or movement of intermittent employees to part time are permitted when:

(1) The employee has previously held a permanent or probationary status appointment at or above the desired time base in the classification to which the appointment is to be made or in the classification that is substantially at or above the salary level of that classification; or,

(2) The appointing power can clearly demonstrate that the employee has previously been eligible for an appointment from an employment list to the position and time base in question; or,

(3) For at least two years the employee has held any combination of permanent or probationary appointments to the types of classes specified in subsection (1) and has worked at least 1920 hours in such appointments.

(b) Time base changes other than those specified in Part (a) of this rule are permitted at the discretion of the appointing power.

CCR Sect. 321. Extension of Probationary Periods.

(a) In the event a probationer has not, during a prescribed calendar length of the probationary period, worked the hours set forth below, probation will automatically be extended until the probationer has worked the required number of hours.

(1) 840 if serving a six months' probationary period; or

(2) 1260 if serving a nine months' probationary period; or

(3) 1680 if serving a one year probationary period.

Vacation, sick leave, military leave or other leave of absence, compensating time off, suspension or other separations, including separations subsequently voided or otherwise set aside, shall not be considered working time. The board shall be notified of an extension under this section.

(b) If a probationer has had a continuous period of absence of 60 or more working days and upon return from such absence the appointing power determines that the remaining portion of the probationary period is insufficient to evaluate that probationer's current performance the appointing power may extend the probationary period with the approval of the executive officer. The length of such extension shall be determined by the length of the completed portion of the probationary period at the beginning of the probationer's absence as follows:

(1) If up to one-third of the minimum number of hours required for the probationary period was worked, the remainder of the probationary period plus the extension shall not exceed the minimum number of hours required for the original probationary period.

(2) If over one-third but not more than two-thirds of the minimum number of hours required for completion of the probationary period was worked, the remainder of the probationary period plus the extension shall not exceed two-thirds of the minimum number of hours required to complete the original probationary period.

(3) If over two-thirds of the minimum number of hours required to complete the probationary period was worked, the remainder of the probationary period plus the extension shall not exceed one-third of the minimum number of hours required to complete the original probationary period.

(c) The probationary period may be extended for a maximum of five working days in order to comply with notice requirements as set forth in Section 52.6 for rejection during probation.

(d) Pursuant to Government Code Section 19170, an appointing power and an employee, who alleges that he/she has a disability as defined in Government Code Section 12926, may submit a written agreement for approval by the board, that would extend the employee's probationary period within his/her existing classification for up to six months to provide a reasonable accommodation to the employee as follows:

(1) The agreement shall describe the period of the extension, beginning and ending dates, and how the extended probationary period will allow the employee to demonstrate, before the extended probationary period ends, the ability to satisfactorily perform the essential functions of the position with the reasonable accommodation. The written agreement must be received by the board for review prior to the end of the employee's probationary period.

(2) If the employee's probationary period will end during the board's review, the board will automatically extend the probationary period until a determination is made to approve or disapprove the agreement. This period of time is inclusive of the extension time requested by the department. If the board does not approve the agreement, the board will extend the employee's probationary period by an additional ten working days from the date of service of the board's determination, to allow the appointing power sufficient time to proceed with a rejection during probation. This ten working day extension is in addition to that provided under subsection (c) above.

(e) Prior to the completion of the probationary period, the appointing power shall notify the employee in writing that the probationary period is being extended under this rule and of the length of the extension. Employees whose probationary periods are extended under this rule must also, over the entire course of their original and extended probationary periods, meet the minimum service requirements specified in subsection (a) above. The State Personnel Board shall notify the employee and the appointing power in writing of its decision to approve or disapprove any agreement reached pursuant to subsection (d) above.

CCR Sect. 547.50. Scope.

(a) This article shall apply to the alternative category of civil service examination and appointment established for the hiring of individuals with disabilities defined by Section 10. For purposes of this article, the alternative category shall be known as the "Limited Examination and Appointment Program" and referred to as LEAP in the remainder of this article.

(b) Participants in LEAP who receive a temporary appointment to a job classification established to assess their ability to perform in the regular civil service class shall have the same status as regular civil service employees with temporary appointments.

(c) All board regulations shall apply to persons participating in LEAP unless such regulations are in conflict with regulations in this article. If there is such a conflict, the regulations in this article shall apply.

CCR Sect. 547.51. LEAP Eligibility Criteria.

(a) Only those applicants who possess the following shall be eligible to participate in the LEAP process:

(1) Written Verification from the California Department of Rehabilitation certifying that the applicant meets the definition of an individual with a disability contained in Section 10; and

(2) The education and experience requirements established by the board for participation in a LEAP classification examination.

(b) Where there is disagreement concerning the applicant's medical qualifications to be LEAP certified as specified in Section (a)(1), the executive officer shall determine the appropriateness of the certification based on the medical evidence submitted.

CCR Sect. 547.52. LEAP Readiness Evaluations.

The education, experience and personal qualifications of LEAP applicants who meet the eligibility requirements of Section 547.51 shall be evaluated by competitive examination to determine readiness for appointment. Those applicants who are ready for immediate employment in a LEAP classification shall be placed on the referral list specified in Government Code Section 19242.2.

CCR Sect. 547.53. Appointment to a LEAP Classification.

(a) Appointment to a LEAP classification shall be restricted to those who meet the criteria in Sections 547.51 and 547.52 and who are selected from a referral list as described in Section 19242.2, Government Code.

(b) LEAP eligibles shall remain on the referral list until they are appointed from the list or the list is abolished.

CCR Sect. 547.54. LEAP Job Examination Period.

(a) Appointment to a LEAP classification constitutes the beginning of a LEAP job examination period. The length of the LEAP job examination period shall be one-third the length of the probationary period of the permanent civil service class to which it is expected that the LEAP candidate will be appointed upon satisfactory completion of the LEAP job examination period unless extended under the provisions of Section 547.55(a) or reduced under the provisions of Section 547.55(b).

(b) Each LEAP candidate, upon appointment, shall be provided by the appointing power with written information which shall identify the specific knowledge, skills and abilities that are to be assessed in order to determine during the LEAP job examination period the candidate's ability to perform the duties of the permanent civil service classification to which appointment is sought.

(c) The executive officer shall determine the appropriate test of fitness for each LEAP classification. This test of fitness shall provide the LEAP candidates with sufficient opportunity to demonstrate that they possess the

satisfactory level of knowledge, skill and ability to effectively perform the duties of the regular civil service classification to which appointment is sought.

(d) During the prescribed LEAP job examination period, the appointing power shall evaluate each LEAP candidate's ability to perform satisfactorily the duties of the regular civil service classification to which appointment is sought. LEAP candidate shall receive a written report of evaluation from the appointing power no less than once every four weeks.

CCR Sect. 547.55. Extension or Reduction in Job Examination Period.

(a) When the executive officer determines that the LEAP candidate has not been given the opportunity to demonstrate knowledge, skill and ability in a specific area identified in Section 547.54(b), the LEAP job examination period shall be extended for a period determined appropriate by the executive officer. Such extensions shall not result in the appointment exceeding the nine-month limit specified in Article VII of the State Constitution.

(b) The LEAP job examination period specified in Section 547.54(a) shall be reduced if the executive officer determines that all of the following apply:

(1) The LEAP candidate held a position in state civil service during twelve-month period prior to the effective date of the LEAP appointment; and

(2) The duties performed in the position in (1) above were equivalent in level of responsibility and requirements of knowledge, skills and abilities to the duties of the position to which the LEAP candidate will be appointed upon completion of the LEAP job examination period; and

(3) The position in (1) above was held by the LEAP candidate for a period of time that equals or exceeds the LEAP job examination period specified in Section 547.54(a); and

(4) The LEAP candidate has written evidence of satisfactory performance in all aspects of the position in (1) above; and

(5) The LEAP candidate's current appointing power requests that the LEAP job examination period be reduced.

(c) If all conditions specified in (b) above are met, the job examination period shall be reduced to a period determined appropriate by the executive officer.

CCR Sect. 547.56. Transition from LEAP Position to Regular Civil Service Position.

(a) The executive officer shall approve the LEAP candidate appointment to the regular civil service classification that corresponds to the LEAP classification if the following conditions are met:

(1) The job examination period specified in Section 547.54(a) has been successfully completed; and

(2) The appointing power submits verification to the executive officer that the LEAP candidate has successfully completed the LEAP job examination period.

(b) If, within 30 days of the end of the job examination period, the appointing power does not either extend the candidate's job examination period in accordance with Government Code Section 19243.2, or terminate the candidate's appointment in accordance with Government Code Section 19243.4, the candidate shall be presumed to have qualified in the examination and shall be appointed to the regular civil service classification effective the day following the last day of the job examination period.

CCR Sect. 547.57. Termination During Job Examination Period.

(a) A LEAP candidate's appointment shall be terminated by the appointing power during or no later than 30 days following completion of the LEAP job examination period for failure to meet conditions for appointment provided in Section 547.53; failure to satisfactorily demonstrate the level of knowledge, skill and ability required by Section 547.54; for other reasons relating to the candidate's qualifications; for the good of the service; or for failure to demonstrate merit, efficiency, fitness including medical condition, or moral responsibility; but he or she shall not be terminated for any cause constituting prohibited discrimination as set forth in Government Code Sections 19700 to 19703, inclusive.

(b) A LEAP candidate whose appointment is terminated shall be given written notice by the appointing power 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 State Personnel Board under the provisions of Sections 51-54.2.

(c) An appeal from termination shall be assigned to the hearing office process as defined in Section 52. The provisions of Government Code Sections 19574.1, 19574.2, 19579, 19580, 19581, and 19581.5 shall apply in the disposition of an appeal.

(d) To resolve the appeal, the board shall do one of the following:

(1) Affirm the action of the appointing power.

(2) Modify the action of the appointing power.

(3) Restore the name of the appellant to the LEAP referral list from which appointed.

(4) Restore the appellant to the position from which he or she was terminated but this shall be done only if the board determines, after hearing, that there is no substantial evidence to support the reason or reasons for termination, or that the termination was made in fraud or bad faith. At any such hearing, the appellant shall have the burden of proof; subject to rebuttal by him or her, it shall be presumed that the termination was free from fraud and bad faith and that the statement of reasons therefor in the notice of termination is true.

(e) If the board restores a terminated LEAP candidate to his or her position, 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.

(f) The board, by decision or upon written request of a LEAP candidate whose appointment is terminated for reasons relating to the LEAP candidate's ability to demonstrate the knowledge, skill, and ability required by Section 547.54 and who is legally eligible for appointment in accordance with Section 547.53, shall restore the

name of the LEAP candidate to the LEAP referral list from which appointed for the remaining period of eligibility.

CGC Sect. 18529.

“Temporary employee” means an employee holding a position under temporary appointment. “Temporary appointment” means an appointment made in the absence of any appropriate employment list permitted by Section 5 of Article VII of the Constitution.

(Amended by Stats. 1985, Ch. 794, Sec. 5.)

CGC Sect. 18901.

(a) The department may remove all names from open and promotional eligible lists after they have remained thereon for more than one year from the date of the adoption of the lists that created their eligibility, and shall remove all names from lists of eligibles not later than four years after the adoption of the lists that created their eligibility. Whenever an open or a promotional eligible list has fewer than three names of persons who are willing to accept employment, all names on the list may be removed even though one year has not elapsed from the date of the adoption of the list.

(b) When a list of eligibles becomes exhausted for temporary or permanent employment before the legal expiration of the list, and a new list of eligibles for the same class is created by examination to supply the demands of the service, such new list shall become a part of the list of eligibles to be certified to the positions covered by the list. Those holding places on the prior list shall be given preference for appointment until such time as the prior list may automatically expire or all names are removed therefrom by action of the department. When the prior list has expired by reason of limitation of time, or the names have been removed therefrom by order of the department, then certification shall be made solely from the latter list.

(c) The department or a designated appointing power shall include in the announcement of any examination that the list of eligibles secured thereby will expire not less than one but less than four years after the adoption of such list.

(d) The department or a designated appointing power may make changes in its records to correct clerical errors both before and after the announcement of an eligible list; provided, that any changes of rank, or addition or subtraction of names, made on lists of eligibles because of clerical errors or reratings, shall not change the date of the adoption of such lists, nor give to any persons the right to claim beginning date of eligibility other than the date of the adoption of the original eligible list that created their eligibility.

(Amended by Stats. 2012, Ch. 360, Sec. 22. Effective January 1, 2013.)

CGC Sect. 18931.

The board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position; for temporary appointments, and for applicants for examinations, and for such purposes may require such certificates of citizens, physicians, public officers, or others having knowledge of the applicant, as the good of the service may require. It may require necessary documentary evidence of citizenship, honorable discharge from the armed forces of the United States, possession of valid licenses for various purposes, or other evidence of identification, fitness, and qualification.

(Added by Stats. 1945, Ch. 123.)

CGC Sect. 19055.

The department may, consistent with board rules, provide for certification of names from appropriate employment lists of the same or higher level in the event an employment list is not available for the class to which a position belongs.

(Amended by Stats. 2012, Ch. 360, Sec. 40. Effective January 1, 2013.)

CGC Sect. 19230.

The Legislature hereby declares that:

(a) It is the policy of this state to encourage and enable individuals with a disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

(b) It is the policy of this state that qualified individuals with a disability shall be employed in the state service, the service of the political subdivisions of the state, in public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the nondisabled, unless it is shown that the particular disability is job related.

(c) It is the policy of this state that a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an individual with a disability, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified applicant or employee who is an individual with a disability if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee.

(Amended by Stats. 1992, Ch. 913, Sec. 27. Effective January 1, 1993.)

CGC Sect. 19233.

The department shall be responsible for the following:

(a) Outline specific actions to improve the representation of individuals with a disability in the state workforce and to ensure equal and fair employment practices for employees who are individuals with a disability.

(b) Survey the number of individuals with a disability in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and compare those numbers with the number of individuals with a disability in the workforce.

(c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of individuals with a disability in the state workforce. Goals and timetables shall be set by at least job category.

(Amended by Stats. 2012, Ch. 360, Sec. 51. Effective January 1, 2013.)

CGC Sect. 19240.

(a) The department, consistent with board rules, shall be responsible for the administration of the Limited Examination and Appointment Program. This program shall provide an alternative to the traditional civil service examination and appointment process to facilitate the hiring of persons with disabilities in the state civil service.

(b) "Disability" for the purposes of this article has the definition set forth in Section 12926, as that section presently reads or as it subsequently may be amended.

(c) Notwithstanding subdivision (b), if the definition of “disability” used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental or physical disability, as defined in subdivision (b), then that broader protection shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definition in subdivision (b). The definition of “disability” contained in subdivision (b) shall not be deemed to refer to or include conditions excluded from the federal definition of “disability” pursuant to Section 511 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211).

(Amended by Stats. 2012, Ch. 360, Sec. 54. Effective January 1, 2013.)

CGC Sect. 19241.

The department, consistent with board rules, shall be responsible for the implementation of this chapter, which may provide for the establishment of eligibility criteria for participation, special job classifications, examination techniques, and appointment and appeals procedures.

(Amended by Stats. 2012, Ch. 360, Sec. 55. Effective January 1, 2013.)

ARTICLE 2. Examinations and Appointments [19242 - 19243.4]

(Article 2 added by Stats. 1988, Ch. 738, Sec. 2.)

CGC Sect. 19242.

The department or its designee shall conduct competitive examinations to determine the qualifications and readiness of persons with disabilities for state employment. The examinations may include an on-the-job-performance evaluation and any other selection techniques deemed appropriate. Examination results may be ranked or unranked.

(Amended by Stats. 2012, Ch. 360, Sec. 56. Effective January 1, 2013.)

CGC Sect. 19242.1.

An appointment to a position for the purpose of completing a job performance evaluation shall be known as an examination appointment.

(Added by Stats. 1990, Ch. 478, Sec. 12.)

CGC Sect. 19242.2.

The department or its designee shall refer the names of persons with disabilities who meet eligibility criteria for participation and the minimum qualifications of the job classification and any other requirements deemed appropriate by the board to appointing powers for examination appointments. Notwithstanding any other provision of law, and to provide for appropriate job-person placement, all candidates meeting referral requirements shall be eligible for examination appointment. The department may prescribe the method for referring names to appointing powers.

(Amended by Stats. 2012, Ch. 360, Sec. 57. Effective January 1, 2013.)

CGC Sect. 19242.4.

All examination appointments to positions under the Limited Examination and Appointment Program shall be made on a temporary and provisional basis to allow candidates to demonstrate their ability to perform the duties of the position. The term of the appointment shall be known as the job examination period and its duration shall be determined by board rule.

(Added by Stats. 1988, Ch. 738, Sec. 2.)

CGC Sect. 19242.6.

Candidates serving in positions under the Limited Examination and Appointment Program shall not acquire permanent civil service status but shall receive the same salary and benefits to which other state employees in temporary positions are entitled.

(Added by Stats. 1988, Ch. 738, Sec. 2.)

CGC Sect. 19242.8.

The department or its designee shall develop evaluation standards which are appropriate tests of fitness for the job classification. During the job examination period, the appointing power shall prepare written evaluations of the candidate's performance. The final evaluation shall contain a recommendation as to whether or not to appoint the candidate to an appropriate position where civil service status may accumulate.

(Amended by Stats. 2012, Ch. 360, Sec. 58. Effective January 1, 2013.)

CGC Sect. 19242.9.

Upon failure of the appointing power to terminate the appointment of the candidate within 30 days following the end of the job examination period, it shall be presumed that the candidate has qualified in the examination.

(Added by Stats. 1988, Ch. 738, Sec. 2.)

CGC Sect. 19243.

Upon successful completion of the job examination period, the candidate shall have qualified in the examination. With the approval of the department, the appointing power may appoint the candidate, without further examination, to an appropriate position where civil service status may accumulate.

(Amended by Stats. 2012, Ch. 360, Sec. 59. Effective January 1, 2013.)

CGC Sect. 19243.2.

With the approval of the department, the appointing power may shorten or extend the duration of the job examination period.

(Amended by Stats. 2012, Ch. 360, Sec. 60. Effective January 1, 2013.)

CGC Sect. 19243.4.

Upon unsuccessful completion of the job examination period, the appointing power may terminate the appointment of the candidate in accordance with board rule.

(Added by Stats. 1988, Ch. 738, Sec. 2.)

ARTICLE 3. Appeals [19244- 19244.]

(Article 3 added by Stats. 1988, Ch. 738, Sec. 2.)

CGC Sect. 19244.

Applicants for and candidates in the Limited Examination and Appointment Program examination process may appeal in accordance with board rule any of the following actions:

- (a) A refusal to certify eligibility to participate in the program.
 - (b) A rejection of an application to participate in an examination.
 - (c) A disqualification by an interview panel or by any other selection method used.
 - (d) A denial of a request for reasonable accommodation during the job examination period.
 - (e) A termination of an appointment of a candidate during a job examination period.
- (Amended by Stats. 1990, Ch. 478, Sec. 14.)*

CGC Sect. 19251.5.

All state employees and employees of the University of California and the California State University shall have the right to communicate with Members and employees of the Legislature. A state employee, employee of the University of California, or employee of the California State University may raise as a defense, at an adverse action hearing, the right to communicate with Members and employees of the Legislature as provided for in this section whenever he or she believes that the basis for that adverse action is retaliation for that communication.

(Amended by Stats. 1990, Ch. 478, Sec. 15.)

CGC Sect. 19253.

Subject to approval by the board an appointing power with the concurrence or at the request of an employee may request the voluntary demotion of such employee to a vacant position. If the class to which the demotion is proposed requires qualifications, knowledges, or abilities not measured by the examination for the class from which demotion is proposed, the board may examine the employee for the possession of those additional qualifications, knowledges, and abilities.

(Amended by Stats. 1969, Ch. 809.)

CGC Sect. 19253.5.

- (a) In accordance with board rule, the appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the appointing power to evaluate the capacity of the employee to perform the work of his or her position.
- (b) Fees for the examination and for the services of medical specialists or technicians, if necessary, shall be paid by the state agency. The employee may submit medical or other evidence to the examining physician or to the

appointing power. The examining physician shall make a written report of the examination to the appointing power. The appointing power shall provide a copy to the physician designated by the employee.

(c) When the appointing power, after considering the conclusions of the medical examination and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, but is able to perform the work of another position including one of less than full time, the appointing power may demote or transfer the employee to such a position. Except as authorized by the Department of Human Resources under Section 19837, the employee demoted or transferred pursuant to this section shall receive the maximum of the salary range of the class to which he or she is demoted or transferred, provided that the salary is not greater than the salary he or she received at the time of his or her demotion or transfer.

(d) When the appointing power after considering the conclusions of the medical examination provided for by this section or medical reports from the employee's physician, and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, or any other position in the agency, and the employee is not eligible or waives the right to retire for disability and elects to withdraw his or her retirement contributions or to permit his or her contributions to remain in the retirement fund with rights to service retirement, the appointing power may terminate the appointment of the employee.

(e) The appointing power may demote, transfer, or terminate an employee under this section without requiring the employee to submit to a medical examination when the appointing power relies upon a written statement submitted to the appointing power by the employee as to the employee's condition or upon medical reports submitted to the appointing power by the employee.

(f) The employee shall be given written notice of any demotion, transfer, or termination under this section at least 15 days prior to the effective date thereof. No later than 15 days after service of the notice, the employee may appeal the action of the appointing power to the board. The board, in accordance with its rules, shall hold a hearing. The board may sustain, disapprove, or modify the demotion, transfer, or termination.

(g) Whenever the board revokes or modifies a demotion, transfer, or termination, the board shall direct the payment of salary to the employee calculated on the same basis and using the same standards as provided in Section 19584.

(h) Upon the request of an appointing authority or the petition of the employee who was terminated, demoted, or transferred in accordance with this section, the employee shall be reinstated to an appropriate vacant position in the same class, in a comparable class or in a lower related class if it is determined by the board that the employee is no longer incapacitated for duty. Such a reinstatement to a position in a different agency may be made only with the concurrence of that agency. In approving or ordering the reinstatements, the board may require the satisfactory completion of a new probationary period. When the board finds the employee who was terminated, demoted, or transferred is no longer incapacitated for duty but there is no vacant position to which the employee appropriately can be appointed, the name of the employee shall be placed upon those reemployment lists that are determined to be appropriate by the board.

(i) (1) If the appointing power, after considering the conclusions of the medical examination provided for by this section or medical reports from the employee's physician and other pertinent information, concludes that the employee is unable to perform the work of his or her present position or any other position in the agency and the employee is eligible and does not waive the right to retire for disability, the appointing power shall file an application for disability retirement on the employee's behalf. The appointing power shall give the employee

15 days written notice of its intention to file such an application and a reasonable opportunity to respond to the appointing power prior to the appointing power's filing of the application. However, the appointing power's decision to file the application is final and is not appealable to the State Personnel Board.

(2) Notwithstanding Section 21153, upon filing the application for disability retirement, the appointing power may remove the employee from the job and place the employee on involuntary leave status. The employee may use any accrued leave eligible during the period of the involuntary leave. If the employee's leave credits and programs are exhausted or if they do not provide benefits at least equal to the estimated retirement allowance, the appointing power shall pay the employee an additional temporary disability allowance so that the employee receives payment equal to the retirement allowance. The appointing power shall continue to make all employer contributions to the employee's health plans during the period of the involuntary leave.

(3) If the application for disability retirement is subsequently granted, the retirement system shall reimburse the appointing power for the temporary disability allowance which shall be deducted from any back disability retirement benefits otherwise payable to the employee. If the application is denied, the appointing power shall reinstate the employee to his or her position with back salary and benefits pursuant to subdivision (g), less any temporary disability allowance paid by the appointing power. The appointing power shall also restore any leave credits the employee used during the period of the involuntary leave.

(Amended by Stats. 2012, Ch. 665, Sec. 69. Effective January 1, 2013.)

CGC Sect. 19257.

Any person acting in good faith in accepting an appointment or employment contrary to this part or the rules prescribed hereunder, shall be paid by the appointing power the compensation promised by or on behalf of the appointing power or, in case no compensation is so promised, then, the actual value of any service rendered and the expense incurred in good faith under such attempted appointment or employment, and has a cause of action against the appointing power therefor.

(Added by Stats. 1945, Ch. 123.)

CGC Sect. 19257.5.

Where the appointment of an employee has been made and accepted in good faith, but where such appointment would not have been made but for some mistake of law or fact which if known to the parties would have rendered the appointment unlawful when made, the board may declare the appointment void from the beginning if such action is taken within one year after the appointment.

(Added by Stats. 1968, Ch. 500.)

CGC Sect. 19261.

(a) The Department of Human Resources may establish standards of health and safety in state agencies and may develop a comprehensive health and safety program designed to improve the efficiency and raise the morale of state employees. Nothing in this section or in the standards established thereunder shall discriminate against treatment by prayer or spiritual means nor require physical examination of any employee who files with the board an affidavit setting forth that he or she depends exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he or she is to the best of his or her knowledge and belief in good health and that he or she claims exemption on such grounds, except that when there is probable cause to believe that such employee is not physically able to perform the duties of his or

her employment, the board may require a physical examination of the employee sufficient to indicate whether or not he or she is able to perform the duties of his or her employment.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act. *(Amended by Stats. 2012, Ch. 665, Sec. 70. Effective January 1, 2013.)*

CGC Sect. 19836.

(a) The department may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications, to correct salary inequities resulting from actions by the department or State Personnel Board, or to give credit for prior state service in connection with appointments, promotions, reinstatements, transfers, reallocations, or demotions. Other salary adjustments within the salary range for the class may be made upon the application of the appointing power and with the approval of the director. Adjustments within the salary range authorized by this section may be either permanent or temporary and may be made retroactive to the date of application for this change.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act. *(Amended by Stats. 2001, Ch. 364, Sec. 22. Effective September 27, 2001.)*