

EXEMPT RETURN RIGHTS WORKSHEET

1. Employee:	2. Social Security Number:	3. Date Calculated:
4. Did the employee have permanent civil service status and since such permanent status, had no break in the continuity of his or her State service due to a permanent separation? (See California Code of Regulations (CCR) 6.4 for a definition of break in service and CCR 446 for a definition of permanent separation.) <i>Note: If the answer to #4 is No, the employee has no reinstatement rights, so you may go straight to Page 4, Government Code (G.C.) Section 18990 or Section 18992. If the answer to #4 is yes, continue with #5.</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Exempt classification from which being terminated:		
6. Maximum salary of the exempt class:		\$
7. Salary level two (2) steps lower than the maximum of the exempt class salary (#6): <i>Note: Two steps lower is computed by taking the maximum salary of the exempt class and dividing it by 1.05, rounding it off, and dividing that by 1.05 again. (See CCR 431).</i>		\$
8. Former civil service position: (This is the last position held by the employee that was CEA or probationary or permanent civil service.)		
9. Current maximum salary of the former position:		\$
10. Salary level two (2) steps higher than the maximum salary of the former position (#9): <i>Note: Two steps higher is computed by taking the maximum salary of the former position and multiplying it by 1.05, rounding it off, and multiplying that by 1.05 again.</i>		\$
11. Total years of State service: <i>Note: "State service" includes both exempt service and civil service including CEA. Once you identify at least ten (10) years of State service that includes five (5) years of civil service and three (3) years of exempt service and the employee's former position, you do not need to identify or locate additional State service. Ten (10) years of State service including at least five (5) years of civil service and three (3) years of consecutive exempt service under one appointing power is all that is needed to afford the maximum improved reinstatement rights.</i>		
12. Total years of civil service: <i>Note: "Civil service" includes CEA and any temporary, emergency, permanent or probationary appointments to civil service positions.</i>		
13. Total years of consecutive exempt service under one appointing authority: <i>Note: Once you locate three (3) consecutive years of exempt service under one appointing authority, you do not need to identify or locate any additional exempt service.</i>		
14. Appointing Authority of consecutive exempt service (#13):		
15. Appointing Authority of exempt appointment that is being terminated:		
16. Appointing Authority of the former civil service position (#8):		

MANDATORY REINSTATEMENT: G.C. Sections 19141 and 18522 - "Former Position"

Section 19141 provides mandatory return rights to exempt employees that previously held a permanent civil service position. To be eligible for reinstatement under this law, the exempt employee must have had previous permanent status in the civil service and since that permanent status has had no break in the continuity of his or her state service due to a permanent separation. The reinstatement right is to his or her former position. Section 19141 defines "Former Position" as "...in Section 18522, or, if the appointing power to which reinstatement is to be made and the employee agree, a vacant position in any department, commission, or state agency for which he or she is qualified at substantially the same level." This is the only law that provides a mandatory reinstatement to a different department than where the former position was held. A detailed explanation of "former position" that may be used as a guide for exempt return rights is included in your training material. Please remember that this is just a guide for your information. The laws take precedence over any conclusions made in the guide and you need to make sure that you have the most current amendment of the laws.

A. Class of Former Position:	
B. Appointing Authority of the Former Position:	
C. Maximum Salary of the Former Position: \$	
D. Was the Former Position CEA? <input type="checkbox"/> Yes <input type="checkbox"/> No	
E. If the Former Position was CEA, what level was it?	Maximum Salary: \$
F. Will the employee be retained in the Former Position of CEA? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p><i>Note: If the employee is not going to be retained in the CEA position, you must also determine his or her right of return from the CEA termination. You should now fill out the CEA Return Rights Worksheet and notify the department of the former civil service position, excluding CEA positions, that the employee may be returning.</i></p>	

IMPROVED REINSTATEMENT RIGHTS - G. C. Section 19141.1

To be eligible for the improved reinstatement rights/options provided in Section 19141.1, the employee must have had permanent status and since such permanent status has had no break in the continuity of his or her State service. In other words, the employee must have a right of return pursuant to Section 19141 to be eligible for Section 19141.1.

IMPROVED MANDATORY REINSTATEMENT - G. C. Section 19141.1 (c)

To be eligible for the improved mandatory reinstatement rights provided by G.C. Section 19141.1(c), the employee must have at least ten (10) years of State Service including at least five (5) years of civil service and at least three (3) consecutive years of exempt service under one appointing authority. This reinstatement right is only to the appointing authority where the three consecutive years of exempt service were served.

A. Does the employee have at least ten (10) years of State service?	<input type="checkbox"/> Yes <input type="checkbox"/> No*
B. Does the employee's State service include at least five (5) years of civil service? Note: Civil service includes CEA.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
C. Does the employee have three (3) consecutive years of exempt service under a single appointing authority that employs civil service employees?	<input type="checkbox"/> Yes <input type="checkbox"/> No*

*Note: If the answer to A, B, or C is No, G.C. 19141.1(c) does not apply to this employee and you may go to Page 4, Section 19141.1(b).

If the employee meets the criteria specified in A, B, and C above, pursuant to Section 19141.1(c) he or she "...shall be reinstated upon request to (1) his or her former position or (2) any vacant position for which the employee has civil service eligibility under the appointing power where the three years of service were completed and which is at least two salary steps below the employee's exempt salary level. In the absence of current list eligibility, an employee shall be entitled to a deferred examination for placement on a current eligible list for classes meeting the mandatory reinstatement criteria. If the employee obtains civil service appointment eligibility at any time within two years of the termination of the exempt appointment, and a vacant position in the appropriate class is not available, the employee's name shall be placed on the appointing power's departmental or subdivisional reemployment list for any classes and locations which would satisfy the employee's reinstatement request." The employee must request this reinstatement eligibility within ten calendar days of the exempt termination. This reinstatement eligibility only applies to the department where the three consecutive years of exempt service were served.

A. List the classes within the department that have a maximum salary two steps below the maximum salary of the exempt position (#7) (\$) and above the maximum salary of the former position (#9) (\$).	
B. Does the employee have eligibility (e.g., transfer or reinstatement from any prior permanent civil service appointment, current list eligibility, etc.) to be appointed to the classes in A? If yes, list the classes.	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. Are there any vacant positions in the class(es) listed in B? If yes, list the classes and offer at least one of the vacant positions to the employee.	<input type="checkbox"/> Yes <input type="checkbox"/> No
D. If the employee was offered one of the vacant positions listed in C, did he or she accept one of the offered positions?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer is yes, list the class he or she accepted:	
<i>Note: The transaction is A03 for mandatory reinstatement and the employee shall serve a new probationary period.</i>	
If the answer is No, the employee is reinstated to his or her former position of	
E. If the answer to B was No, and the employee does not have any eligibility to be appointed to the classes listed in A, the employee is entitled to take deferred examinations for those classes listed in A that have a current eligible list within the department where the consecutive three years of exempt service were served. List those classes identified in A that have existing eligible lists within the department where the three consecutive years of exempt service were served. These are classes with a maximum salary at least two steps lower than the maximum salary of the exempt position (#7) (\$) and above the maximum salary of the former position (#9) (\$).	

If the employee passes the deferred examination in a reachable rank and there is a vacant position in the classification, the employee shall be reinstated to the vacant position.

If the employee passes the deferred examination in a reachable rank and there are no vacant positions in the classification of the deferred examination, the employee's name is placed on a departmental and/or subdivisional reemployment list for the classification.

If the employee passes the deferred examination, but is not in a reachable rank, the employee returns to his or her former position and remains on the eligible list until he or she becomes reachable or the list is abolished. If at any time within two years of the exempt termination, the employee becomes reachable on any list for which he or she took a deferred examination, and there is no vacant position, his or her name is placed on a departmental or subdivisional reemployment list. If the employee becomes reachable on any list for which he or she took a deferred examination within two years after the exempt termination, and there is a vacant position, he or she shall be reinstated to the vacant position.

IMPROVED PERMISSIVE REINSTATEMENT RIGHTS/OPTIONS -Section 19141.1(b)

"Within four years of the termination of an appointment in an exempt position, either by the employee or the appointing power, an employee who has completed a minimum of five years of state service experience and at least one year but less than three years of exempt service shall be given an opportunity upon request to obtain civil service appointment eligibility, through a deferred examination, for any position offered by any appointing power in any class for which a current eligible list exists and which has a salary range up to two steps higher than the employee's former position. If the employee has three or more years of exempt service, the opportunity shall be provided for any class at least two salary steps below the employee's exempt salary level."

<p>A. If the employee has three or more years of exempt service and a minimum of five years of State service, the employee may request to take a deferred examination for any department for any class that has an existing eligible list within the department where the request is made and that has a maximum salary two steps below the maximum salary of the exempt position (#7) (\$) and above the maximum salary of the former position (#9) (\$). <i>Note: the employee may make his or her request of any department at any time within four years of the exempt termination.</i></p>
<p>B. If the employee has one year but less than three years of exempt service and a minimum of five years of State service, the employee may request to take a deferred examination for any department for any class that has an existing eligible list within the department where the request is made and that has a maximum salary of up to two steps higher than the maximum salary of the former position (#10) (\$)).</p>

ABILITY FOR CURRENT AND FORMER EXEMPT EMPLOYEES TO TAKE PROMOTIONAL EXAMINATIONS

G.C. Section 18990 allows current exempt employees of the Legislature to take promotional examinations, including CEA, if they have two consecutive years of exempt Legislative service and they meet the minimum qualifications for the class for which the examination is being given. They may request to take a promotional examination for any department. If promotional examinations are being given for the same class in more than one department, the employee must select one department in which to compete. Once the employee passes the examination and is placed on the list, his or her name will remain on the list until they are appointed from that list or the list expires. Additionally, the employee may transfer their list eligibility from one department to another in the same manner as provided for civil service employees. This eligibility to take promotional examinations applies to the exempt Legislative employee for up to one year after the exempt appointment is terminated.

G. C. Section 18992 allows current Executive branch exempt employees that are in nonelected exempt positions that have salaries that were not set by statute to take promotional examinations, including CEA, if they have two consecutive years of exempt service and they meet the minimum qualifications for the class for which the examination is being given. They may request to take a promotional examination for any department. If promotional examinations are being given for the same class in more than one department, the employee must select one department in which to compete. Once the employee passes the examination and is placed on the list, his or her name will remain on the list until they are appointed from that list or the list expires. Additionally, the employee may transfer their list eligibility from one department to another in the same manner as provided for civil service employees. This eligibility to take promotional examinations applies to the Executive branch exempt employee for up to one year after the exempt appointment is terminated.

PRIVACY NOTICE:

The Information Practices Act of 1977 (CC 1798.17) and the Federal Privacy Act of 1974 require that this notice be provided when collecting personal information from individuals. Providing the social security number is voluntary and is being requested for identification purposes only. The processing of this document may be hampered if you do not supply your social security number.

**SAMPLE EXEMPT TERMINATION LETTER FOR EMPLOYEES WITH NO PRIOR
CIVIL SERVICE STATUS WHO HAVE ELIGIBILITY UNDER GOVERNMENT CODE
SECTION 18992 TO TAKE PROMOTIONAL EXAMINATIONS**

(Type on department letterhead)

Date

Name

Address

City, State, Zip

Dear Mr./Ms. _____ :

This letter outlines the options available to you at the termination of your exempt appointment. Since you have not had a prior permanent civil service appointment, you do not have a right of return to civil service. You do, however, have eligibility to take promotional examinations under the provisions of Government Code 18992 as outlined below.

Government Code Section 18992 allows current Executive branch exempt employees that are in nonelected exempt positions that have salaries that were not set by statute to take promotional examinations, including career executive assignments, if they have two consecutive years of exempt service and they meet the minimum qualifications for the class for which the examination is being given. Since you have more than two consecutive years of exempt service, you meet the eligibility criteria under this law.

You may request to take a promotional examination for any department. If promotional examinations are being given for the same class in more than one department, you must select one department in which to compete. Once you pass the examination and are placed on the list, your name will remain on the list until you are appointed from that list or the list expires. Additionally, you may transfer your list eligibility from one department to another in the same manner as provided for civil service employees. This eligibility to take promotional examinations applies to you as an Executive branch exempt employee for up to one year after your exempt appointment is terminated.

If you have any questions concerning the information provided in this letter, you may contact (Name of contact person) at (Phone number).

Sincerely,

Executive Officer or Department Director

cc: Official Personnel File

SAMPLE EXEMPT RETURN RIGHTS/OPTIONS LETTER

(Type on department letterhead)

Date

Name

Address

City, State, Zip

Dear Mr./Ms. _____ :

This letter outlines your rights of return and the options available to you at the termination of your exempt appointment. An employee who vacates a permanent civil service position to accept an exempt position could have as many as three reinstatement options at the termination of the exempt position based on their employment history. In brief, these options are: (a) mandatory reinstatement to a position in your former civil service classification; (b) eligibility to compete on a deferred or late basis in examinations for classifications above your former civil service level; and (c) contingent on existing eligibility or eligibility acquired through a deferred examination, mandatory reinstatement to a vacant position above your former civil service level.

The following is an explanation of these three options and a statement as to whether you have eligibility for them.

1. Pursuant to Government Code Section 19141, you have mandatory return rights to your former position. Under the provisions of this Section, you have a right to return to a position under your former appointing power in your former civil service classification. Also, with the consent of the appropriate appointing power, your right to reinstate to your former position can be satisfied by returning to a position at substantially the same level in a different class and under a different appointing power. Your former position is that of (class title) at the (Department).

Include the following two paragraphs if the employee's reinstatement will be to a CEA position within the same department where the exempt position is being terminated and the employee will not be retained as a CEA.

Your former position is that of a (CEA class/level). Incumbents of CEA positions do not acquire permanent status in such positions and may be terminated at any time. With this understanding, it has been decided not to retain you in your former CEA position. Therefore, this letter will also serve to notify you that your appointment as a (CEA class/level) will be terminated 20 calendar days from the date you are reinstated after termination of your exempt appointment. With the termination of your CEA appointment, your right of return becomes to the last probationary or

permanent civil service position that you held. This is (class title) at the (department).

If you choose reinstatement pursuant to Section 19141, you will return directly to the class of (class title) and you will not be expected to physically perform the duties of the CEA position. However, you will receive at least 20 days' pay at the CEA level from which you are being terminated.

If you wish to exercise your right of return as specified above, you must request the reinstatement within ten working days after the effective date of your exempt termination. Your request must be in writing and addressed to:

Name, Title
Department
Address
City, State, Zip

2. Government Code Section 19141.1(b) provides an opportunity for an exempt employee who has a right of return under Section 19141 to establish improved appointment eligibility through a deferred examination process if the employee has completed a minimum of five years of State service and at least one year of exempt service.

If the employee has a return right under Section 19141 and has either less than five years of State service or less than one year of exempt service, use the following sentence:

The improved permissive appointment eligibility provided in this section does not apply to you because you do not have the required (five years of State service or one year of exempt service).

If the employee has a return right under Section 19141 and has completed five years of State service and one year or more but less than three years of exempt service, use the following paragraph:

Under the provisions of this section of law, you must be given an opportunity upon your request to obtain civil service appointment eligibility through a deferred examination for any class used by any appointing authority for which a current eligible list exists, that has a maximum salary no more than two steps higher than the current maximum salary of your former position and for which you meet the minimum qualifications for the class. The maximum salary of your former position is \$_____. Two steps higher is \$_____. Therefore, the classes for which you may seek an examination under the provisions of this law must have a salary of \$_____ or lower.

You retain this opportunity to take promotional examinations for any department, even if you are not an employee of the department, for a period of four years after the date of the termination of your exempt appointment. If an examination is announced during the four-year period after your exempt termination, you must compete in the regularly scheduled examination process rather than wait and request a deferred examination after the scheduled examination has been administered. A deferred examination is only used when the regularly scheduled examination process took place prior to the termination of the exempt appointment. If you are successful in obtaining eligibility, any resulting appointment will be at management's discretion. It is your responsibility to identify and pursue opportunities under this provision.

If the employee has a return right under Section 19141 and has completed at least five years of State service including at least three years of exempt service, use the following paragraph:

Under the provisions of this section of law you must be given an opportunity upon your request to obtain civil service appointment eligibility through a deferred examination for any class used by any appointing authority for which a current eligible list exists, that has a maximum salary at least two steps lower than the maximum salary of your exempt class and for which you meet the minimum qualifications for the class. The maximum salary of your exempt class is \$_____. Two steps lower is \$_____. You retain this opportunity to take a subdivisional or departmental promotional examination for any department, even if you are not an employee of the department, for a period of four years after the date of the termination of your exempt appointment. If an examination is announced during the four-year period after your exempt termination, you must compete in the regularly scheduled examination process rather than wait and request a deferred examination after the scheduled examination has been administered. A deferred examination is only used when the regularly scheduled examination process took place prior to the termination of the exempt appointment. If you are successful in obtaining eligibility, any resulting appointment will be at management's discretion. It is your responsibility to identify and pursue opportunities under this provision.

3. Government Code Section 19141.1(c) provides specific improved mandatory rights if the employee has at least ten years of State service including five years of civil service experience and at least three consecutive years of exempt service under a single appointing authority. The mandatory reinstatement right provided in this section of law applies only to the appointing authority where the employee served the three consecutive years of exempt service. The employee must request reinstatement pursuant to this subsection in writing within ten calendar days of the effective date of the exempt termination.

If the employee does not meet (1) the ten-year State service requirement; or (2) the three-consecutive-year exempt requirement; or (3) the five-year civil service requirement, use the following sentence:

The improved reinstatement rights provided in Section 19141.1(c) do not apply to you because you do not have the required (ten years of State service or three consecutive years of exempt service or five years of civil service).

If the employee meets the criteria specified in Section 19141.1(c) but the appointing authority where the three consecutive years of exempt service was served does not have civil service positions (e.g., the Legislature), use the following sentence:

While you possess the required eligibility, the improved reinstatement rights provided in Section 19141.1(c) cannot be applied in your case because the appointing authority where you served your three consecutive years of exempt service does not have any civil service positions that would satisfy the criteria specified in this law.

If the employee meets the criteria and has appointment eligibility for the classes and the appointing authority has vacant positions at the appropriate level, use the following paragraph:

Under the provisions of this law, you have a mandatory right of reinstatement at this department if you request it within ten calendar days of the date of your exempt termination. Your right of reinstatement is to a vacant position in any class that has a maximum salary that is at least two steps below the maximum salary of your exempt class (\$_____) and for which you have appointment eligibility. Two steps below \$(exempt class max) is \$_____. This department has (a) vacant position(s) in the classes(s) of _____ that meet the criteria of this law. If you choose not to request reinstatement to this class, you will still retain the option of reinstating to your former position of (class) at the (Department).

If the employee meets the criteria and has appointment eligibility for the classes but the appointing authority does not have vacant positions at the appropriate level, use the following paragraph:

Under the provisions of this law, you have a mandatory right of reinstatement at this department if you request it within ten calendar days of the date of your exempt termination. Your right of reinstatement is to a vacant position in any class that has a maximum salary that is at least two steps below the maximum salary of your exempt class (\$_____) and for which you have appointment eligibility. Two steps below \$(exempt class max) is \$_____. However, this department does not have any vacant position(s) in the classes(s) of _____ that meet the criteria of this law. Therefore, if you request reinstatement to these class(es) within the required time limit, your name will be placed on reemployment lists for the identified classes.

If the employee meets the criteria, appointing authority has vacant positions, but the employee does not have current appointment eligibility for the identified vacant positions, use the following paragraphs:

Under the provisions of this law, you have a mandatory right of reinstatement at this department if you request it within ten calendar days of the date of your exempt termination. Your right of reinstatement is to a vacant position in any class that has a maximum salary that is at least two steps below the maximum salary of your exempt class (\$_____) and for which you have appointment eligibility. Two steps below \$(exempt class max) is \$_____. This department has (a) vacant position(s) in the classes(s) of _____ that meet the criteria of this law. However, you do not have eligibility for appointment to (this/these) class(es). Your employment history shows that you do not have transfer or reinstatement eligibility to the appropriate level and you do not have eligibility for an appointment from a current list of (this/these) class(es). Since you do not have current appointment eligibility for (this/these) vacant positions, you are entitled to a deferred examination for any class for which a current eligible list exists at the appropriate level and for which you meet the minimum qualifications. The following classes have an existing eligible list and meet the criteria of this law:

_____	_____
_____	_____
_____	_____

You may request a deferred examination for any or all of these classes as long as you meet the minimum qualifications of the class. If you become reachable for appointment on any list for the classes listed above within two years of the effective date of your exempt termination and a position in the class is vacant, you will be given the opportunity to be appointed to the vacant position. If you become reachable for appointment on any list for the classes listed above within two years of the effective date of your exempt termination and a vacant position in the appropriate class is not available, your name will be placed on subdivisional and departmental reemployment lists for the appropriate classes and locations of your choice. If you are not appointed pursuant to this section of law or you choose not to request this option within ten days of the termination of your exempt appointment, you will be reinstated at your request to your former position.

If the employee has return rights to a CEA position and that CEA position is also being terminated, you must also include the employee's return rights from the CEA position. See sample CEA termination letter in Part I of this manual.

In addition to all of the reinstatement/appointment eligibility listed above, you have indefinite permissive reinstatement eligibility under the provisions of Government Code Section 19140 to any vacant position for any classification with a maximum salary of \$_____ or less at any department as long as you possess any licenses or certificates required by law to perform the duties of the classification and the class

does not have a promotional relationship to your former position. It is your responsibility to identify and pursue any reinstatement pursuant to this law.

If you have any questions concerning the information provided in this letter, you may contact (Name of contact person), at (Phone number).

Sincerely,

Executive Officer or Department Director

cc: Official Personnel File