

**Subject:** RED CIRCLE SALARY RATES

REFERENCES	SECTIONS
Classification and Pay (C & P) Guide	260, 360, 440
Human Resources Policy Memos <a href="http://www.dgs.ca.gov/ohr/Home/HRPolicyMemos.aspx">http://www.dgs.ca.gov/ohr/Home/HRPolicyMemos.aspx</a>	HR-00-034
Law & Regulation <a href="http://leginfo.legislature.ca.gov/faces/codes.xhtml;jsessionid=ec740fb92d7f258ccc38ebd5c0c9">http://leginfo.legislature.ca.gov/faces/codes.xhtml;jsessionid=ec740fb92d7f258ccc38ebd5c0c9</a>	G.C. 13332.05, 19837; DPA Law 599.679, 599.680, 599.688(b), 599.988;  SPB Rule Section 9
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>	Units 1,3, 4, 7, 10, 11, 12, 14, 15, 17, 19, 20, 21
Responsible Control Agency and Program <a href="http://www.calhr.ca.gov/Pages/home.aspx">http://www.calhr.ca.gov/Pages/home.aspx</a>	CalHR
SPB/DPA Policy Memos <a href="http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx">http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx</a>	PML 2000-060; 2001-009
<b>Other:</b> SCO Payroll Administrative Manual (PAM)	2.43

**Subject:** Red Circle Salary Rates

**Definition/Explanation:**

A red circle rate is a rate of pay authorized above the maximum salary for a class. A red circle rate is intended to mitigate the hardship when an employee's salary is to be lowered through no fault of the employee. It is never to be used in cases where the lowered salary is the result of disciplinary action. Authority exists pursuant to Government Code Section 19837. The appointing authority may authorize a red circle rate in the following circumstances: Management-initiated change; Lessening of Abilities; Downward Reclassification; Split Off; Allocation Standard Changes; Changes in Salary Setting Methods. Authority to approve red circle salary rates has been delegated to the Office of Human Resources (OHR) Personnel Operations Section by the Department of Personnel Administration (DPA).

**Management-Initiated Change** is defined as any major change in the type of classes, organizational structure, and/or staffing levels in a program normally made for the purpose of improving the program's effectiveness or otherwise adapting to its needs. A reduction in force may occur as a result.

**Lessening of Abilities** refers to an employee who, after many years of satisfactory service, no longer possesses the ability to perform the duties and responsibilities of his/her position. This may occur through a gradual decrease in the employee's physical or mental capacity or a gradual change in the complexity of the position to which the employee cannot adapt.

**Downward Reclassification** is when an incumbent's position is moved to a lower class without the duties being changes as the result of the five-member State Personnel Board action or a Department of Personnel Administration staff determination.

**Split Off** is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

**Allocation Standard Changes** for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

**Changes in Salary Setting Methods.** Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

When an employee's salary is red circled, the salary is frozen at the current level, and the employee will not receive a pay increase while his/her salary remains at above the maximum salary rate for his/her new class. The red circled salary shall remain with the employee (not the position). See DPA Rule 599.679 regarding retention of salary above the maximum upon movement between classes.

**Purpose:**

Red circle rates are intended to recognize personal hardship and morale factors involved when an employee is confronted with a downward reclassification of his/her position or other reduction in salary due to circumstances beyond the employee's control.

**Standards and Guidelines:**

Red circle rates must be authorized with discretion and are never used in cases where discipline is involved. An employee must have at least 10 years' State service in order to be eligible for red circling of pay.

NOTE: Section 260 2.1 of the Classification and Pay (C&P) Manual states "An employee may receive a red circle rate **regardless** of how much State service the employee has and may retain it until the maximum salary of the class equals or exceeds the red circle rate, **when the downward reclassification of the position or the salary reduction of the class occurred as a of action by the five-member Board or a determination by DPA staff; and there was no change in duties; that is, the reduction resulted from split off, changes in allocation standards, or changes in salary setting methods.**"

When approving a red circle rate careful consideration should be given to the conditions that resulted in the request. Employees must be performing satisfactorily the duties of the higher level class. For general civil service, the completion of the probationary period is typically sufficient evidence of adequate performance unless compelling evidence to the contrary exists.

For information regarding CEA red circle rates, refer to the DPA's C&P Manual, Section 440.

An exempt employee shall not be entitled to red circle benefits due to the nature of exempt appointments.

For information regarding red circle rates in correcting misallocated positions, refer to DPA's C&P, Section 360.

**When Appropriate:**

- Employee does not leave position (Refer to C&P Section 2.1).
- Movement of an employee from another public jurisdiction to the State (Refer to C&P Section 2.1.1).
- Employee leaves position (Refer to C&P Section 2.2).
- Special Circumstance (Refer to C&P Sections 2.2.1, and 2.2.2).

**When Not Appropriate:**

- Demotion in lieu of mandatory transfer for personal convenience (Refer to C&P Section 3.1).
- Demotion to avoid adverse action or rejection on probation (Refer to C&P Section 3.2).
- Demotion as a result of adverse action or rejection on probation (Refer to C&P Section 3.3).
- Demotion after reallocation of a position that was originally classified at too high a level and there is no evidence the incumbent ever performed at the higher level (Refer to C&P Section 3.4).

**Duration of Red Circle Rate:**

Duration of the red circle rate is determined by the length of State service, according to the following chart, when an employee moves to a position in a class with lower maximum salary as a result of a management-initiated change such as:

- Organizational change for improved management or efficiency.
- Automation or technological change.
- Demotion in lieu of layoff.
- Demotion based on lessening of abilities.

<b>Length of Service</b>	<b>Coverage Period</b>
10 - 12 years	2 years
13 - 16 years	3 years
17 - 20 years	4 years
21 - 24 years	5 years
25 years and over	indefinite

**Extensions:**

Extensions are not granted unless the employee has left "pay status" during the eligibility period and possesses mandatory reinstatement rights. The duration of time will be extended upon return to work for the amount of time the employee is gone.

**Policy:**

Government Code (GC) Section 19837 authorizes the permissive granting of red circle rates in two general circumstances. The GC Section is supersedable by Memorandum of Understanding (MOU); therefore, appropriate MOUs should be reviewed **prior** to approving a red circle rate to ensure that they do not contain provisions contrary to those in GC Section 19837. DPA Rule 599.679 explains how to determine the salary of an employee with a red circle salary who moves to another class. It is DGS' policy to adhere to the GC Section and DPA Rule cited in this manual section.

**Procedures:**

**Office of Personnel Operations Analyst**

- Investigates the need for red circle rate.
- Ensures that the situation meets the criteria for approval.
- Documents its findings prior to approval of red circle rates.
- Files documentation (Red Circle Rate Request and Request for Verification of State Service) in a separate file for audit purposes, per delegation agreement.
- Reviews employee eligibility, prepares and signs the red circle confirmation memo (sample attached), distributes a copy to the employee and attaches a copy to the RPA package.
- Forwards RPA package to Personnel Transactions for processing.

**Attachments:** [Red Circle Rate Request](#), [Request for Verification of State Service](#), [90-Day Red Circle Rate Request](#)