

Short Term Appointment (Less than six months)

Policy

It is the policy of the DGS that promotion, transfer, or relocation (geographic area) shall not occur within six months of the initial appointment in strict accordance with the civil service laws and rules; unless for the following reasons:

- Staff reduction
 - Hardship relocation
 - Reasonable accommodation
 - Medical demotion/transfer
 - Business operations (executive management must approve)
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Purpose

The purpose of this policy is to:

- prevent appointments from being made to positions that the employee does not intend to accept
 - avoid any illegal appointment and subsequent correction by the State Personnel Board (SPB), which may adversely affect the employee.
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Explanation

When an appointment is made for a short time period, it raises questions about whether the appointment has been made and accepted in good faith (Refer to "Good Faith" section in this manual and/or SPB Rule 8).

Basically, to be made and accepted in good faith, the appointing power and the appointee must **intend** that the appointee will serve in the position to which appointed for a minimum of six months.

Illegal duration appointment

Example: A person who is not reachable on a certification for Sacramento is appointed to a position in San Francisco and on the same day is transferred to Sacramento in the same classification.

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Proper duration appointment

The following table depicts three examples of proper short term appointments with an explanation.

Scenario	Explanation
<p>An individual is reinstated from a T&D assignment to his/her former position. On the same day, the individual is promoted (appointed to a higher level class) and then is given still another appointment to put the person back on the T&D.</p>	<p>SPB Rule 440 permits promotions during a T&D provided that specified conditions are met. Therefore, if those specified conditions are met, the three appointments, which will occur on the same day, are proper.</p>
<p>An individual receives a promotional appointment and begins work in the higher level class. After two weeks in the new job, s/he is contacted about an opportunity in a different location or a different class that is slightly higher in salary but within transfer range of his/her new class. The individual is offered the job, accepts the offer and begins work in the new position the following week.</p>	<p>In this case, at the time of his/her promotion, the individual was unaware of the subsequent employment opportunity and fully intended to work in the promotional class in the location to which s/he was appointed. Therefore, the first appointment and the subsequent transfer are proper.</p>
<p>A Staff Services Analyst (SSA) who has worked for three years in a Personnel Office is interested in a Budget Office assignment. The individual is competing in the Associate Personnel Analyst (APA) examination and has no eligibility for Associate Budget Analyst (ABA). Management is fully satisfied with the individual's performance and intends to appoint him/her as an APA at the earliest possible date. The individual has been filling a restructured and downgraded APA position. The individual does not want to move to the Budget Office as a SSA since s/he will have eligibility to transfer to ABA very soon. So, the individual waits for the APA promotion and then accepts a transfer to the Budget Office as an ABA.</p>	<p>It can be argued that since the individual had no intention to work as an APA, that appointment was accepted simply to attain eligibility for appointment to a class for which s/he had no eligibility. However, since in this situation, promotion to the associate level, is a logical consequence of satisfactory performance while working in the personnel field as a personnel analyst, the APA appointment and subsequent transfer are proper. In this case, promotion is a logical consequence because the individual was appointed as an SSA to a restructured and downgraded APA position with the expectation that an APA promotion would result from satisfactory performance. Note: Promotion to a higher level is not a logical consequence of satisfactory performance unless the individual's position has been downgraded for recruitment purposes. This does not occur when an individual promotes from:</p> <ul style="list-style-type: none"> • the journey level to the first supervisory level; or • one supervisory level to another; or • a technical class (e.g., MST) to a professional class (e.g., SSA/AGPA); or • a first working level class (e.g., SSA) to a full journey class (e.g., AGPA) when it requires appointment to a different position because the first working level position does not warrant reclassification to the higher full journey level.

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Assessing the legality

The key in assessing the legality of a short term appointment is a determination of the intent of the parties when the appointment is made. The length of the appointment generally is not the critical factor. In some cases, subsequent appointments are delayed for weeks or months with the sole purpose of creating an appearance of propriety for the first, or duration appointment.

Procedure

The following table depicts the procedure for determining if the proposed appointment/relocation is proper.

Step	Action								
1	Classification and Pay (C&P) Analyst receives the Request for Personnel Action (RPA) for review and approval.								
2	C&P Analyst investigates the intent of the initial appointment by: <ul style="list-style-type: none"> • obtaining the employee's work history, and • determining chronological course of events including relevant actions that occurred prior to the current request for personnel action (effective dates, action processed dates, type of action). 								
3	C&P Analyst determines if action requested is legal and in good faith by: <ul style="list-style-type: none"> • comparing specific facts of appointment with specific laws, rules, and policies that govern the type of action requested (Note: an appointment is legal only when it is specifically supported by the civil service laws and rules; an absence of provisions that prevent a particular type of appointment is not adequate legal support), and • asking, "Did the appointing power's intent in making the appointment meet the good faith standards contained in part (a) of Rule 8?" 								
4	C&P Analyst approves/denies RPA. <table border="1" data-bbox="412 1430 1500 1619"> <thead> <tr> <th>If</th> <th>Then</th> </tr> </thead> <tbody> <tr> <td>Legal and approved</td> <td>Forwards RPA to PS for processing</td> </tr> <tr> <td>Legal and denied</td> <td>Cancel RPA</td> </tr> <tr> <td>Illegal</td> <td>Contact requesting office to discuss prior to canceling RPA</td> </tr> </tbody> </table>	If	Then	Legal and approved	Forwards RPA to PS for processing	Legal and denied	Cancel RPA	Illegal	Contact requesting office to discuss prior to canceling RPA
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Resources The following table depicts the various resources available for this topic.

REFERENCES	SECTIONS
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=I1DA7B160D48D11DEBC02831C6D6C108E&ItemKey=I1DA7B160D48D11DEBC02831C6D6C108E&RP=%2Ftoc%2Fdefault%2Ewl&Service=TOC&RS=WEBL13.04&VR=2.0&SPa=CCR-1000&pbcr=DA010192&fragment#I1DA7B160D48D11DEBC02831C6D6C108E	GC: 18525, 19050, 19051, 19257 Rule: 8
Responsible Control Agency and Program http://www.spb.ca.gov/	State Personnel Board (SPB)
Personnel Management Policy and Procedures Manual (PMPPM)	395