

CAREER EXECUTIVE ASSIGNMENT (CEA)

Overview

This section will discuss Career Executive Assignments (CEA). The following table depicts the topics covered in this section.

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INTRODUCTION TO CEA

Policy It is the policy of the DGS to create and limit CEA appointments only to the highest, most critical management positions within our department.

Definition Government Code Section 18547 defines CEA as:
“An appointment to a high administrative and policy influencing position with the state civil service in which the incumbent’s primary responsibility is the managing of a major function or the rendering of management advice to top-level administrative authority. Such a position can be established only in the top managerial levels of state service and is typified by broad responsibility for policy implementation and extensive participation in policy evolution. Assignment by appointment to such a position does not confer any rights or status in the position other than provided in Article 9 (commencing with Section 19889) of Chapter 2.5 of Part 2.6.”

Explanation The depth and extensiveness of the role of the individual in the development and implementation of policy is a critical factor in determining whether a position meets the statutory requirement for having a high level policy-influencing role.

Policy influencing Managerial employees must meet the criteria of:

- A significant role in putting policies into effect
- A significant role in monitoring policies to ensure compliance
- Possess the authority through independent judgment to enlarge or narrow policy application beyond standard operating procedures

Policies are usually based upon accepted, well-defined norms/standards of practice and clinical guidelines. Policies and procedures may also be based on professional recommendation or consensus when standards or guidelines are not available. Procedures delineate the processes and activities necessary to implement policies; in other words, the day-to-day operations.

Policies reflect the “rules” governing the implementation of processes. Procedures (or guidelines) represent an implementation of policy and should evolve over time as new tools emerge, new processes are designed, and the risks associated with an area changes in response to internal or external environmental changes.

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INTRODUCTION TO CEA, Continued

Policy influencing
 (continued)

The following questions should be asked and answered in support of allocation to a managerial position.

1. Does policy pertain to departmental mission or administrative function such as personnel, budgets, etc.?
2. Who is impacted by these policies?
3. Does the position develop, recommend or make final decisions regarding the adoption of the policies?
4. Is the position responsible for the implementation of the policies and programs related to basic departmental mission accomplishment?
5. Is the position assigned decision-making authority over a clearly defined and distinct program area?
6. Is the position recognized as the State expert in the program?
7. Is the position given discretion to act for the department Director with only general direction from top management?
8. Do the policies broadly prescribe a future course of action, guideline, principle, or procedure?
9. Do the policies prescribe the internal management of an agency?
10. Can you provide samples of policies to be developed/recently developed of major impact; descriptions of potential areas (statute/mandate) of policy development, rules involved?

Responsibilities of SPB vs. DPA

The following table depicts the responsibilities of SPB and DPA regarding career executive assignments:

SPB is responsible for	DPA is responsible for
New CEA allocations	CEA levels
Revision of existing CEA allocations	Red circle rates
Return rights of terminated CEAs	Salary flat rates
CEA examinations	
Status issues (transfers, promotions, return rights, reinstatements)	
Granting movement of 10% or more pay	

ESTABLISHING NEW CEA POSITION

Overview This section will cover the process for establishing new CEA positions as follows:

- Process
 - Distinguishing Characteristics
 - Guidelines for Allocation to the CEA Category
 - Specific Criteria
 - Other Considerations
 - Establishment of New CEA Band Positions
 - Salary Setting
 - Retired Annuitants
 - Reporting Requirements
 - Procedures
-

SPB Policy It is SPB's policy that positions at the fourth or lower organizational level should not be assigned to the CEA category; however, on a very limited exception basis, positions in the largest departments with decentralized functions or highly diverse functions may be able to justify a fourth level CEA position.

Process The following phases are the process for establishing and determining the level of a CEA position and are discussed in detail in DPA's Classification and Pay (C&P) Manual Section 400.

Stage	Who	Does What
1	DGS management or client agency	Determines need for establishment of CEA and works closely with their assigned C&P analyst
2	C&P Analyst	Works with management to create key position description (KPD) and duty statement
3	C&P Analyst and management	<ul style="list-style-type: none">• Follows the C&P Manual's process regarding factors listed in the above overview

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ESTABLISHING NEW CEA POSITION, Continued

Distinguishing characteristics

The depth and breadth of the role of the position in the development and implementation of policy is a critical consideration in determining whether a position meets the statutory requirement for having a high level policy-influencing role. See C&P Manual Section 400 for a complete description of distinguishing characteristics.

Guidelines for allocation to the CEA category

To determine the high administrative and top managerial nature, evaluate the following factors for each position, which is thoroughly detailed in the C&P Manual, Section 400, 3.1 through 3.4, which includes:

- Managerial Responsibility
- Policy Influence
- Organizational Level
- Scope

Specific criteria

Within the general CEA allocation factors, criteria should be used to evaluate the appropriateness of assigning specific positions to the CEA category. Specific criteria are set forth in C&P Manual, Section 400, 4.1 through 4.6 and Section 405.

Other considerations

When applying the criteria outlined in the C&P Manual, Section 4.1 through 4.6, to determine if a position may be assigned to the CEA category, it is necessary to evaluate the position's duties and responsibilities in relation to those of all other positions in the department. Such an overall organizational review must consider not only other CEA positions, but exempt and general civil service positions as well. If the basic functions of two positions or more overlap, then the level of duties and responsibilities of each position is diminished. C&P Section 400, 5.2 and 5.3 speaks to this issue.

Establishment of new CEA band positions

A department should develop a key position description, duty statement, and organization chart for each position to be established. These should be forwarded to the SPB with a cover memorandum that highlights the policy role of the position. It is critical in cases where the incumbent of the new CEA position will report to another CEA to distinguish between the policy role of each of the positions. Please see Key Position Description section of this manual.

ESTABLISHING NEW CEA POSITION, Continued

Salary setting Salary setting for CEAs is governed by DPA Rule 599.985. The CEA band has a salary grid of flat rates. The salary rate assigned to a CEA band position is the flat rate for that position based on the position's current value to the appointing power and the performance of the incumbent.

Refer to CalHR Pay Scales, Section 8, "Variable Compensation" for a complete explanation of CEA salary setting and adjustments and for the most recent salary information at

http://www.calhr.ca.gov/Pay%20Scales%20Library/PS_Sec_08.pdf .

Retired annuitants

A retired annuitant shall only be appointed to a CEA position if the position has been approved by the SPB, the position is a coded position and the retired annuitant is to perform the approved duties of the CEA position. Note: Retired annuitants do not have current permanent civil service status and therefore do not meet the requirements of Government Code (GC) 19889.3 and California Code of Regulations (CCR) 548.70 to participate in CEA examinations. If an individual previously held a CEA position and has subsequently retired from State Civil Service they do not meet the criteria of CCR 548.90 to reinstate into a CEA position, or the criteria of CCR 548.95 to transfer into a CEA position unless they first reinstate back into a civil service position and obtain current permanent civil service status. However, an individual who retired from a CEA position may be brought back to perform duties of a CEA position as a retired annuitant as outlined in GC 19144.

Reporting requirements

In accordance with C&P Manual, Section 400, 8.1, by October 1 of every year, departments shall submit reports to CalHR and the Department of Finance and shall show the following:

- Incumbent's name
 - Position number
 - Level of the CEA position
 - Top salary rate of the level of the position
 - Actual salary paid to the incumbent
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ESTABLISHING NEW CEA POSITION, Continued

Procedures The following table depicts the procedures for establishing a CEA position.

Step	Action										
1	<p>C&P Analyst prepares the CEA packages as described below and submits to his/her supervisor for review.</p> <table border="1" data-bbox="386 499 1500 835"> <thead> <tr> <th data-bbox="386 499 1024 535">SPB Package</th> <th data-bbox="1024 499 1500 535">DPA Package</th> </tr> </thead> <tbody> <tr> <td data-bbox="386 535 1024 684">1. Justification memo to the SPB analyst requesting that the position be established and stressing the policy role of the position</td> <td data-bbox="1024 535 1500 684">1. SPB package</td> </tr> <tr> <td data-bbox="386 684 1024 758">2. Key position description</td> <td data-bbox="1024 684 1500 758">2. CEA database input form</td> </tr> <tr> <td data-bbox="386 758 1024 800">3. Duty statement</td> <td data-bbox="1024 758 1500 800">3. Form 137</td> </tr> <tr> <td data-bbox="386 800 1024 835">4. Organization chart</td> <td data-bbox="1024 800 1500 835"></td> </tr> </tbody> </table>	SPB Package	DPA Package	1. Justification memo to the SPB analyst requesting that the position be established and stressing the policy role of the position	1. SPB package	2. Key position description	2. CEA database input form	3. Duty statement	3. Form 137	4. Organization chart	
SPB Package	DPA Package										
1. Justification memo to the SPB analyst requesting that the position be established and stressing the policy role of the position	1. SPB package										
2. Key position description	2. CEA database input form										
3. Duty statement	3. Form 137										
4. Organization chart											
2	C&P Analyst forwards the CEA package to SPB and the CEA package to DPA as described above.										
3	After review, the SPB Analyst will forward the request to the SPB Division Chief, then to the Executive Officer for approval. The request then goes to the five-member Board (SPB) for final authorization.										
4	SPB Analyst notifies the C&P Analyst if it is approved and the effective date.										
5	DPA Analyst will review the DPA CEA package and place a CEA route sheet on top of the package and forward it to the Classification and Compensation Board Item Coordinator to be held until the position is approved and the SPB package is forwarded with their approval.										
6	The DPA Board Item Coordinator will prepare the Pay Letter, combine the packages and send them to the CCD file room where a file containing the information will be established for the position. The CEA position database will be updated at that time.										

CEA TESTING

Policy It is the policy of the DGS to comply with applicable laws, rules, and regulations pertaining to CEA examinations as governed by SPB Rule 548.40 which was amended pursuant to a decision of the Third Appellate District Court in a published decision *Alexander v State Personnel Board* (2000) 80 Cal.App.4th 526.

Explanation This section will discuss CEA examinations as follows:

- History
- Responsibility of Appointing Power and SPB
- Eligibility for CEA Examinations
- Types of CEA Examinations
- CEA Exam Process
- Appeals from Examination
- Required Documentation

Executive office approval DGS Executive Office approval is required **prior** to advertising and/or administering an examination for a CEA position. Requests for CEA examinations and/or filling a vacant CEA position shall be submitted to the Director for review and approval.

SPB Rule 548.40 Governs CEA examinations requiring an appointing power to develop job-related evaluation criteria that will be used to:

- assess the qualifications of each candidate for the CEA position to be filled; and
- assess each candidate’s qualifications for that position against the evaluation criteria; and
- to compare and rank each candidate against all other candidates based upon that assessment.

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CEA TESTING, Continued

Responsibility of appointing power and SPB The following table depicts appointing power and SPB responsibility:

Appointing Power Responsibility	SPB Responsibility
CEA examination planning	Develop and maintain regulations on selection
Publicity in accordance with SPB “pinkie” dated 8/14/06 (on-line bulletin system)	Provide consultation upon request
Recruitment	Review appointments reported by appointing powers
Conducting selection process	Conduct post audit
Maintain examination history documentation	
Reports to SPB	

Eligibility for Examinations Competitors must have permanent civil service status and be well qualified to perform high administrative and policy-influencing functions. Permanent civil service status means the status of an employee who is lawfully retained in his/her position after the probationary period and having no break in the continuity of state service due to a permanent separation.

Legislative employees who qualify under Government Code Section 18990 and Executive Branch employees who qualify under Government Code Section 18992 may also be eligible. (Please refer to Selection Manual 6200.49 through 6200.54.)

Types of CEA examinations Examinations for appointment to CEA positions must be competitive and designed to fairly determine the qualifications, fitness, and ability of competitors to perform the duties of the position to be filled. There are different options to evaluate candidate groups for CEA positions as follows:

- application/resume evaluation only
- applicants screened to interview
- all applicants interviewed
- additional evaluations

Refer to Selection Manual Section 5650.3 for complete descriptions of the above selection processes.

CEA TESTING, Continued

CEA Exam Process

There are several steps that are required in the CEA examination process. The following are the five required steps:

1. Examination planning
2. Publicity
3. Screening candidates
4. Notification of applicants
5. Reporting to SPB

Due to the lengthy detail of each step, please refer to Selection Manual Section 5650 for a detailed explanation.

Appeals from Examination

Applicants for CEA examinations appeals can only be based on the following:

- Fraud
- Discrimination; or
- Irregularity (2 CCR 548.49)

When “irregularity” is alleged, the burden of proof is on the appellant to show that irregularity was of such character and substance as to have “materially affected” the appointment.

CEA TESTING, Continued

**Required
documenta-
tion**

DGS is responsible for maintaining examination history files for each examination administered. The history file will be one source of information for DGS to provide feedback to candidates when requested. DGS must cooperate with the SPB Merit Appeals Office in the event of an appeal, and supply whatever information is requested.

The examination history file must contain the following items, at a minimum, for purposes of SPB audits:

1. CEA Examination Telephone Announcement form
 2. CEA Examination Bulletin (Announcement)
 3. Assessment of Departmental Incumbent CEA Work Force form.
(Any changes in the CEA work force must be recorded on this form.)
 4. Recruitment Plan
 5. Report of Appointment to a CEA Position (SPB 1080)
 6. Summary of Ethnic, Sex, and Disabled Composition of Competitors applying for CEA Examination form
 7. Standards used for interviews or for screening
 8. Other written material relating to the examination, such as requests for information, appeals, etc.
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CEA APPOINTMENTS

Overview

This section will cover the following as set forth in C&P Manual Section 430:

- Initial appointment to a new CEA position
- Subsequent appointments to a CEA position
- Appointment documentation

Note: SPB Rule 548.96, Transfer of Employee from General Civil Service to a CEA was repealed effective June 20, 2002. In *Professional Engineers in California Government v. State Personnel Board* (2001) 91 Cal.App.4th 341, the Court of Appeal, Third District, issued a published decision holding that, while transfers from one CEA position to another are valid, transfers from a non-CEA position into a CEA position are not valid, and **all appointments must be made by competitive examination.**

Initial CEA appointment

At this point, since the position has been approved by SPB and DPA, no additional documentation is required. DGS should designate the flat salary rate that the position is worth and the person appointed at that rate. SPB determines when an examination is required.

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CEA APPOINTMENTS, Continued

Subsequent CEA appointment

The following table details subsequent appointment documentation. Refer to C&P Manual Section 450 regarding DPA's reporting requirements.

If	Then
No changes have occurred	No notification of DPA or SPB is required
Significant changes have occurred	The C&P Analyst shall send the following to SPB: <ul style="list-style-type: none"> • New organization chart • Key Position Description (KPD) • Duty Statement
Significant changes have occurred	SPB will determine if duties continue to support CEA

Appointment documentation

Each CEA transaction should be handled on a case-by-case basis. When in doubt, seek the advice of the C&P analyst to ensure appropriate documentation. Refer to Personnel Action Manual (PAM) for complete information on documenting a CEA appointment. Also refer to C&P Manual Section 430 for further appointment documentation information.

CEA salary movement

Effective March 5, 2008, the Department of Personnel Administration (DPA) rescinded the existing salary rules which govern CEA salary increases (DPA PML 2006-06). This means the following:

- DGS **cannot** authorize up to 10% salary movement in the CEA salary ranges
- DGS may no longer authorize salaries that exceed the salary range of the authorized CEA level, which are:

CEA I	\$6173 - \$7838
CEA II	\$7815 - \$8616
CEAIII	\$8594 - \$9476
CEA IV	\$9018 - \$9939
CEA V	\$9544 - \$10,520
Legal, Physicians, and Engineering	Up to \$13,381
- Any CEA salary currently above the maximum salary of their respective level **is frozen**; no additional salary increases within the CEA bands can be authorized

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CEA APPOINTMENTS, Continued

CEA salary movement (continued)

- New CEA appointments **must be** within the salary range of the CEA level which was approved and **cannot exceed** the maximum of that level
- **Twelve months** after the **initial** appointment, CEA's who are below the maximum of the range for the authorized level may receive up to five percent increase within the range, at the discretion of the appointing power (this is the same concept as merit salary adjustments for represented employees)

Transfers and Promotions

- CEA's who currently are above the maximum of the authorized level who are transferred or appointed to another CEA position at the same level retain their current salary and there can be no further increases
- CEA's who are being promoted to a higher level may receive the minimum of the new CEA level or a five percent increase, whichever is higher, not to exceed the maximum of the level

“Restricted Zone” for Engineers, Attorneys, and Physicians

- DPA approval is required for **all** movement into the “restricted zone” above CEA Level 5

To address the critical need for succession planning, DGS may allow an overlap of employees in a CEA position while the prior incumbent orients and mentors the new appointee. The duration of overlap for orientation/mentoring may last **up to four months**.

Exceptions to the CEA salary program

As noted in PML 2007-022, departments may submit requests to DPA for exceptions to the CEA salary program when there is an extraordinary operational impact or severe salary compaction, **through their C&P Analyst**:

- to exceed the non-attorney/physician/engineer Level 5 rate; or
- to exceed the 5% salary movement annually from the initial appointment

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CEA APPOINTMENTS, Continued

**Exceptions
to the CEA
salary
program**
(continued)

Requests must include a clear justification on the need for the exceptional request, including:

- title of CEA position and current level
- subordinate staff classifications, salaries, and compaction issue
- brief description of CEA role and an organization chart
- specific salary or percentage increase requested
- appropriate signature authority (Agency Secretary, Director, or designee)

DPA views 5% as an acceptable differential between managerial positions due to compaction issues.

CEA RETURN RIGHTS

Definition California Code of Regulations (CCR), Section 548.150 defines “former position” as the last position an employee held as a probationer or permanent employee or a position that is at least the same salary level and to which the appointing power could have transferred the employee (i.e., within two steps).

Overview This section will discuss the employee’s return rights as follows:

- Termination Notification
- Appeal from Termination
- Reinstatement Eligibility
- Permissive Reinstatement
- Mandatory Reinstatement
- Red Circle Rates

Refer to the CEA and Exempt Manual published by SPB for more information on this subject.

Explanation Pursuant to CCR Section 548.151, an employee terminated from a CEA shall be reinstated to his or her former position unless the employee elects to be appointed to another position, offered by the appointing power, for which the employee is eligible.

Termination notification The appointing power shall notify the incumbent in writing with a 20-calendar day notice of the termination of the CEA.

Appeal from termination Within 30 days after receipt of the termination notice, the incumbent may appeal in writing to the SPB. Appeals from termination can only be made on the following basis: Age, sex, sexual preference, marital status, race, color, national origin, ancestry, disability, religion, or religious opinions and affiliations, political affiliation, or political opinions. After hearing, SPB may affirm the termination or restore the incumbent to the CEA.

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CEA RETURN RIGHTS, Continued

Reinstatement eligibility

Every CEA, except former exempt employees who were employed in the CEA position based on the provisions of Government Code Sections 18990 or 18992 and either (1) have no prior permanent civil service status; or (2) have prior civil service permanent status and since that status have had a break in service due to a permanent separation, is entitled to return to their former position.

CEA return rights are dependent upon the length of State service, length of CEA service, and departmental vacancy status. An incumbent that is terminated from a CEA must request reinstatement within 10 calendar days of the date of the termination notice.

Red circle rates

DPA Rule 599.988 provides that an employee being terminated or voluntarily resigning from a CEA appointment, or who is being reduced to a lower CEA salary rate, and who does not have a bona fide CEA appointment within the “window period of June 20, 1976, through June 30, 1977, shall receive a red circle rate for 90 calendar days providing that the employee meets the following criteria:

- Have at least 10 years of total State service;
- Have at least one year of total CEA service. CEA time served immediately before and after an exempt or civil service appointment shall be qualifying for meeting the one-year requirement. However, time served in an exempt appointment shall not count towards the one-year total CEA service requirement; and
- Termination or resignation is not due to unsatisfactory performance.

An employee who meets the above criteria shall be eligible for a salary rate above the maximum of the class to which the employee is mandatorily reinstated. The red circle rate is based upon the last CEA salary rate received from which termination occurs, less five percent. The department to which the employee is reinstated requests and pays for the red circle rate.

CEA RETURN RIGHTS, Continued

Extended red circle rate

An extended red circle rate applies to an employee being terminated from a CEA appointment where any CEA appointment was accepted within the window period, mentioned above. The employee must meet the following criteria:

- Termination is not voluntary nor is it based on unsatisfactory performance; and
- The employee had a bona fide appointment during the “window period” of June 20, 1976, through June 30, 1977; and
- CEA service has been continuous since the qualifying “window period” appointment.

An employee who meets the above criteria shall be eligible for a salary rate above the maximum of the class to which the employee is being mandatorily reinstated or is being appointed from a promotional list. The red circle rate is based upon the highest CEA held by such employee during the “window period,” less five percent. The extended red circle rate will be in effect until absorbed by any salary changes.

Eligibility for an extended red circle rate based on any “window period” appointment may be used only once. Refer to C&P Manual Section 440 for documentation information.

CEA RESOURCES

Resources The following table depicts the various resources available regarding CEA matters.

Resource	Section
Law and Regulation http://www.leginfo.ca.gov/calaw.html http://www.dpa.ca.gov/statesys/dpa/oalrules.htm	GC Sections 18546; 18547; 18990; 18992; 19144; 19826; 19889; 19889.2; 19889.3; 19889.4; 20636, 3512 - 3524 CCR Sections (All begin with 2 CCR) 548 et seq.
Personnel Management Policy and Procedures Manual (PMPPM)	311; 314; 315.21
Classification and Pay Guide (C&P)	Sections 400 through 499
Responsible Control Agency	SPB www.spb.ca.gov DPA www.dpa.ca.gov
Pay Scales http://www.dpa.ca.gov/jobinfo/pay_scales/toc.shtm	Section 8 (variable compensation), 14 (pay differentials)
Selection Manual (old)	5650
Personnel Action Manual (PAM)	Sections 2.44; 2.52; 2.55; 2.56; 2.145; 2.201
SPB/DPA Policy Memos http://www.spb.ca.gov/pinkies.htm http://www.dpa.ca.gov/personnel-policies/pmls.htm	SPB Pinkies: Dated 8-14-06; 9-30-02; 06-26-02; 10-20-00; 9-21-00; 7-31-00; 6-15-00; 7-15-99; 9-23-93 PML: 2008-012, 2007-026, 2007, 022, 2006-037; 2006-06 (rescinded 3/24/08), 96-033
Human Resources Memoranda http://www.ohr.dgs.ca.gov/policymemos/default.htm	HR 00-22; HR 00-034
Other: Sample KPD Sample Duty Statement SPB CEA Information	http://www.documents.dgs.ca.gov/ohr/pom/KPDsample.doc http://www.documents.dgs.ca.gov/ohr/pom/CEAdutystatement.doc http://www.spb.ca.gov/programs/cea/index.htm