

**State of California
Office of Administrative Law**

In re:
Department of Human Resources

Regulatory Action:

Title 02, California Code of Regulations

Adopt sections: 599.980, 599.981, 599.982,
599.983, 599.984, 599.985, 599.986

Amend sections: 599.980 (renumbered to
599.987), 599.981 (renumbered to 599.988),
599.982 (renumbered to 599.989), 599.985
(renumbered to 599.990), 599.986
(renumbered to 599.991), 599.987
(renumbered to 599.992), 599.988
(renumbered to 599.993), 599.990
(renumbered to 599.994), 599.992
(renumbered to 599.995), 599.993
(renumbered to 599.996), 599.994
(renumbered to 599.997), 599.995
(renumbered to 599.998)

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1,
Section 100

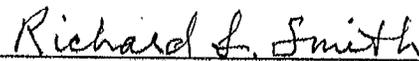
OAL Matter Number: 2015-0619-03

OAL Matter Type: Nonsubstantive (N)

The Department of Human Resources (Department) submitted this action without regulatory effect, pursuant to title 1, California Code of Regulations, section 100, to adopt seven former State Personnel Board (Board) regulations under title 2 of the California Code of Regulations as a result of the Governor's Reorganization Plan No. 1 of 2011, which transferred many duties and powers from the Board to the Department. The basis for these adopted regulations being without regulatory effect is that all statutory authority for them were repealed from the Board and transferred to the Department in Government Code section 18502(a)(2). Additionally, twelve existing Department regulations are being renumbered to make room for the seven new regulations, and the Department is making additional, nonsubstantive changes to the adopted and renumbered regulations

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: July 30, 2015



Richard L. Smith
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Richard Gillihan
Copy: Gail Onodera

NON SUBSTANTIVE

NOTICE PUBLICATION REGULATIONS SUBMISSION

(reverse)

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
Z-		2015-0619-03N	

For use by Office of Administrative Law (OAL) only

2015 JUN 19 PM 3:10
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

JUL 30 2015

2:32 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
California Department of Human Resources

AGENCY FILE NUMBER (if any)

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

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
Move EEO & Upward Mobility regs to CalHR pursuant to GRP#1, 2011 per agency request

ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

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 599.980, 599.981, 599.982, 599.983, 599.984, 599.985 and 599.986
	AMEND Number: 599.900, 599.901, 599.902, 599.903, 599.904, 599.905, 599.906, 599.907 (see attached)
TITLE(S) 2	REPEAL per agency request

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 checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

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(e))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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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

Gail Onodera	TELEPHONE NUMBER 916-324-0512	FAX NUMBER (Optional) 916-323-4723	E-MAIL ADDRESS (Optional) Gail.Onodera@calhr.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.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 6-19-15
TYPED NAME AND TITLE OF SIGNATORY Joan A. Markoff, Chief Counsel	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 30 2015

Office of Administrative Law

Attachment to CalHR Form 400
Move EEO & Upward Mobility Regs to CalHR pursuant to GRP #1, 2011

B. SUBMISSION OF REGULATIONS
Sections Affected

AMEND AND RENUMBER:

CURRENT SECTION #	RENUMBERED TO
599.980	599.987
599.981	599.988
599.982	599.989
599.985	599.990
599.986	599.991
599.987	599.992
599.988	599.993
599.990	599.994
599.992	599.995
599.993	599.996
599.994	599.997
599.995	599.998

**Justification for Changes Without Regulatory Effect
Equal Employment Opportunity Data Collection and Upward Mobility
Regulations
California Department of Human Resources**

The Governor's Reorganization Plan Number One of 2011 (GRP 1) created the California Department of Human Resources (the Department) and vested the Department with the powers and duties of the former Department of Personnel Administration (DPA). Senate Bill (SB) 1309, (stats. 2012, ch.360) added Government Code section 18502 that states the powers and duties of the Department as reflected below.

"18502. (a) There is hereby created in state government the Department of Human Resources. The department succeeds to and is vested with the following:

- (1) All of the powers and duties exercised and performed by the Department of Personnel Administration.
- (2) Those powers, duties, and authorities necessary to operate the state civil service system in accordance with Article VII of the California Constitution, this code, the merit principle, and applicable rules duly adopted by the State Personnel Board."

Section 73 of SB 1309, amended Government Code section 19792 to transfer from the Board to the Department, among other duties, the maintenance of a statistical information system designed to yield the data and the analysis necessary to evaluate equal employment opportunity within the state civil service (see Government Code section 19792(h)).

Assembly Bill 1062 (stats. 2013, ch. 427, § 91,) made additional changes to the Department's authority including shifting the responsibility of approving each state agency's upward mobility goals and timetables from the Board to the Department. (Gov. Code, § 19402.) The duties of establishing bridging classifications and career ladders as specified in statute also shifted from the Board to the Department. (Gov. Code, § 19403.) In addition, AB 1062 amended Government Code sections 19400, 19401, and 19405 related to upward mobility.

This regulation package proposes to implement SB 1309 and AB 1062 by adopting regulations related to work force data collection, evaluation of equal employment opportunity within the state civil service, and upward mobility. The Board, in a separate rulemaking action that it will submit simultaneously with this proposal, seeks to repeal their related regulations.

Specifically, this regulation package includes the following:

Equal Employment Opportunity Work Force Data Collection

Section 547.80 of the Board's regulations set forth definitions pertinent to the state's collection of work force data and evaluation of equal employment opportunity. The Department proposes to add a new section 599.980, article 31 to title 2, division 1, chapter 3, subchapter 1 to incorporate the definitions concerning work force data collection and equal employment opportunity evaluation. The Department is making no substantive changes in adopting section 599.980.

Upward Mobility

Sections 547.82, 547.83, 547.84, 547.85, 547.86, and 547.87 of the Board's regulations relate to upward mobility definitions, plan goals and related procedures. The Department, in turn, proposes to add a new article 32 to title 2, division 1, chapter 3, subchapter 1 to add the upward mobility regulations moving from the Board to the Department's regulatory scheme without any substantive changes. The table below shows the section renumbering scheme for the upward mobility regulations being repealed by the Board and adopted by the Department:

Title of Section	Former Section Number	New Section Number
Definitions	547.82	599.981
Coordinator	547.83	599.982
Plan Elements	547.84	599.983
Employee Selection	547.85	599.984
Upward Mobility Goals	547.86	599.985
Department's Review and Response	547.87	599.986

Renumbering of Regulations

The addition of articles 31 and 32 requires that the Department renumber the regulations in title 2, division 1, chapter 3, subchapter 2. The table below shows the section renumbering scheme for the regulations in chapter 3.

CURRENT SECTION #	RENUMBERED TO
599.980	599.987
599.981	599.988
599.982	599.989
599.985	599.990
599.986	599.991
599.987	599.992
599.988	599.993

CURRENT SECTION #	RENUMBERED TO
599.990	599.994
599.992	599.995
599.993	599.996
599.994	599.997
599.995	599.998

The adoption of the definition for equal employment opportunity work force data collection and upward mobility regulations qualify as changes without regulatory effect as the Department is adopting these regulatory provisions to be consistent with the statutory changes in SB 1309 requiring the Department to maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of equal employment opportunity within the state civil service (Government Code §19792(h)); and the transfer of the administration and monitoring of the upward mobility program from the Board to the Department as required by AB 1062 (Government Code §19400-§19405). Further, adoption of these regulations is required in order for the Department to operate the state civil service system in accordance with Article VII of the California Constitution and the Government Code as it is required to do pursuant to Government Code section 18502(a)(2). Government Code section 18502(a)(2) also requires that the state civil service system be merit-based and regulations concerning equal employment opportunity and upward mobility are key principles of a merit-based system.

The Department is proposing to adopt the Board's regulations as they are currently written with the following exceptions.

Changes to be consistent with statutory provisions

In order to reflect that the Department, not the Board, now collects statistical data and administers the upward mobility program, references in the regulations to the Board performing an activity are changed to the Department. Use of the word "Department" to reference the Department of Human Resources is consistent with the definition in section 599.604 of the Department's regulations.

The only exception where "Board" was not changed to the "Department" is in section 599.983 that was the Board's former section 547.84. Section 599.983 continues to reference the State Personnel Board's Guidelines for Administering Departmental Upward Mobility Employment Programs. SB 1309 did not amend Government Code section 19406 and this section requires the Board to prepare written guidelines for implementation of the upward mobility program.

In section 599.980(d) (formerly the Board's section 547.80(d)), the Department inserted the word "state" before the word "agency" in (d) "Relevant Labor Force".

Government Code section 19791(b) uses the term "state agency" as shown below. In section 599.980(f) (formerly the Board's section 547.80(f)), the Department changed the word "department" to "state agency" in (f) "Underutilization" because "state agency" is the term used in Government Code section 19791(b).

"(b) "Underutilization" means having a statistically significant, smaller percentage of persons of a group in an occupation or at a level in a state agency than would reasonably be expected by their percentage representation in the relevant labor force. An identified underutilization is not necessarily indicative of a denial of equal employment opportunity, but warrants an analysis of the cause of the underutilization. "

In the upward mobility regulations sections 599.981 through 599.986, the Department is using the term "appointing authority or appointing authorities" to refer to the entity/entities responsible for establishing and maintaining upward mobility programs. AB 1062 (stats. 2013, ch. 427, §69-§72) amended the entities from "departments and agencies" to "appointing authorities". The Board used the term "department/departments" in their upward mobility regulations consistent with Government Code sections 19401-19405 as they were written before the passage of AB 1062.

Non-substantive style changes

For consistency, references to California statutes and regulations have been formatted to conform to the California Style Manual; therefore, the words "section" and "subchapter" are changed to the lowercase.

Authority and reference changes

The text of the Board's regulations includes Government Code section 18701, the specific statutory authority for the Board to write regulations. The Department has deleted this authority and replaced it with its authority to write these regulations: Government Code sections 18502 and 19815.4, subdivision (d).

Government Code section 19815.4, subdivision (d) states that the Department's director shall: "(d) Formulate, adopt, amend, or repeal rules, regulations, and general policies affecting the purposes, responsibilities, and jurisdiction of the department that are consistent with the law and necessary for personnel administration." Government Code section 19815 was amended by Stats. 2013, ch. 427, sec. 104 to identify that the director in Government Code section 19815.4, subdivision (d) is the Director of the Department of Human Resources.

The Board's regulations related to Upward Mobility Program Plans, Goals, and Related Procedures cited as "Note References" Government Code "Sections

19400-19403, 19405 and 19406.” For consistency and style, the Department deletes the “dash” between sections 19400 and 19403 and, instead, lists each Government Code section individually.

Two non-substantive changes were made in section 599.980, the Board’s former section 547.80:

1. When referencing the federal Civil Rights Act of 1964, “et seq.” is deleted and, instead, each section is listed; and
2. In the “Note Reference”, a space between the words “and” and “Hazelwood” is added.

Structure, grammar or cross-reference in specific regulatory sections

Section 599.986 is the Board’s former section 547.87. The text of the regulation refers to 547.86 of the Board’s regulations (section 547.86 is now the Department’s section 599.985). To be consistent with the formatting of the Department’s other regulations, the word “regulation” has been added before the citation to 599.985.

Renumbering of existing regulations

The addition of the new articles 31 and 32 to title 2, division 1, chapter 3, subchapter 1 requires that all subsequent regulations in title 2, division 1, chapter 3, subchapter 2 be renumbered. The Department has renumbered all these regulation sections.

In the renumbered section 599.991, the text of the regulation refers to section 599.985. Due to the renumbering, the correct reference is section 599.990 and the text of section 599.991 has been changed to reference section 599.990.

Text of Proposed Regulations
Title 2, Division 1, Chapter 3, Subchapter 1, Article 31 and Article 32; and
Title 2, Division 1, Chapter 3, Subchapter 2, Articles 1, 2, 3 and 4

Add Article 31 to the California Code of Regulations, title 2, division 1, chapter 3, subchapter 1, to read as follows:

ARTICLE 31. EQUAL EMPLOYMENT OPPORTUNITY WORK FORCE DATA

§ 599.980. Definitions.

The following definitions shall be used for work force data collection and evaluation of equal employment opportunity within state civil service, including those activities related to layoff:

(a) "Class" means a group of positions as defined in Government Code section 18523.

(b) "Racial/Ethnic Group" includes persons who are members of one of the following groups: American Indian/Native American, Asian, Black/African American, Filipino, Hispanic, Pacific Islander, and White. These groups are defined as follows:

(1) "American Indian/Native American" means any person who is a member of an American Indian Tribe or band recognized by the Federal Bureau of Indian Affairs, or has at least one-quarter American Indian blood quantum of tribes or bands indigenous to the United States or Canada.

(2) "Asian" means any person whose origin is the Far East, Southeast Asian or the Indian subcontinent and includes, for example, China, Japan, and Korea.

(3) "Black/African American" means any person whose origin is any of the Black racial groups of Africa.

(4) "Filipino" means any person whose origin is the Philippine Islands.

(5) "Hispanic" means any person whose origin is Mexico, Puerto Rico, Cuba, Spain, or the Spanish-speaking countries of Central or South America. It does not include persons of Portuguese or Brazilian origin, or persons who acquired a Spanish surname.

(6) "Pacific Islander" means any person whose origin is in any of the original

peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(7) "White" means any person whose origin is Caucasoid.

(c) "Occupational Group" means a group of jobs or classes that includes the entry level, other working levels, and supervisory levels within the same general occupational field of work.

(d) "Relevant Labor Force" means the pool of individuals who possess the requisite qualifications for the job within the geographic area in which the state agency can reasonably expect to recruit.

(e) "Statistically Significant" means the degree of underutilization is equal to or greater than the .05 level of significance using the one-tailed Z Test method of statistical analysis outlined in Appendix 4 of the *Interim Guidelines for Conducting the Annual Analysis of the State Work Force*, issued March 2002, by the State Personnel Board. This document is hereby incorporated by reference in its entirety. Using this methodology, a computed Z value of 1.65 or greater is sufficient to conclude that any underutilization is statistically significant.

(f) "Underutilization" means having fewer persons of a particular group in an occupation or at a level in a state agency than would reasonably be expected by their availability in the relevant labor force.

(g) "Work Force" means incumbents in full-time and other-than-full-time positions in the state civil service employed by the appointing authority.

Note: Authority cited: Sections 18502 and 19814.5(d), Government Code. Reference: Sections 11092.5, 18523, 19702.1, 19790, 19791 and 19792, Government Code; Title VII of the Civil Rights Act of 1964, 42 USC, Sections 2000e-2 and 2000e-3; "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity," *Federal Register*, October 30, 1997; *Connerly v. State Personnel Bd.* (2001) 92 Cal. App. 4th 16; and *Hazelwood School District v. United States* (1977), 433 U.S. 299, 308, fn. 14.

Add Article 32 to the California Code of Regulations, title 2, division 1, chapter 3, subchapter 1, to read as follows:

ARTICLE 32. UPWARD MOBILITY

§ 599.981. Definitions.

(a) "Bridging Career Ladders" and "Career Ladders and Lattices" mean the succession of job classifications in which employees may normally gain

experience in order to advance from positions in low-paying occupations into technical, professional, or administrative positions.

(b) "Bridging Classifications" mean job classifications established to provide experience for employees in low-paying occupations that meet the minimum qualifications for traditional entry technical, professional, and administrative classifications.

(c) "Career Development Plan" means an employee's written plan for advancement, which identifies a career goal and the specific self-development actions, including, but not limited to, work experiences, college courses, and training classes, needed to achieve the goal.

(d) "Entry Technical, Professional, and Administrative Positions" mean those positions in technical, professional, and administrative classifications for which hiring is typically open to the public and into which employees in low-paying occupations may advance.

(e) "Good Faith Effort" means that the appointing authority can demonstrate by its actions that it is fully complying with all upward mobility statutes and regulations.

(f) "Low-Paying Occupations" mean the following groups of classifications identified in the *California Civil Service Pay Scales (Pay Scales)*, 50th Edition, as published by the Department: Horticulture; Office and Allied Services; Custodian and Domestic Services; Mechanical and Construction Trades; and bridging and career development classifications in other occupational areas.

(g) "Technical, Professional, and Administrative Classifications" mean classifications in the following occupational categories identified in the Pay Scales: Agriculture and Conservation; Education and Library; Engineering and Allied Services; Fiscal, Management and Staff Services; Legal; Medicine and Allied Services; State Emergency Disaster Program; Protective Services and Public Safety; and Social Security and Rehabilitation Services.

(h) "Upward Mobility" means the development and advancement of employees from positions in low-paying occupations to entry technical, professional, and administrative positions.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19400, 19401, 19402, 19403, 19405, and 19406.

§ 599.982. Coordinator.

Each appointing authority shall appoint an upward mobility program coordinator to coordinate, monitor, and report on the appointing authority's upward mobility program efforts.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19400, 19401, 19402, 19403, 19405 and 19406,
Government Code.

§ 599.983. Plan Elements.

Each appointing authority shall develop and maintain a written upward mobility plan as specified in the State Personnel Board's *Guidelines for Administering Departmental Upward Mobility Employment Programs* (Guidelines), revised July 25, 2000. This document is hereby incorporated by reference in its entirety. The plan shall include:

(a) A policy statement regarding the appointing authority's commitment to providing equal upward mobility opportunity for its employees in low-paying occupations.

(b) A description of the components of its program consistent with Government Code section 19401, how employees may access the program, and where information about the program may be obtained.

(c) The roles and responsibilities of the employee, the employee's supervisor, the upward mobility program coordinator, the personnel office, the training office, and the equal employment opportunity office regarding the upward mobility program.

(d) Criteria for selecting employees in low-paying occupations to participate in the upward mobility efforts described in Government Code section 19401.

(e) The number of employees in classifications in low-paying occupations used by the appointing authority; career ladders, bridging classes, and entry technical, professional, and administrative classes targeted for upward mobility; and planned upward mobility examinations.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19400, 19401, 19402, 19403, 19405 and 19406,
Government Code.

§ 599.984. Employee Selection.

(a) Appointing authorities shall conspicuously post and otherwise publicize upward mobility development and job opportunities for a reasonable time period, but not less than five working days, to provide an equal opportunity for interested employees in low-paying occupations to apply.

(b) Appointing authorities shall select employees in low-paying occupations for participation in upward mobility activities using criteria that are as objective as possible and that can be applied in a consistent manner. Criteria shall include, but not be limited to, such factors as upward mobility objectives; staffing needs; available funds and other resources; employee status; employee performance in current position; employee motivation and potential for advancement; and the relevance of the training.

(c) No employee shall be guaranteed advancement under any appointing authority upward mobility program, but all interested employees in low-paying occupations shall be given equal consideration to participate in upward mobility efforts. Employees selected for upward mobility efforts shall prepare a career development plan and maintain a satisfactory level of performance on the job, in academic courses, and/or in training programs to continue in the program.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19400, 19401, 19402, 19403, 19405 and 19406,
Government Code.

§ 599.985. Upward Mobility Goals.

(a) In accordance with the Guidelines, each appointing authority shall annually establish upward mobility goals that reflect the number of expected appointments of employees in low-paying occupations to positions in entry technical, professional, and administrative classifications during the fiscal year. Goals shall be established by classification and expressed as a whole number. In establishing goals, consideration shall be given to the following:

- (1) The history of upward mobility appointments over at least a three-year period.
- (2) The anticipated number of appointment opportunities.
- (3) The availability of qualified upward mobility candidates for appointment.

(b) Appointing authorities shall submit the following information to the Department for review and approval by July 1st of each year:

- (1) Upward mobility goals for each appropriate entry technical, professional and administrative classification.
- (2) An analysis of how successful the appointing authority was in meeting its goals for the previous year.
- (3) A description of the appointing authority's actions that demonstrate a good

faith effort to comply with the requirements of Government Code section 19401.

(4) The number of employees participating in each of the appointing authority's upward mobility efforts specified in Government Code section 19401.

(5) The amount and percentage of the appointing authority's annual training budget assigned for upward mobility development activities.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.

Reference: Sections 19400, 19401, 19402, 19403, 19405 and 19406, Government Code.

§ 599.986. Department Review and Response.

In accordance with Government Code section 19402, the Department will annually review each appointing authority's upward mobility goals and the other information required under regulation 599.985 and provide a written response either approving or requiring modification to the appointing authority's upward mobility program.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.

Reference: Sections 19400, 19401, 19402, 19403, 19405 and 19406, Government Code.

SUBCHAPTER 2. CAREER EXECUTIVE ASSIGNMENT RULES

ARTICLE 1. SERVICE – GENERAL

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.980 as follows:

§ 599.9870. Breaks in Service.

The provisions of Government Code section 19998.3 pertaining to breaks in service shall apply to persons serving in career executive assignments.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.

Reference: Section 19889, Government Code.

Amend and renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.981 as follows:

§ 599.9884. Method of Appraisal.

Performance appraisals of persons serving in career executive assignments shall be conducted in the manner prescribed by the the Department.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Section 19889, Government Code.

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.982 as follows:

§ 599.9892. Leave of Absence.

Leaves of absence for employees serving in career executive assignments shall be subject to the same provisions of law as those governing other civil service employees.

~~Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Section 19889, Government Code.~~

ARTICLE 2. COMPENSATION

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.985 as follows:

§ 599.99085. Flexibility in Form of Compensation.

The Department shall set salaries within the career executive category in the form of salary ranges, single pay rates, or such other form as may be deemed appropriate. To encourage broader competition for the career executive category, the Department may utilize a salary range of more than five steps for levels within the category. The Department may authorize compensation at a rate beyond the salary range utilized for a level when necessary to meet prevailing practice.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Section 19889, Government Code.

Amend and renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.986 as follows:

§ 599.99186. Rate of Movement upon Promotion to a Career Executive Assignment Position.

A permanent employee who, without a break in service, promotes from a general civil service class or a career executive assignment position to another career executive assignment position with a higher salary range will be entitled to one step and may receive two steps above the rate last received provided that rate does not exceed the maximum rate of the higher salary range unless authorized under section 599.990 ~~599.985~~ of these regulations.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Section 19889, Government Code.

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.987 as follows:

§ 599.99287. Bonus Compensation.

To encourage high performance in career executive assignment positions and to better recognize managerial excellence in the state civil service, the Department ~~may establish a "bonus" compensation plan for career executive assignment positions.~~ This system would operate separate and apart from level of salary range, steps or other parts of the salary program and would provide for a lump-sum payment. In such cases, the Department will describe guidelines including the amount of bonus possible within a given time period, the standards for eligibility for a bonus, and the procedures for administering such a system.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Section 19889, Government Code.

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.988 as follows:

§ 599.99388. Red Circle Rates.

An employee who has ten years of state service, one year of which is under a career executive assignment appointment(s) and is terminated from a career executive assignment, shall receive a red circle rate in accordance with standards set by the Department unless the termination was voluntary or based on unsatisfactory performance. If the termination was voluntary and performance satisfactory, a red circle is permissive.

The Department may, at the election of the employee, apply the provisions of this section to any employee who, prior to the effective date of this regulation, was terminated from a career executive assignment. The salaries of these employees may be adjusted on the effective date of this section for the remainder of the period of time the red circle rate could have been granted.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19837 and 19889.2, Government Code.

ARTICLE 3. TERMINATION OF ASSIGNMENT

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.990 as follows:

§ 599.9940. Notice of Termination.

In terminating a career executive assignment, principles of good personnel management shall be observed through conforming to the following procedures:
(a) The appointing power, in advance of service of written notice of termination of assignment, shall indicate to the employee its intention to terminate the assignment and the employee shall be privileged to discuss the termination with the appointing power.

~~(b) The appointing power shall serve the employee with written notice of termination of the assignment at least 20 days prior to the effective date of termination and a copy of such notice shall be furnished to the Department.~~

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19889 and 19997, Government Code.

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.992 as follows:

§ 599.9952. Termination upon Request of Employee.

An employee serving in a career executive assignment may request the appointing power to terminate that assignment at any time, and such termination shall be made.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19889 and 19997, Government Code.

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.993 as follows:

§ 599.9963. Reduction in Force.

Whenever it is necessary or advisable to reduce the number of employees in positions where there are general civil service classes and career executive assignments, the appointing power may initiate either or both of the following:

(a) terminate the assignment of one or more of the career executives as provided for in this article without regard to the respective seniority of such incumbents as compared to general civil service employees, or

(b) determine the relative seniority of employees in the general civil service classes. Lay off general civil service employees as provided by Government Code sections 19997, 19997.1, 19997.2, 19997.3, 19997.4, 19997.5, 19997.6, 19997.7, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, 19997.14 or terminate the career executives as provided for in this article except that no general civil service employee shall be laid off as long as there is a career executive with less seniority.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19889 and 19997, Government Code.

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.994 as follows:

§ 599.9974. Seniority Credits.

Service in a career executive assignment shall be credited for seniority credits as if the service had been under a general civil service appointment. Credit for service in the career executive assignment category shall be earned as if the entire category were one class; the rate shall be one point per qualifying pay period.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19889 and 19997, Government Code.

ARTICLE 4. SEPARATIONS FROM STATE SERVICE

Renumber California Code of Regulations, title 2, division 1, chapter 3, subchapter 2, section 599.995 as follows:

§ 599.9985. Separation of Employee.

A person serving in a career executive assignment may be separated from state service through resignation, automatic resignation, dismissal, retirement, or for medical reasons under the provisions of Government Code section 19253.5 in the same manner as is provided for other civil service employees. The career executive assignment of a person so separated shall be deemed to have been terminated, and the separation to have been from a position in the class in the general civil service in which the employee had permanent status.

Note: Authority cited: Sections 18502 and 19815.4(d), Government Code.
Reference: Sections 19253.5, 19889 and 19997, Government Code.