

**State of California
Office of Administrative Law**

In re:
State Personnel Board

Regulatory Action:

Title 02, California Code of Regulations

Amend sections: 171.1, 437, 439.2, 439.4

NOTICE OF FILING AND PRINTING ONLY

Government Code Section 11343.8

OAL Matter Number: 2022-0816-02

OAL Matter Type: File and Print Only (FP)

This action amends regulations to enable crediting of training and development assignments as qualifying experience. These regulations are exempt from the Administrative Procedure Act pursuant to Government Code section 18211.

OAL filed these regulations with the Secretary of State, and will publish the regulations in the California Code of Regulations.

Date: September 15, 2022



Anna Thomas
Attorney

**For: Kenneth J. Pogue
Director**

**Original: Suzanne Ambrose, Executive
Officer**

Copy: Lori Gillihan

NOTICE PUBLICATION/REGULATIONS SUBMISSION

FILE PRINT

For use by Secretary of State only

STD. 400 (REV. 10/2019)

AS per agency request 9/15/22

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2022-0614-04	2022-0816-02	FF

For use by Office of Administrative Law (OAL) only

NOTICE AGENCY WITH RULEMAKING AUTHORITY California State Personnel Board	REGULATIONS OFFICE OF ADMIN. LAW 2022 AUG 16 PM 3:22
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP. 15 2022

1:55 pm

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Training & Development Assignments		TITLE(S) 2	FIRST SECTION AFFECTED 171.1	2. REQUESTED PUBLICATION DATE June 24, 2022
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Lori Gillihan		TELEPHONE NUMBER 916-651-1043
FAX NUMBER (Optional)		NOTICE REGISTER NUMBER		PUBLICATION DATE
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Training & Development Assignments	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT AMEND 171.1, 437, 439.2, 439.4
TITLE(S) 2	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmission of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmission of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) Gov Code 18211	

per agency AS request 9/15/22

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) October 1, 2022

per agency AS request 9/15/22

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Lori Gillihan	TELEPHONE NUMBER 916-651-1043	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) lori.gillihan@spb.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

SEP 15 2022

Office of Administrative Law

SIGNATURE OF AGENCY HEAD OR DESIGNEE Suzanne M. Ambrose	DATE 8/6/2022
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Digitally signed by Suzanne M. Ambrose Date: 2022.08.16 13:37:09 -0700

TYPED NAME AND TITLE OF SIGNATORY Suzanne M. Ambrose, Executive Officer
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Text added to the Board's regulations is shown in underline.
Text deleted from the Board's regulations is shown in ~~strikethrough~~.

**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 1. ADMINISTRATIVE PERSONNEL
CHAPTER 1. STATE PERSONNEL BOARD
SUBCHAPTER 1.3 CLASSIFICATIONS, EXAMINATIONS, AND APPOINTMENTS
ARTICLE 8. EXAMINATIONS**

§ 171.1. Calculating the Amount of Time Required to Satisfy Minimum Qualifications for Experience.

When determining whether an applicant satisfies the minimum amounts of time that may be required to satisfy the minimum qualifications for experience, as prescribed in the class specification, the following shall apply:

- (a) The time required shall have been in a full-time job or its part-time equivalent. A full-time job is the maximum number of hours a person can spend on a job without a requirement that ~~he or she~~ they be given overtime compensation or, where overtime is not applicable, the number of hours required for a person to receive full-time pay for the applicable work period.
- (b) When calculating part-time equivalent experience toward satisfying the minimum amounts of full-time experience, 173.33 hours of actual time worked equals one month. To determine the years and months worked, an appointing power may use either 52 weeks to equal one year or 4.35 to equal the number of weeks in one month, whichever calculation results in greater time worked. As an example, an applicant has three years of qualifying part-time work experience at 10 hours per week. The 52-weeks yearly calculation would be 3 years x 52 weeks x 10 hours = 1560/173.33 = 9.00 months. The 4.35-weeks monthly calculation would be 3 years equals 36 months x 10 hours x 4.35 weeks = 1566/173.33 = 9.03 months. Because the 4.35-weeks monthly calculation results in greater time worked, the 4.35-week monthly calculation must be used.
- (c) Where an applicant works in more than one job concurrently, the hours worked per week in each job shall be added together, if the experience gained in the jobs relates to the same or substantially the same requirements enumerated in the minimum qualifications. Calculating the total sum of the applicant's part-time



equivalent experience toward satisfying the minimum amounts of full-time experience shall be in accordance with subdivision (b).

- (d) To receive experience credit, the applicant's job responsibilities or duties must be performed on a routine basis, either daily, weekly, monthly, or certain times of the year. Experience which may have been gained as an occasional or incidental aspect of the applicant's job is not acceptable. If the applicant is a state employee and the experience in question was gained in an out-of-class assignment, section 212 of the Board's regulations shall apply.
- (e) Overtime hours worked on the same job for which the employee is entitled to pay for those extra hours worked under the federal Fair Labor and Standards Act (29 U.S.C.A § 201 et seq.) shall be credited as additional time.
- (f) An applicant shall receive credit for qualifying experience in a full-time or part-time job while enrolled in and attending a school, college, university, or similar institution, except where the experience is required as part of the applicant's educational curriculum and the minimum qualifications require those courses of study and/or related academic degree.
- (g) If an applicant's position in state service has been reclassified, credit for time in the new class may be given from the date the reclassification was officially approved, even though the actual appointment did not occur until a later date.
- (h) If the applicant is a state employee and the experience in question was gained in an out-of-class or training and development assignment, the applicant shall receive credit for qualifying experience in the employee's class of appointment and the class of the assignment.

Note: Authority cited: Section 18701, Government Code. Reference: Section 18931, Government Code.



**CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 1. ADMINISTRATIVE PERSONNEL
CHAPTER 1. STATE PERSONNEL BOARD
SUBCHAPTER 1.3 CLASSIFICATIONS, EXAMINATIONS, AND APPOINTMENTS
ARTICLE 19.1 TEMPORARY ASSIGNMENTS OR LOANS**

§ 437. Definitions.

- (a) "Coaching" means a manager, supervisor, or peer acts as a guide and tutor for the employee. Coaching involves demonstration, instruction, discussion, feedback, encouragement, objective evaluation, and correction where appropriate.
- (b) "Committee assignment" or "working group assignment" means the employee is assigned to be a member of a committee or working group that is tasked with problem solving and making recommendations.
- (c) "Cross training" means under appropriate guidance and supervision an employee performs the duties and functions of another position within the same or different classification.
- (d) "Job rotation" means under appropriate guidance and supervision an employee changes positions on regular intervals within the same classification and appointing power and eventually returns to his or her original position. A job rotation allows the employee to gain broader and/or more specialized competencies.
- (e) "On-the-job training" or "OJT" means an employee learns a job by actually performing the duties and tasks of the job under appropriate guidance and supervision.
- (f) "Special project assignment" means an individual or collaborative enterprise that the employee is to perform and accomplish over a fixed period of time and may include certain other limitations.
- (g) "Appropriate training experience" means that for purposes of training and development assignments the level of duties, functions, and responsibilities of



the "to" classification shall provide a reasonable opportunity for the employee to achieve the purpose(s) of the training and development assignment.

- (h) "Consecutive temporary assignment or loan" means that within 12 months of the conclusion of the temporary assignment or loan the employee is reassigned or loaned to perform the same level of duties and responsibilities as the temporary assignment or loan previously concluded, without regard to location or reporting structure.
- (i) "Former position" shall have the same meaning as in Government Code section 18522.
- (j) "Current class" means the classification of the position to which the employee has been appointed and holds prior to a training and development assignment.

Note: Authority cited: Sections 18502, 18701 and 19050.8, Government Code.

Reference: Sections 18522 and 19050.8, Government Code.

§ 439.2. Training and Development Classification.

- (a) Subject to the eligibility criteria of section 439.1, training and development assignments may be made to any of the following classifications:
 - (1) The same classification as the employee's current classification, but a different position.
 - (2) A different classification with substantially the same salary range as the employee's "from" classification.
 - (3) A different classification with a promotional salary range provided that:
 - (A) The higher salaried class is the class in the employee's desired occupational area that will provide the appropriate training experience.
 - (B) There is not another class nearer in salary to the employee's current class that will provide the appropriate training experience. If such a class exists, that class shall be used for purposes of the training and development assignment.



~~(C) The higher salaried class is not in the same class series as the employee's current class, unless the training and development assignment involves an apprenticeship program approved by the Department of Industrial Relations, Division of Apprenticeship Standards.~~

(4) A different classification with a demotional salary range provided that the assignment to the lower class is not used where other action, such as voluntary demotion, medical demotion, corrective action, or disciplinary action, is relevant to the employee's situation.

(b) Subject to the eligibility criteria of section 439.1, training and development assignments may be made to any classifications without regard to section 439.2 (a) for training and development assignments involving an apprenticeship program approved by the Department of Industrial Relations, Division of Apprenticeship Standards.

Note: Authority cited: Section 19050.8, Government Code. Reference: Section 19050.8, Government Code.

§ 439.4. Completion of a Training and Development Assignment.

- (a) After completion of a training and development assignment that was not in the position the employee held prior to the assignment, the employee shall have the absolute right to return to his or her former position.
- (b) Notwithstanding subdivision (a), an employee who successfully completes a training and development assignment in a different position, regardless of whether the classification is the same or different or whether the appointing power is the same or different, may be appointed to the same position in which ~~he or she~~ they served the training and development assignment provided that all of the following apply:
 - (1) The appointment is by way of transfer, list appointment, or demotion.
 - (2) The employee satisfies the minimum qualifications of the classification.
 - (3) The employee competed for the assignment pursuant to section 439.3 and the assignment was advertised pursuant to sections 249.1, 249.1.1, and 249.2, unless otherwise exempted.



- (c) If an employee is appointed pursuant to subdivision (b), the employee shall serve the applicable probationary period, unless the employee serves in the same class at the same appointing power.
- (d) The experience and training earned in the training and development assignment may be used by the employee to satisfy minimum qualifications for a classification. The time spent in the training and development assignment shall be considered as qualifying experience in the employee's current class and the class of the training and development assignment.

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