



DATE: December 27, 2006

TO: ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND MEMBERS OF THE GOVERNOR'S CABINET

SUBJECT: Impact of Salary Adjustments on Transfers

The purpose of this memorandum is to provide guidance and direction to State departments and Agencies of the impact of various salary adjustments on the transfers of employees between civil service classifications.

AUTHORITIES

Article VII of the California Constitution requires that "in the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination." Under the laws¹ and State Personnel Board (SPB) rules², civil service employees may transfer from one job to another if the level of duties, responsibilities, and salaries of the two classes are substantially the same and the classes are not in the same series. Except in certain jobs, it is not necessary to meet the minimum qualifications for the class to which the person wishes to transfer, but the employee must have any license, certificate, registration, etc. required for the class. Within these laws and rules, transfers are discretionary on the part of departments and can be either voluntary or involuntary³ on the part of the employee.

SALARY ADJUSTMENTS

Salary adjustments to collective bargaining units can alter the salary relationships between classes and raise questions regarding the impact of such changes on transfers. It may be problematic when such actions are retroactive. However, departments must also consider that salary alone is not the only determining factor of whether a transfer is allowable.

CONSIDERATIONS

It is important that all the factors below be considered in allowing a transfer:

¹ Government Code (G.C.) § 18525.1 defines "Promotion"; § 18525.3 defines "Transfer"; § 19050.3 defines "Transfer between appointing powers"; § 19050.4 permits "Transfer Examination".

² Title 2, California Code of Regulations (2CCR) §§ 425, 430 - 435 define SPB's standards for transfers between classes and departments.

³ 2CCR § 434 states that when a transfer is not voluntary on the part of the employee, the class to which the employee is transferred must have prior SPB Executive Officer approval.

1. Duties/Responsibilities: SPB's major concern on transfers between classes is that the action does not circumvent the normal competitive process required for promotion. A key element is to ensure that the transfer does not result in the movement to a class that would be considered a promotion, i.e. movement to a class whose duties and/or responsibilities are above the level; movement to a class within the same series. Classes being considered for transferability must involve substantially the same level of duties, responsibility, and salary; and the Board may prohibit transfers upon a finding that the classes have a promotional relationship⁴. For example, movement from a journey level class in one series to a supervisory class in another series would be considered a promotion regardless of salary conditions.

2. Qualifications: An employee must possess any license, certificate, or registration in the class to which h/she is transferring that is required by law⁵. Employees transferring into Bargaining Unit 10 classes, unless specifically exempted, are required to meet the minimum education requirement identified in the class specification⁶. While transfers may be accomplished without an examination, a person may be required to demonstrate that h/she possesses any additional or different requirements that are included in the minimum qualifications of the class to which h/she is transferring⁷.

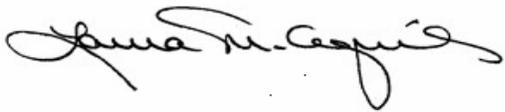
3. Salary: Transfers between classes may become permissible or prohibited based upon new salary relationships resulting from salary adjustments. The salary range of the class "to" which the employee is transferring must be exactly the same or lower than the class "from" which transferring; or the class salary "to" which the person is going is less than two-steps. Successive consecutive transfers that in combination would be inconsistent with law and rule are not allowable⁸. General guidelines to consider are:

IF the transfer ...	AND the transfer ...	THEN the transfer ...
is allowable before the salary adjustment.	is allowable after the salary adjustment.	is permissible.
is allowable before the salary adjustment.	is <u>not</u> allowable after the salary adjustment.	is <u>not</u> allowable.
is <u>not</u> allowable before the salary adjustment.	<u>may</u> be allowable after salary adjustment.	if it is prohibited by Factors #1 and #2, is <u>not</u> allowable.

⁴ 2CCR § 430
⁵ 2CCR § 433
⁶ 2CCR § 433.1
⁷ G.C. §19050.4
⁸ 2CCR § 435

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State departments and Agencies are responsible for evaluating the appropriateness of and ensuring that transfers meet applicable laws and rules. Questions concerning this memorandum may be directed to the Merit Employment and Technical Resources Division at (916) 653-1502 or TTY (916) 653-1498.

A handwritten signature in black ink, appearing to read "Laura M. Aguilera". The signature is fluid and cursive, with a large initial "L" and "A".

Laura M. Aguilera
Assistant Executive Officer