

**California Department of Human Resources  
Memorandum**

**TO: Personnel Management Liaisons (PML)**

<b>SUBJECT:</b> Changes To Rules On Exempt Return Rights, Leave Overpayments, LEAP, and Leadership Training	<b>REFERENCE NUMBER:</b> 2016-028
<b>DATE ISSUED:</b> October 7, 2016	<b>SUPERSEDES:</b>

This memorandum should be forwarded to:

**Agency Secretaries  
Agency Undersecretaries  
Department Directors  
Department Deputy Directors  
Personnel Officers  
Personnel Transactions Supervisors  
Labor Relations Officers  
Training Officers**

FROM: California Department of Human Resources  
Various Divisions

CONTACT: Katie Hagen, Deputy Director Operations  
(916) 322-5193  
Email: [Katie.Hagen@calhr.ca.gov](mailto:Katie.Hagen@calhr.ca.gov)

As part of the Civil Service Improvement initiative, Governor Brown signed Senate Bill (SB) 848 into law on June 27, 2016. SB 848 amended Government Code sections related to exempt employee return rights, leave overpayments, hiring persons with disabilities through the Limited Examination and Appointment Program (LEAP), and leadership training for managers and supervisors. These amendments are designed to simplify, streamline, and improve civil service employment. The changes are described below.

Exempt Employee Mandatory Return Rights

Prior to the amendment, Government Code section 19141 set forth various periods of time by which an exempt employee was required to make a request for reinstatement to his or her former civil service position. The former law also provided certain exempt employees deferred examination rights if certain conditions were met. (Gov. Code, § 19141.1.)

SB 848 simplified and clarified this law while still affording state employees reasonable incentives to accept exempt appointments. Under the amendment to Government Code section 19141, an employee who previously had permanent status and vacates a civil service position to accept an exempt appointment shall be reinstated to his or her

former position if: (1) he or she accepted the appointment without a break in the continuity of state service; and (2) within 10 working days after the effective date of the termination, he or she makes a written request to the appointing power to be reinstated to his or her former position. If the employee misses the 10-working day request period, then the permissive reinstatement rules of Government Code section 19140 apply. SB 848 also simplified and clarified the law surrounding deferred examinations for exempt employees. Amended Government Code section 19141.1 provides that employees who have reinstatement rights under Government Code section 19141 shall be given an opportunity upon request to take a deferred examination for any class that has a current eligible list and for which the employee meets the minimum qualifications of the class, if the request is made within four years of the termination of the exempt position and the employee has completed a minimum of five years of state service.

These changes will be incorporated into CalHR's materials and resources, including training on Career Executive Assignment and exempt employee return rights.

#### Leave Overpayments

SB 848 amended Government Code section 19838 by specifying that when an overpayment that involves leave credits has been made to an employee, the date of overpayment is the date that the employee uses the erroneous leave credit.

For example: At the end of December, an employee has a zero (0) holiday credit leave balance. In January, the employee earns eight (8) hours of holiday credit. In February, the employee is given eight (8) hours of holiday credit in error. The employee has no other holiday credit accruals and uses eight (8) hours of holiday credit in both the April and May pay periods. May is the pay period in which the overpayment occurs because it is the pay period that the employee received compensation for the leave that was erroneously credited. Displayed graphically:

<b>Pay Period</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>
Begin Bal	0	0	8	16	16	8
Earned	0	8	8*	0	0	0
Used	0	0	0	0	8	8
End Bal	0	8	16	16	8	0

\*Erroneously credited leave

CalHR will be modifying its existing materials and resources to reflect this change, and will be partnering with the State Controller's Office to ensure related training is provided to departments.

### Limited Examination and Appointment Program (LEAP)

CalHR, consistent with State Personnel Board (SPB) regulations, is responsible for the administration of LEAP. (Gov. Code, § 19240.) Under current law, CalHR or its designee shall conduct competitive examinations to determine the qualifications and readiness of persons with disabilities for state employment. (Gov. Code, § 19242.) The examinations may include an on-the-job performance evaluation and any other selection techniques deemed appropriate. (*Ibid.*) An appointment to a position for the purpose of completing a job performance evaluation is known as an examination appointment. (Gov. Code, § 19242.1.) If a candidate successfully completes the job examination period (JEP), he or she is appointed to the civil service position in which he or she examined. (Gov. Code, § 19243.) Under Board rule, the length of the JEP is calculated as one-third of the applicable probationary period (either six months or one year). (Cal. Code Regs., tit. 2, § 547.54.) Prior to SB 848, the candidate would then serve the applicable probationary period. (See Gov. Code, § 19170.)

SB 848 streamlines the LEAP examination process by eliminating the requirement that the candidate also serve a probationary period. Proposed changes to Board rules are anticipated to make the length of the JEP equivalent to the length of the probationary period of the parallel civil service classification. The Board will submit the proposed regulatory changes for public comment once the changes are complete. CalHR is also reviewing and evaluating policy and procedural changes related to LEAP appointment methods, evaluation tools, and examination certification procedures. CalHR will issue further direction and plans to provide training when these updates and revisions are complete.

In the interim, CalHR Form 273 will still be used to document supervisory evaluation of LEAP candidates. However, departments shall also use the position duty statement, job specification form, and standard probationary period evaluation form as tools to evaluate the performance of LEAP candidates during the JEP. At the end of the JEP, the original evaluation forms, along with a copy of the duty statement, shall be sent to CalHR's Office of Civil Rights with a request for approval of a civil service appointment to the appropriate position where civil service status may accumulate. Departments will receive a standard approval letter that provides the effective civil service appointment date.

Department LEAP Coordinators are encouraged to partner with their human resources staff to develop procedures that will ensure effective evaluations of LEAP candidates during the JEP and ongoing communications between supervisors and human resources staff.

## Training

SB 848 amends Government Code section 19995.1 to prescribe the strategy for continually advancing employee skills and improving performance. In addition, the amended statute authorizes CalHR to prescribe policy guidance for administering statewide training.

SB 848 also amends Government Code section 19995.4 by modifying training requirements for state leaders. It updates the mandated training modules for newly appointed supervisors and now requires 80 hours of training to be successfully completed within 6 months of initial appointment, but no later than the end of the probationary period. The amended code no longer allows for any portion of the supervisor training to be completed through on-the-job training (OJT).

SB 848 adds new training requirements for management and Career Executive Assignment (CEA) employees. Upon the initial appointment, each employee in a management position shall be provided 40 hours of leadership training and development, and CEA employees shall be provided 20 hours of leadership training and development as prescribed by CalHR. The training for managers and CEAs must be completed within 12 months of initial appointment. Supervisors, managers, and CEAs are now required to complete 20 hours of leadership training and development every two years as prescribed by CalHR.

The leadership training and development must be documented. Departments will not be audited on these new requirements until after CalHR has provided additional policy guidance, and departments have had time to provide the prescribed training within the required timeframes. CalHR will disseminate additional policy guidance to clarify prescribed leadership training and development requirements for supervisors, managers, and CEAs. Department training officers are encouraged to begin reviewing their department's current training plans to determine how these new requirements will impact their organization.

For questions regarding Exempt Return Rights changes, please contact:

Personnel Management Division  
(916) 324-9381  
Email: [pmd@calhr.ca.gov](mailto:pmd@calhr.ca.gov)

For questions regarding the Leave Overpayment changes please contact:

Personnel Services Branch  
(916) 323-3343  
Email: [psb@calhr.ca.gov](mailto:psb@calhr.ca.gov)

PML 2016-028  
October 7, 2016  
Page 5

For questions regarding the LEAP changes please contact:

Jerry Gibbins, LEAP Coordinator  
Office of Civil Rights  
(916) 322-3748  
Email: [Jerry.Gibbins@calhr.ca.gov](mailto:Jerry.Gibbins@calhr.ca.gov)

For questions regarding Training changes please contact:

April Nielsen, Statewide Leadership Development Program Coordinator  
Workforce Development Programs  
(916) 324-3860  
Email: [April.Nielsen@calhr.ca.gov](mailto:April.Nielsen@calhr.ca.gov)

/s/Katie Hagen

Katie Hagen, Deputy Director Operations