

Subject: COMPELLING MANAGEMENT NEED

REFERENCES	SECTIONS
Classification and Pay (C & P) Guide	330
Law & Regulation http://leginfo.legislature.ca.gov/faces/codes.xhtml;jsessionid=ec740fb92d7f258ccc38ebd5c0c9 http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&Action=ExpandTree&AP=I1CF57861D48D11DEBC02831C6D6C108E&ItemKey=I1CF57861D48D11DEBC02831C6D6C108E&RP=%2Ftoc%2Fdefault%2Ewl&Service=TOC&RS=WEBL13.01&VR=2.0&SPa=CR-1000&pbcc=DA010192&fragment#I1CF57861D48D11DEBC02831C6D6C108E	G.C. 19050-8 SPB Rule 426, 440, 441, 442
Personnel Management Policy and Procedures Manual (PMPPM)	342
Responsible Control Agency and Program	SPB CalHR

Subject: Compelling Management Need

Definition/Explanation:

Compelling Management Need (CMN) assignments are temporary assignments that may be made **to meet urgent and nonrecurring program or departmental** needs of limited duration that have a broad and significant impact on departmental operations and efficiency. CMN assignments are defined as:

- Special projects or assignments that require a breadth or depth of demonstrated expertise or a level of response that cannot be obtained under normal staff procedures;
- Staffing situations that require temporary reassignments to prevent or alleviate a negative impact upon departmental operations and efficiencies (i.e., the need could result from a departmental reorganization where an individual with status at a certain level within a department does not fit the needs of the revised positions at that level. The Department might have a legitimate interest in ensuring key person-job matches with the temporary placement of an individual who does not fit the new reorganization).

Policy:

The DGS **may** consider Compelling Management Need assignments to meet urgent and nonrecurring program or departmental needs of limited duration that have a broad and significant impact on departmental operations and efficiency. The DGS does not preclude an employee who is on a compelling management need assignment from promotion.

Procedure:

The intent of Government Code and SPB Rules is to allow departments to meet compelling management needs by temporarily reassigning staff who possess needed skills but whose present classifications do not cover the work to be performed. Such needs could be associated with new program implementation, major study projects, task forces, review or restructuring of existing programs, feasibility studies, and interdisciplinary projects.

The employee(s) selected should have specialized education or experience that is required in the assignment, but that is not reasonably available through normal staffing procedures.

Temporary assignments shall not be made or continued where there is a reasonable basis for utilizing or pursuing other personnel management options. Before making such an assignment, the appointing power must consider options as transfer, list appointment, classification plan changes, adverse action, layoff, probationary rejection, or medical termination. Other staff shall not be laid off, demoted, or similarly displaced as a result of a temporary assignment made under SPB Rule 442.

When assignments are for three months or less, there will be fewer alternate methods of meeting management needs through more usual avenues. For longer assignments, however, alternative staffing procedures (e.g., limited-term appointments) become more feasible.

Eligibility for compelling management needs assignments shall be limited to:

- Employees who have permanent status in their present class; or
- Employees who previously have had permanent status and who, since having such status, have had no break in service due to a permanent separation.

Employees placed on such temporary assignments remain in their current classifications for all purposes described in Rule 442. The duties and responsibilities of the position associated with the compelling management need may vary from those of the employee's appointment classification.

A C.E.A. employee may be placed in such a temporary assignment so long as such reassignment does not generate the need for an additional appointment to the C.E.A. position.

Unlike training and development assignments covered by Rule 438 and temporary assignments covered by Rule 443, no limits are placed on the employee's ability to perform duties that are at a level above or below the employee's class of appointment. This is to ensure that flexibility exists to make the best job-person match in selecting employees for these unique and highly individualized temporary assignments. Risk of exploitation is minimized by employee consent (GC 19050.8).

Most "demotional" assignments will involve managers performing staff work that requires experience and insight that is simply not available among the regular journey level staff; this is not a "true" demotional assignment.

"Promotional" assignments could give an employee an advantage over peers in qualifying for and competing in promotional examinations; therefore, such assignments must be approved only after a decision that management's need is truly compelling and alternative staffing methods are not suitable. Impact on promotional competition should be a factor in weighing the appropriateness of temporary assignments of any substantial duration.

As noted above, employees who receive these assignments might gain an advantage over peers in qualifying for and competing in promotional examination. Because of this potential advantage, affirmative action should be considered and departments should be alert for any situations where use of temporary assignments is hindering the accomplishment of affirmative action or upward mobility hiring goals.

Either the employee or the appointing power may terminate the temporary assignment at any time, for any reason, or the SPB Executive Officer may terminate it, if it is determined to be inconsistent with the GC or Board Rule.

DPA Notification

Within 30 days of approving any assignment under Rule 442, OHR **shall** provide written notification of such assignment to the DPA. The DPA notification for compelling management need assignments should include the following information:

- A description of the management problem that required that the compelling management need assignment be made.
- Name and current classification of employee.
- A general description of the duties to be performed. If being assigned to an existing position, also include the working title and the classification of the position.
- "From" and "to" dates of the temporary assignment.
- An organization chart showing the organizational placement of the position/employee.
- A copy of the CMN's Assignment agreement signed by the employee.

SPB Law/Regulation Compliance

Compliance with the applicable law and regulations is demonstrated by OHR retaining a written statement that contains the following information:

- The duration and duties of the assignment.
- Certification that a layoff by reason of such assignment will not become necessary in the appointing agency.
- A description of the management need and the staff expertise required.
- Justification that the agency's needs cannot be met through the existing organizational structure.
- Certification that the employee possesses the required expertise.
- Certification that the employee has voluntarily consented to the assignment.

Delegation

The DPA and the SPB has delegated to appointing powers the authority to make temporary assignment that results in an employee spending no more than 24 months of any 36-month period on such assignments. Such assignments shall not be approved when OHR determines that they constitute a continuation of the employee's previous temporary assignment. This delegation includes those assignments that involve C.E.A.s.

Employee/Departmental Management Rights

- Either the employee or departmental management may terminate the temporary assignment at any time for any reason;
- At the end of the CMN assignment, the employee has mandatory return rights to his/her former position. Former position is defined (under GC 18522) as
 - a. the last position that an employee held as a probationer or permanent employee, or
 - b. with concurrence of both the appointing power and the employee, a position in a different classification to which the same appointing power could have assigned such an employee.

Promotions While in a CMN Assignment

Promotions are permissible while someone is on a compelling management needs assignment. Rule 440 provides for a person to be promoted while on a training and development assignment (T&D) if specified conditions are met. This regulation places restrictions on promotions during T&D assignments. Nothing precludes a promotion while on a compelling management needs assignment and since compelling management needs assignments are not included in Rule 440, those restrictions do not apply.

Attachments: None