

**Subject:** MISALLOCATIONS

REFERENCES	SECTIONS
Classification and Pay (C & P) Guide	360
Law & Regulation <a href="http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml">http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml</a>  <a href="http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&amp;Action=ExpandTree&amp;AP=I1CF57861D48D11DEBC02831C6D6C108E&amp;ItemKey=I1CF57861D48D11DEBC02831C6D6C108E&amp;RP=%2Ftoc%2Fdefault%2Ewl&amp;Service=TOC&amp;RS=WEBL13.04&amp;VR=2.0&amp;SPa=C CR-1000&amp;pb=DA010192&amp;fragment#I1CF57861D48D11DEBC02831C6D6C108E">http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&amp;Action=ExpandTree&amp;AP=I1CF57861D48D11DEBC02831C6D6C108E&amp;ItemKey=I1CF57861D48D11DEBC02831C6D6C108E&amp;RP=%2Ftoc%2Fdefault%2Ewl&amp;Service=TOC&amp;RS=WEBL13.04&amp;VR=2.0&amp;SPa=C CR-1000&amp;pb=DA010192&amp;fragment#I1CF57861D48D11DEBC02831C6D6C108E</a>	GC Code 19994 et. Seq.; 19253, 19253.5, 19570  SPB Rule 275; 276.2; 425-439; 444; 322
Memo of Understanding (MOU) <a href="http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx">http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx</a>	Refer to appropriate MOU
Personnel Management Policy and Procedures Manual (PMPPM)	315, 316
Responsible Control Agency and Program <a href="http://www.spb.ca.gov/">http://www.spb.ca.gov/</a>  <a href="http://www.calhr.ca.gov/Pages/home.aspx">http://www.calhr.ca.gov/Pages/home.aspx</a>	SPB;  CalHR

**Subject:** Misallocation

**Definition/Explanation:**

A misallocation is an inappropriate allocation of a classification(s) according to the classification plan established by the DGS with approval of the California Department of Human Resources (CalHR). In administering the DGS classification plan, the DGS carries primary responsibility for ensuring that assigned duties are appropriate for the classification of the employee's position and for identifying and correcting misclassifications. The CalHR participates by monitoring DGS compliance with the classification plan and ensuring that appropriate corrective action is taken when a misallocated position is identified.

**Policy:**

It is DGS's policy that misallocated positions should be corrected as soon as possible but no later than 60 days after the date the DGS or CalHR identifies a misallocated position.

In a limited number of cases, the unusual nature or level of the class, a lack of vacant positions, and/or a large number of misclassifications needing correction, the DGS may not be able to correct the misclassification(s) within 60 days. When this occurs, the DGS must have a corrective action plan with an applicable time line approved by CalHR within 60 days of the date the position is identified as misallocated.

**Procedure to Correct Misallocation:**

In order to determine if a position is misallocated, a desk audit must be performed. An incumbent, a supervisor, or the Office of Human Resources (OHR) can initiate a desk audit. (Refer to "Desk Audit" section in this Manual.)

The following are options when correcting misallocated positions:

**1. Restructure Duties**

A restructuring of duties is probably the most common approach used to correct a misallocated position.

**Process**

Based on a desk audit analysis, the impacted Branch/Division/Office with the misallocated position should work with the HR Analyst to ensure that appropriate duties/tasks are assigned to the position and not being taken from another position, which could weaken it. If the duties of all positions that are affected are agreed upon, the Branch/Division/Office must submit the new Essential Functions Duty Statement for each position to the OHR for approval prior to implementation and discussion with the incumbent.

**2. Transfer Incumbent to a Vacant Position in the Same Class**

Regardless of the geographic area of recruitment, the appointing authority has the discretion to reassign an incumbent to a position in the same class at any location within the State.

### **Process**

If this option is selected, based on the Desk Audit analysis and discussion with the employee, the misallocated employee can be transferred to another Branch/Division/Office, which has a vacancy for the **same** classification with the agreement of the receiving Branch/Division/Office. An RPA package must be submitted to the OHR by the **receiving** Branch/Division/Office and the employee's name entered as a "transfer."

### **3. Pending a Future Vacancy in the Same Class**

If a position in the correct class will become vacant within 120 days, it is permissible to allow the correction to take effect when the position is vacated. In certain circumstances, it may be possible to request approval for a corrective action of up to 12 months in the future, when a future vacancy is certain.

### **Process**

If this option is selected, based on the Desk Audit analysis, CalHR approval is required prior to offering it to the employee in the misallocated position. With CalHR's approval, the employee remains in the misallocated class until a vacancy occurs and then, with the agreement of the receiving Branch/Division/Office, may be transferred via the RPA process. If a vacancy does not occur and/or the employee is not selected for the vacancy, the employee must either voluntarily demote or be mandatorily transferred within the 12-month time frame.

### **4. Voluntary Transfer to a Different Class at Substantially the Same Salary Level in Lieu of Layoff**

A transfer to a different class **must** be voluntary because it requires a change in status. Therefore, a corrective action can be effected by a transfer to a different class.

### **Process**

If this option is selected, based on the Desk Audit analysis or potential layoff, CalHR approval is required to designate the position as surplus and/or SROA prior to offering it to the employee. If CalHR has approved the surplus/SROA status, the employee should be notified in writing and that his/her signature is required. With the employee's signature on the notification of transfer, an RPA package must be submitted to OHR for processing. (Refer to the "Layoff Process" section in this Manual for information on the Layoff Process.)

### **5. Pending Reorganization**

When a reorganization is planned, and is to be accomplished within 120 days, it may be appropriate that a corrective action using an option described above be scheduled to coincide with the effective date of the reorganization.

### **Process**

Depending on which option is selected, refer to the applicable option discussed above. An RPA package must be submitted when appropriate.

## **6. Pending Specification Revision or Establishment of a new Class**

The CalHR will allow up to 12 months from the date of notice for a corrective action to be accomplished through a classification change. In approving such a plan, the DGS will determine if the proposed classification plan change is a feasible and appropriate method of correcting the misallocation. The plan must include specific dates for submission to CalHR and calendaring with the SPB.

### **Process**

Refer to the "Board Item" section in this Manual for additional information. An RPA package must be submitted when appropriate.

## **7. Pending Retirement or Resignation of Incumbent**

If the incumbent in a misallocated position will separate from the position within the next 24 months, and it is not possible in the foreseeable future to reallocate the class to the correct class using other options described above, a request may be made to the CalHR to allow the incumbent to remain in the misallocated class until retirement. However, should any opportunity appear to correct the misclassification in the interim, it should be done.

### **Process**

If the CalHR approves and if this option is selected, the appropriate separation documents will be processed by PTU. However, if the employee does not separate within the 24-month time frame one of the other options described above must be implemented to correct the misallocation.

## **8. Voluntary Demotion to a Lower Class**

An employee may request a voluntary demotion to a lower class in order to avoid a mandatory transfer or other undesirable placement. This should be permitted if the downward movement does not displace another incumbent. In some instances, a red circle rate would be offered in order to ease the financial adjustment an employee may have to make.

### **Process**

If this option is selected, based on the Desk Audit analysis the employee must be informed of his/her other options and sign the notification indicating that s/he is voluntarily demoting. An RPA package with a copy of the signed notification and the demotion is processed.

## **9. Red Circle Rates**

The application of a red circle rate results in the incumbent being allowed to retain the salary step s/he had on the date of reallocation to a lower class. The employee cannot receive any further salary adjustments while his/her salary remains above the maximum rate of pay for his/her new class. The employee may retain the red circle rate until the salary range of the new class catches up with the rate established under the red circle rate policy.

A red circle rate is appropriate (regardless of the length of State service) under the following circumstances:

- a. The incumbent in the misallocated position will voluntarily demote rather than cause the demotion of another employee in the same class.
- b. The misallocated position can be corrected by a demotion through the layoff process
- c. An employee is being demoted as a result of the demotion of another employee and the cause of the latter is the correction of a misallocation.
- d. The employee elects to demote rather than be involuntarily transferred.
- e. If the incumbent in the misallocated position is one of several in the class and is not the least senior, then it is necessary to demote and red circle the least senior employee. This would probably only occur where a class has a few incumbents and there is no other way to correct the misallocation in the foreseeable future. Where the class has a large number of incumbents, it is most likely that a vacancy would occur in the foreseeable future and thus, this demotion option should be avoided.

In order to make a demotion more acceptable, a red circle rate to lessen the financial effect may be offered with an effective date that coincides with the beginning date of a general salary increase.

#### **Process**

If a red circle rate applies, the information should be provided in a memo to the HR analyst and/or within the RPA Workflow, if applicable.

#### **10. Use of State Restriction of Appointment (SROA)**

In situations where it is unlikely that a vacancy will occur in the near future in the DGS, but some turnover in his/her class is likely within the geographic area of recruitment, the employee's class should be placed on the SROA list. This will require other appointing authorities with vacant positions to consider the employee in the position requiring correction. Requests for SROA list placement must be approved by the CalHR Analyst.

#### **Process**

SROA placement is applicable in options 4, 5 and 8 above.

**Attachments:** Sample Options Memo, Options Chart