

CHAPTER 9
SEPARATIONS
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TABLE OF CONTENTS

<u>CATEGORIES</u>	9-3
Temporary Separations.....	9-3
Permanent Separations.....	9-3
<u>TEMPORARY SEPARATIONS</u>	9-3
Leave of Absence or Military Leave.....	9-3
Suspension.....	9-3
Termination for Medical Reasons.....	9-3
Involuntary Leave	9-4
Layoff.....	9-5
Disability Retirement.....	9-5
<u>PERMANENT SEPARATIONS</u>	9-5
Dismissal or Rejection During Probationary Period.....	9-5
Voluntary Resignation	9-5
Automatic Resignation.....	9-6
Termination for Failure to Meet Conditions of Employment	9-9
Termination of Limited Term or Temporary Authorization Appointment.....	9-10
Termination of Emergency, Career Executive Assignment, or Exempt Appointment	9-10
Service Retirement.....	9-10
Death	9-10
<u>INTERDEPARTMENTAL TRANSFERS</u>	9-11
<u>INFORMATION AND PROCEDURES FOR DOCUMENTING SEPARATIONS</u>	9-11
Payment of Wages/Leave Credits.....	9-11
Immediate Notification Required.....	9-13
Documents to be E-Mailed to Human Resources Section Immediately.....	9-13
Other Documents to be Forwarded to Human Resources Section	9-14
California Department of Motor Vehicles Request for Confidentiality of Home Address.....	9-14
<u>EXIT INTERVIEWS AND FINAL REPORTS</u>	9-15
General Requirements	9-15
Additional Requirements for Uniformed Classifications.....	9-16
Submission of Reports	9-17
Exceptions	9-18
<u>UNEMPLOYMENT INSURANCE BENEFITS</u>	9-18
Employee Notification Required	9-19

ANNEXES

A – SAMPLE MEMORANDUM-UNIFORMED EMPLOYEE REINSTATEMENT
AFTER RESIGNATION..... 9-21

B – SAMPLE ABSENT WITHOUT LEAVE WARNING LETTER..... 9-23

C – SAMPLE ABSENT WITHOUT LEAVE NOTICE LETTER 9-25

D – SAMPLE PROOF OF SERVICE BY MAIL..... 9-27

E – UNEMPLOYMENT INSURANCE AND JOB SERVICES..... 9-29

E – NOTICE TO EMPLOYEES OF UNEMPLOYMENT INSURANCE BENEFITS 9-31

CHAPTER 9

SEPARATIONS

1. CATEGORIES. There are two categories of separations which are defined in California Code (CCR) of Regulations 446:

a. Temporary Separations. Temporary separations include all types of leaves of absence including informal (dock) and temporary leave, military leave, suspension, termination for medical reasons, involuntary leave, layoff, and disability retirement, in accordance with Title 2, CCR, Sections 599.785 and 599.826.

b. Permanent Separations. Permanent separations include dismissal; voluntary resignation; automatic resignation (Absent Without Leave [AWOL]); rejection during probationary period; termination for failure to meet conditions of employment; termination of limited term, temporary authorization (TAU), emergency, Career Executive Assignment, or exempt appointments; service retirement; and death of an employee.

2. TEMPORARY SEPARATIONS.

a. Leave of Absence or Military Leave. Refer to Chapter 8, Leave of Absence, of this manual and the appropriate bargaining unit (BU) contract for policy and procedures.

b. Suspension. Refer to Highway Patrol Manual (HPM) 10.2, Internal Investigations Manual, for procedures concerning adverse actions.

c. Termination for Medical Reasons. Physical or mental disability of an employee may be the basis for separation by the Department. A complete report regarding the disability must be forwarded through channels to the Commissioner with comments and recommendations from each level of the command. After review, the commander will be notified if action may be taken and what additional medical information may be required. Questions regarding termination for medical reasons should be directed to the Office of Risk Management, Injury Illness and Case Management Unit (ICU).

(1) Employees should be informed that they are eligible for reinstatement under the provisions of Government Code (GC) Section 19253.5.

(2) Employees may appeal their termination within 15 days after service of the notice of termination. Termination for medical reasons is not an adverse action and disciplinary charges are not filed against the employee.

d. Involuntary Leave. Government Code Section 19253.5 allows the Department to request disability retirement on an employee's behalf and place the employee on Involuntary Leave (IL). The intent of IL is to reduce the financial hardship to an employee who is awaiting a disability retirement decision from the California Public Employees' Retirement System (CalPERS). Questions regarding IL should be directed to ICU. When an employee is placed on IL the following provisions shall apply:

(1) The Department may require an employee to submit to a medical examination by a physician(s) designated by the Department to evaluate their capacity to perform the work of their position.

(2) The Department may conclude that an employee is unable to perform the work required for their present position, or any departmental position, after considering the conclusions of a Department-ordered medical examination, medical reports from a designated physician, or other pertinent information. If the Department makes that determination, and the employee is eligible and does not waive the right to retire for disability, the Department shall file an application for disability retirement on behalf of the employee.

(3) The Department shall give the employee a written notice 15 days in advance of the effective date indicating the Department's intention to file an application for disability retirement on behalf of the employee and that the employee may be placed on IL at the end of the notice period, in accordance with GC Section 19253.5.

(4) Upon filing the application for disability retirement, the Department may remove the employee from the job and place the employee on IL status.

(5) If the employee requests, a meeting with a review officer shall be provided prior to the effective date identified by the Department for disability retirement.

(6) While on IL, the employee may be eligible to receive a temporary disability allowance (TDA) in addition to the continuation of health benefit deductions pending a CalPERS decision on the disability retirement application. An employee may be eligible to receive a TDA in addition to being paid for leave credits and/or receiving payments from Industrial Disability Leave or Nonindustrial Disability Leave programs. This will apply when the employee's leave credits and programs are less than the estimated TDA. An employee who is receiving TDA payments without payment of leave credits and/or eligible programs is considered to be on a temporary separation.

(7) If the application for disability retirement is subsequently granted, CalPERS shall reimburse the Department for the TDA, which shall be

deducted from any back-disability retirement benefits otherwise payable to the employee, in accordance with GC Section 19253.5.

(8) If the application for disability retirement is denied, the Department shall reinstate the employee to the employee's former position with back salary and benefits, less any TDA paid, and restore any leave credits the employee used during the period of IL, in accordance with GC Section 19253.5.

e. Layoff. The separation of a permanent or probationary civil service employee because of budget cuts or lack of work is processed as a layoff. This type of separation is determined by the employee's state service seniority and is handled by Selection Standards and Examinations Section (SSES), Classification and Hiring (CH).

f. Disability Retirement. Refer to Chapter 10, Retirements, of this manual for procedures concerning retirements.

3. PERMANENT SEPARATIONS.

a. Dismissal or Rejection During Probationary Period. Refer to HPM 10.2 for procedures concerning adverse actions.

b. Voluntary Resignation. Personnel may voluntarily resign their position by submitting a written or oral resignation to their commander. Either form of resignation is equally binding. It is illegal for supervisors to exert undue influence or to subject employees to duress in order to obtain a resignation.

(1) The effective date of an employee's resignation is either the date specified in the employee's written or oral resignation or, if no effective date is specified:

(a) The date of the employee's letter, or date of the postmark if the letter does not contain a date; or

(b) The date on which the employee's supervisor received the employee's oral resignation.

(2) An employee may withdraw a resignation if the employee does so before the resignation effective date.

(3) Once the effective date has passed, the employee cannot withdraw the resignation. However, departmental management may exercise their discretion and permissively reinstate the employee. (Refer to Annex A.)

(4) An STD. 687, Separation/Disposition of CalPERS Contributions, completed and signed by the employee, shall be forwarded to Human Resources Section (HRS). If the employee separated by oral resignation and refuses or cannot be contacted to sign the STD. 687, the commander shall prepare a letter to the employee at the employee's last known address indicating the declared effective date of resignation. The letter should also advise the employee they must contact CalPERS directly for a refund of their retirement contributions. A copy of the letter and the employee's unsigned STD. 687 shall be forwarded to HRS.

c. Automatic Resignation.

(1) Absent Without Leave. Automatic resignation is the separation of an employee who is AWOL for 5 or more consecutive working days, whether the absence is voluntary or involuntary. If the employee's time base is other than full time, 5 of the employee's consecutively scheduled working days are considered the five working days of AWOL, in accordance with GC Section 19996.2. The following provisions apply to automatic resignation:

(a) Full-Time or Part-Time Employee.

1 Employees are considered AWOL on any designated work day they do not report for work, do not contact their commander, take time off even though their request for time off was disapproved, or do not return from a leave of absence and do not submit their resignation. For purposes of automatic resignation, the period of AWOL begins on the next scheduled shift following the last day the employee worked, or following the last day of absence authorized by the commander.

2 If the employee has not contacted the commander at the end of the first 4 hours of a scheduled shift, the commander should attempt to contact the employee. If the employee is contacted and the reasons for absence are acceptable, the commander will determine the date and time the employee must return to work. The commander shall advise the employee that if the employee does not return on the date determined, the employee will be considered AWOL and that failure to return within 5 working days of the determined date may result in automatic resignation from the Department. Oral information given by the commander to the employee shall be immediately confirmed in writing. (Refer to Annex B.)

3 If the reason(s) for absence given by the employee are unacceptable and the absence is not approved by the commander, the commander shall advise the employee they are AWOL. The employee shall also be advised that if they fail to return to work within 5 work days following the end of the last day worked or authorized absence, the employee may be separated as AWOL. The commander shall immediately confirm oral direction to the employee in writing. (Refer to Annex C.)

4 If the employee cannot be contacted, the commander shall immediately forward written notice of AWOL and the effective date of separation, as indicated in paragraph 3.c.(1)(a)3, to the employee's last known address. (Refer to Annex C.)

5 If an employee, AWOL, returns to work before the end of the 5 work days specified by the commander, the period of unauthorized absence shall be reported as "dock" on the CHP 71, Attendance Report, in accordance with instructions in Chapter 28, Attendance Reporting, of this manual.

(b) Permanent Intermittent Employee. If the permanent intermittent (PI) employee is on a regular work schedule, the procedure is the same as for a full-time or part-time employee. If the PI employee is "on call," the employee is entitled to 3 waivers before being considered AWOL, in accordance with 2 CCR Section 599.828. Contact HRS for further direction.

(c) Invoking the Absent Without Leave Statute. If the commander elects to apply the automatic resignation provisions of GC Section 19996.2, the following process shall be followed:

NOTE: Prior to invoking the AWOL statute, the applicable BU Contract Memorandum of Understanding shall be reviewed to determine if there are provisions that are at variance with those in this chapter.

1 Absent Without Leave Notice.

a A written notice shall be sent to the employee's last known address. (Refer to Annex C.) It should contain the dates of AWOL, the date the AWOL statute will be invoked, the effective date of the automatic resignation (last day worked), the right to request an informal Coleman hearing before an impartial and disinterested decision maker representing the appointing power (see paragraph 3.c.[1][c]2 below), the time frames for requesting

the informal Coleman hearing and reinstatement, and the right to request reinstatement from the California Department of Human Resources (CalHR).

b The AWOL notice is to be sent by overnight mail, not certified mail. This should be supported by a Proof of Service by Mail (Annex D). Upon mailing the AWOL notice, a copy of both the notice and the Proof of Service by Mail should be sent to the Office of Internal Affairs (OIA) and HRS. Service is effective 5 calendar days after the postmark date for addresses within California, 10 days after the postmark for addresses outside California but within the United States, and 20 days after the postmark for addresses outside the United States. The notice must be sent to the employee's last known place of residence. If the notice is returned as undeliverable, the notice shall be placed in the employee's personnel file to verify the attempt to contact the employee.

2 Informal (Coleman) Hearing. The AWOL notice shall include an implementation date that allows the employee a reasonable time to request a Coleman hearing before the separation is finalized. This hearing is informal and should be conducted by an impartial and disinterested representative of the Department. Contact OIA for the current procedures and standards for selecting a hearing officer. The term "impartial and disinterested" means that the decision maker is someone not involved in the original decision to AWOL the employee. The decision maker must determine if the employee was absent for 5 consecutive work days and if the absence was without leave. "Leave" does not mean leave time on the books; rather, it means "permission" from the employee's supervisor to be absent. Once this determination is made, the decision maker is empowered to sustain or rescind the separation. Prior to making a final decision, the decision maker may also consider and evaluate the reasons for the AWOL and why the employee did not obtain leave. The appointing power may reinstate the employee in accordance with GC Section 19140.

3 Request to California Department of Human Resources for Reinstatement.

a Government Code Section 19996.2 provides, in part, that CalHR may reinstate employees if ". . . the employee makes a satisfactory explanation to the department as to the cause of his or her absence and his or her failure to obtain leave therefore. . ." The employee must request reinstatement within 15 days of the

service of the notice of AWOL separation. The request may be made irrespective of whether the employee requested a Coleman hearing with the appointing power. Formal service is the date the notice was mailed or personally given to the employee. If the employee was not given a notice, the employee has 90 days from the effective date of the separation to request reinstatement.

b The CalHR will schedule a hearing within a reasonable time to examine the reasons for the absence and why leave was not obtained. Since the Department has already determined that the AWOL occurred, CalHR will not revisit that issue. If CalHR determines that reinstatement is appropriate and that the employee is "ready, willing, and able" to return to work, CalHR may reinstate the employee. Back pay is never authorized pursuant to the AWOL statute.

(2) Permanent Intermittent Employee. A PI employee whose continuity of employment in a position is interrupted by a nonwork period that extends longer than 1 year may be considered to have automatically resigned from the position without fault as of 1 year from the last day the employee was on pay status, in accordance with 2 CCR Section 599.827.

(a) Separations are restricted to:

1 Nonwork periods not covered by a paid leave, a formal leave of absence without pay, or other temporary separation; and

2 Those circumstances which create a presumption that the employee has abandoned the intermittent position.

(b) Contact HRS for procedures to follow regarding automatic separation of a PI employee.

d. Termination for Failure to Meet Conditions of Employment. When a permanent or probationary employee fails to meet the conditions of employment, the employee must be told to discontinue working. The Department may consider voluntary demotion, transfer or regular leave of absence until the employee meets the conditions, or the employee may wish to resign; otherwise, the employee is terminated in accordance with GC Section 19585.

(1) When the requirement for meeting the conditions of employment have been regained, employees who were terminated, demoted, transferred, or who chose to resign may be permissively reinstated in accordance with GC Section 19140.

(2) The following are examples of when an employee is considered as having failed to meet the conditions of employment:

(a) Loss of driver license when it is required by the specification of the employee's classification or by the employee's assigned duties.

(b) Failure to meet the standards required for the apprenticeship program for the employee's position.

(3) If adverse action is being taken to terminate the employee, the procedures outlined in HPM 10.2 should be followed.

e. Termination of Limited Term or Temporary Authorization Appointment. This type of separation is usually effected by the Department upon expiration of the time for which the appointment was authorized. However, the appointment may be terminated and the employee separated earlier because of lack of work, return of the regular employee, or unsatisfactory performance. If the termination is for unsatisfactory performance, a report shall be forwarded to HRS.

f. Termination of Emergency, Career Executive Assignment, or Exempt Appointment. If this type of separation occurs, contact SSES, CH for assistance.

g. Service Retirement. Refer to Chapter 10 of this manual for procedures concerning retirements.

h. Death. In the event of an employee's death, whether or not it is service connected, commands shall notify the Commissioner and HRS and provide the information outlined below. Refer to Chapter 31, Deceased Employees, of this manual and Highway Patrol Handbook 10.13, Guide to Employee Death, for additional information regarding deceased employees.

(1) Name of deceased and departmental identification number.

(2) Summary of circumstances causing death.

(3) Date and time of death, and work schedule.

(4) Name and address of person authorized to receive state payroll warrants as shown on the STD. 243, Designation of Person(s) Authorized to Receive Warrants.

(5) Name, address, and relationship of next of kin.

(6) Name, address, and relationship of person handling final affairs.

(7) Names, addresses, and ages of minor or dependent children.

(8) Information on the funeral arrangements (this may be submitted later in a separate Communications Network message).

4. INTERDEPARTMENTAL TRANSFERS. Interdepartmental transfer is movement of a permanent or probationary employee from a position in the Department to a position in the same or comparable classification in another department without a break in service. Refer to Chapter 4, Transfers and Residence Requirements, of this manual for transfer requirements.

5. INFORMATION AND PROCEDURES FOR DOCUMENTING SEPARATIONS.

a. Payment of Wages/Leave Credits. California Labor Code Section 220 requires that payment of wages earned, including the cash out of remaining leave credits, be made to separating employees within specified time frames. Any person, agent, manager, or officer of the state shall be guilty of a misdemeanor for violation of the following wage payment requirements:

(1) When an employee is discharged (separated from state service other than voluntary, i.e., dismissal or rejection on probation), wages earned must be paid at the time of separation; this includes cash out of leave credits (e.g., vacation, annual leave, personal leave, and compensating time off [CTO]).

(2) When an employee voluntarily resigns from employment with the state (i.e., resignation or service retirement), wages earned must be paid not later than 72 hours from the date of separation. However, if the employee provided at least 72 hours notice, the employee must be paid at the time of separation; this includes cash out of leave credits (e.g., vacation, annual leave, personal leave, and CTO). This would exclude any amount of deferral of payment for unused leave credits as described in paragraphs 5.a.(4) and 5.a.(5) below.

(3) Leave Credits. If an employee is separating from state service, a lump sum payment is made covering any remaining vacation/annual leave, excess hours, holiday credits, personal holiday, personal leave, and CTO. Under specified criteria, an employee may defer payment of all or a portion of a lump sum payment by utilizing the options identified in paragraphs 5.a.(4) and 5.a.(5) below.

(4) Deferral of Payment for Unused Leave Credits into a Savings Plus Plan in Year of Separation.

(a) An employee must be paid for all unused leave credits through the November pay period during the current tax year and may transfer all or a portion of the payment for those credits into a Savings Plus Plan (SPP). The amount transferred cannot exceed the SPP's annual maximum contribution limit for the tax year involved. The employee must be enrolled in an SPP but does not have to be contributing prior to separation.

(b) To defer payment for unused leave credits into the current year's SPP, the employee must complete and submit a Savings Plus, Lump Sum Separation Pay Deferral Election form to HRS no later than 5 work days prior to the employee's date of separation. The Savings Plus, Lump Sum Separation Pay Deferral Election form is available by contacting Savings Plus Now at 1-855-616-4776 or from the Savings Plus Web site, <https://www.savingsplusnow.com>.

(5) Deferral of Payment for Unused Leave Credits into the Year Following Separation.

(a) Employees may defer into the next calendar year any or all of the payment for their unused leave credits that extend past the November pay period of the calendar year in which separation occurs **only** if the separation is on or after November 1st. Deferred payments must be issued within 2 ½ months of the employee's separation/retirement.

NOTE: An employee may only defer payment in to the calendar year following the year in which the employee separates.

(b) To initiate a deferral in to the next calendar year, the employee must submit a written request to HRS no later than 5 work days prior to the employee's date of separation that specifies one of the following options:

- 1 Contribute the deferred payment to the employee's SPP, within the limits of the plan.
- 2 Contribute any portion of the deferred payment to the employee's SPP and receive payment for the remaining portion.
- 3 Receive a deferred payment.

(c) Deferring to Savings Plus Plan. If deferring to an SPP, along with a written request, the employee must also complete and submit a Savings Plus, Lump Sum Separation Pay Deferral Election form available by

contacting Savings Plus Now at 1-855-616-4776 or from the Savings Plus Web site, <https://www.savingsplusnow.com>. The employee must be enrolled in an SPP but does not have to be contributing prior to separation.

(6) When a separation is with fault, the employee does not earn additional credits or receive payment for holidays during the period of lump sum payment.

(7) When an employee transfers to another state agency, payment is made for any accumulated CTO and excess hours at the time of the transfer. Vacation/annual leave, sick leave, holiday credits, personal leave, and personal holiday are transferred to the new agency. (Refer to Chapter 4 of this manual for additional information on interdepartmental transfers.)

b. Immediate Notification Required. On all types of separations, when a command becomes aware of an impending employee separation, it is imperative the commander notify HRS immediately so payroll records are accurate and payment of wages can be made in accordance with Labor Code Section 220 (refer to paragraph 5.a.). The notification shall include the following information:

(1) The employee's last day worked or last day on paid leave credits.

(2) The employee's last recorded residence address.

(3) If the employee is accepting a position with another state department, the name of the department and the proposed effective date so HRS may coordinate the transaction with the other department.

c. Documents to be E-Mailed to Human Resources Section Immediately. As soon as they are available, the following documents shall be e-mailed, with the social security number redacted, to the command's assigned HRS, Personnel Transactions Unit (PTU), personnel specialist with a carbon copy to PTU@chp.ca.gov:

(1) A CHP 71 or a copy of the MIS attendance screen covering the time worked during the pay period.

(2) STD. 687 for all permanent separations from state service except service retirement.

(3) STD. 634, Absence and Additional Time Worked Report, if required for any absences prior to separation.

d. Other Documents to be Forwarded to Human Resources Section. The following documents, along with the original documents identified in paragraph 5.c. above, shall be forwarded to HRS immediately following the last day the employee worked:

- (1) State property and commander's certification, as outlined in Chapter 18, Departmental Identification Cards, of this manual.
- (2) The personnel folder and its contents, in the manner prescribed in Chapter 30, Personnel and Medical Files, of this manual.
- (3) Memorandum as required under paragraph 6.a. or 6.b.
- (4) CHP 449, Employment Summary - Separated Employee, as required under paragraph 6.c.

e. California Department of Motor Vehicles Request for Confidentiality of Home Address. This authority is provided by the California Vehicle Code Section 1808.4 and states the following:

- (1) The following employees' home addresses are confidential if the employee requests the confidentiality of that information:
 - (a) An active or retired peace officer;
 - (b) A nonsworn police dispatcher;
 - (c) A Motor Carrier Specialist I;
 - (d) A spouse or child of the employee listed above, regardless of the spouse's or child's place of residence, except if that spouse or child was convicted of a crime or is on active parole or probation;
 - (e) The surviving spouse or child of a peace officer, if the peace officer died in the line of duty, except if that surviving spouse or child was convicted of a crime or is on active parole or probation;
- (2) Retired peace officers are entitled to maintain permanent confidentiality of their home address. No action is required upon retirement;
- (3) Peace officers who separate for reasons other than retirement, and Public Safety Dispatchers and Motor Carrier Specialists I who separate (including retirees) may retain the confidentiality of their home address for three years following their date of separation. The surviving spouse and children of a

peace officer, who died in the line of duty, may retain the confidentiality of their home address for three years following the death of the peace officer;

(4) Following termination of employment, a confidential home address shall be withheld from public inspection for 3 years, unless the termination is the result of conviction of a criminal offense. If the termination or separation is the result of the filing of a criminal complaint, the confidentiality of the employee's home address shall be maintained until the appeal process is exhausted. If the termination is upheld, it is at the Department's discretion whether or not to maintain the confidentiality status. Employees who are reinstated retain the confidentiality of their home address as specified above.

(a) The command must notify the Department of Motor Vehicles (DMV) of the employee's separation date by amending the copy of form INV 32, Request for Confidentiality of Home Address, on file. If there is no INV 32 on file, a new form may be used.

(b) The command shall then submit the completed form to DMV at the address shown in the upper right-hand corner of the form. The DMV will establish a suspense to remove the confidentiality in three years.

(5) Employees who request confidentiality for their spouse or child shall declare, at the time of the request for confidentiality, whether the spouse or child has been convicted of a crime and is on active parole or probation.

(a) Neither the Department nor the listed spouse or child's employer shall be required to verify, or be responsible for verifying, that the spouse or child listed was convicted of a crime and is on active parole or probation.

(b) The Department shall discontinue holding a home address of a spouse or child who is convicted of an offense in another jurisdiction that if committed in California, would be a felony.

(c) The Department shall discontinue holding a home address of a spouse or child upon receiving notice or otherwise becoming aware of a disqualifying conviction.

6. EXIT INTERVIEWS AND FINAL REPORTS.

a. General Requirements. Commanders shall interview each employee who is separating by resignation from state service, or accepting employment in another state agency to determine the following information. The information obtained shall be documented in a memorandum to HRS.

- (1) Reason for separation (e.g., to accept other employment, personal reasons, to go into business).
- (2) Any underlying reason for the transfer or separation (e.g., lack of advancement, not suited to the work performed, dislike of or poor working conditions).
- (3) If the employee has any specific complaints about the Department or suggestions which would improve operations.
- (4) A recommendation regarding rehire.

NOTE: If a recommendation against rehire or adverse comments are contained in the exit interview, the employee must first read and sign the memorandum before it is forwarded to HRS and placed in the employee's file. The separating employee has 30 days within which to file a response to any adverse comment. (Refer to Chapter 30 of this manual.)

b. Additional Requirements for Uniformed Classifications. The commander who interviews a separating uniformed employee shall also inform the employee in writing of the following information. (Refer to Chapter 3, Reinstatements, of this manual.)

- (1) The Department has the right to accept or deny any request for permissive reinstatement made within 3 years from the date of separation. Reinstatement during that period is solely at the discretion of the Commissioner. Reinstatement will only be approved to the classification of Officer, California Highway Patrol, regardless of the rank from which the employee resigned or retired.
- (2) Permissive reinstatement subsequent to 3 years from the date of separation is prohibited by law, in accordance with GC Section 19140.
- (3) As a matter of policy, a permissive reinstatement request will receive favorable consideration only under the following circumstances:
 - (a) Separation circumstances are mitigating.
 - (b) Applicant has an overall record of exceeding performance standards for the critical tasks.
 - (c) Applicant successfully passes all phases of the reinstatement process required by the Department.

(d) Applicant is free from any physical, emotional, or mental condition which might adversely affect the exercise of the power of a peace officer, in accordance with GC Section 1031(f).

(4) Successful applicants for reinstatement must accept the location of the assignment offered, which is seldom the same as the location in which they served prior to resignation.

(5) The salary paid when reinstatement is granted is normally 1 salary step below maximum.

(6) Departmental seniority of an employee who is reinstated following resignation from the Department shall include credit for prior departmental service.

c. Submission of Reports.

(1) Uniformed Employees. In addition to a memorandum containing information obtained as a result of the exit interview, the commander shall complete a CHP 449 for the purpose of evaluating the employee's work performance. Based upon the evaluation, a recommendation shall be made indicating whether or not the individual should be considered for reinstatement, if requested. When formulating recommendations for reinstatement purposes, the commander's responsibilities include:

(a) Carefully evaluating all aspects of performance, which includes a standard of conduct and behavior appropriate for peace officers and state employees.

(b) Coordinating with the employee's previous commander in formulating a recommendation for reinstatement if the employee has been assigned to the command less than 6 months.

(c) Attaching copies of the annual performance appraisals for the past three years to the completed CHP 449.

(d) Completing a narrative summary of the reasons for differences in the Area Commander Recommendation Comments section, in the event the commander's recommendation for or against reinstatement is inconsistent with the ratings on the employee's applicable form in the CHP 118, Performance Appraisal, series.

(e) Routing the exit interview memorandum, the completed CHP 449, and the employee's CHP 118s to the appropriate Division for review.

(2) Division Responsibilities. The Division shall review the separation reports submitted, provide comments on the CHP 449 and route all material to HRS.

(3) Nonuniformed Employees. The commander shall send a memorandum to HRS containing the information obtained as a result of the exit interview, an evaluation of the employee's work performance, and a recommendation as to whether or not the individual should be considered for reemployment if reinstatement is requested.

(a) Public Safety Operator/Dispatcher Employees. Communications Centers Support Section shall be carbon copied on the memorandum for all Public Safety Operator/Dispatcher employee separations.

d. Exceptions. Exit interviews and final reports are not required for:

(1) Employees who are separated as being AWOL or when the record speaks for itself, such as in a dismissal for cause, resignation with fault, or a rejection during the probationary period.

(2) Persons employed on a limited term or temporary basis if the employment was satisfactory. (A final report is required if the employment was not satisfactory.)

7. UNEMPLOYMENT INSURANCE BENEFITS.

a. The Employment Development Department (EDD) provides unemployment insurance and job services to eligible employees. (Refer to Annex E.)

(1) Employees may be eligible for unemployment insurance benefits if they are: laid off, terminated because of the expiration of TAU or limited term appointments, intermittent employees whose services are no longer needed, or employees who become unemployed through no fault of their own.

(2) Employees may also be eligible for benefits if their time base has been reduced.

(3) Employees who file for unemployment insurance benefits must also meet specific eligibility requirements established by EDD before benefits can be paid.

b. Employee Notification Required.

(1) A notice of unemployment insurance benefits rights (Annex F) shall be given to an employee upon discharge, termination, layoff, or leave of absence.

It is the commander's responsibility to advise employees they may be eligible for unemployment insurance benefits and direct employees to their local EDD office for further information.

(2) A notice of unemployment insurance benefits rights to an employee is not required in any of the following situations: voluntary resignation, promotion or demotion, change in work assignment or work location, or cessation of work due to a job action.

c. When filing for benefits, claimants should list the name and mailing address of the last employer as: California Highway Patrol, Human Resources Section, 601 North 7th Street, Sacramento, CA 95811. Do not list the Division/Area/section last worked.

d. A decision on the payment of benefits is issued by EDD based on the circumstances surrounding the employee's separation from employment.

e. Prior to a ruling from EDD, the Department is allowed to respond to a claim notice and furnish relevant facts about a claimant's eligibility. This must be done within a 10-day time limit (from the date the notice is mailed). This information is taken into consideration by EDD prior to issuing a decision. This is the only means the Department may utilize to protect departmental appeal rights.

(1) **The commander shall forward any EDD forms received in the office, the same day the forms are received, to the Unemployment Insurance (UI) coordinator in Personnel and Training Division, HRS, PTU.** The forms are not to be completed in the Division/Area/section office. The UI coordinator may contact the commander to obtain clarification on reporting facts and/or additional information as necessary.

(2) Human Resources Section will complete and forward all EDD forms to the appropriate office as required. If the Department objects to the payment of unemployment insurance benefits to an employee due to discharge for misconduct or voluntary resignation, the commander may be requested to provide a supervisor to represent the Department's position at a California Unemployment Insurance Appeals Board hearing. If representation is required, commanders will be notified by telephone and will be provided background information and the legal basis for the Department's objection to the claim.

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ANNEX A

SAMPLE MEMORANDUM-UNIFORMED EMPLOYEE REINSTATEMENT AFTER RESIGNATION

State of California

Transportation Agency

Memorandum

Date: January 1, 2019

To: Jane A. Smith
123 Donner Way
Sacramento, CA 95123

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
Sunshine Area

File No.: 096.12345.A14321.123

Subject: REINSTATEMENT AFTER RESIGNATION

As you have submitted your resignation from the position of sergeant, this is to inform you of Department policy with regard to a possible reinstatement.

Reinstatement subsequent to three years from the date of separation is prohibited under the provisions of Government Code Section 19140.

The Department has the right to accept or deny any request for reinstatement made within three years for the date from which you separated. Reinstatement during this period is solely at the discretion of the Commissioner. It will be approved only to the rank of officer, regardless of your rank at the time of resignation.

Reinstatement is normally granted only if you had an above average prior record, or when the separation involves extenuating circumstances, and when the applicant successfully passed all phases of the reinstatement process. This process includes, but is not limited to, meeting the requirements of Government Code Section 103 (f) which states peace officers must be found to be free from any physical, emotional, or mental condition which might adversely affect the exercise of the power of a peace officer.

The salary will normally be one step below maximum and you must accept whatever location of assignment is offered. Departmental seniority of an employee who is reinstated following resignation shall include credit for prior departmental service.

JOHN DOE
Commander



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CHP 51 (Rev. 06/2013) OPI 076

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ANNEX B

SAMPLE ABSENT WITHOUT LEAVE WARNING LETTER

State of California-Transportation Agency

GAVIN NEWSOM, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P. O. Box 942898
Sacramento, CA 94298-0001
(916) 843-3700
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



January 4, 2019

File No.: 96.A1234.A4321.123

Jane A. Smith
123 Donner Way
Sacramento, CA 95123

Dear Jane A. Smith:

You have been absent from work without approved leave on Monday, January 1st, Tuesday, January 2nd and Wednesday, January 3rd.

You are hereby warned that absence without leave, whether voluntary or involuntary, for five consecutive work days is an automatic resignation from state services pursuant to the provisions outlined in Government Code Section 19996.2.

If you do not return to work or obtain approval for your absence from your immediate supervisor by Friday, January 5th, you may be considered to have automatically resigned from state service as of Friday, December 29th, the last day you worked.

Sincerely,

JOHN DOE
Commander
Sunshine Area

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ANNEX C

SAMPLE ABSENT WITHOUT LEAVE NOTICE LETTER

State of California-Transportation Agency

GAVIN NEWSOM, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P. O. Box 12345
Sacramento, CA 95123-0001
(916) 423-4567
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



January 10, 2019

File No.: 96.A1234.A4321.123

Jane A. Smith
123 Donner Way
Sacramento, CA 95123

Dear Ms. Smith:

Please take notice that effective December 29, 2018 (*refer to paragraph 3.c.[1][a]3*) California Highway Patrol intends to invoke the absent without leave statute (AWOL) (Government Code Section 19996.2) because you have been AWOL for five consecutive working days. You have been absent from January 1, 2019, to January 5, 2019, and that absence was without leave.

If you disagree with these facts, you may request an informal hearing to be held prior to January 30, 2019. To request an informal hearing, contact Jason Wright, 321 Raining Avenue, Sacramento, CA 95123, (123) 456-7891, of the "Coleman" officer. At the hearing you will have an opportunity to explain why you disagree with the intended decision. If the AWOL separation is finalized, you will be considered to have resigned on December 29, 2018, your last day of work.

Whether or not you respond to the Department to request an informal hearing, you will still have the right to file a written request for reinstatement with the California Department of Human Resources (CalHR), 1515 "S" Street, North Building, Suite 400, Sacramento, CA 95811, within fifteen calendar days of service of this notice. You have five additional days if the notice was sent by mail within California. A request for reinstatement is made pursuant to Government Code Section 19996.2. If you file a timely request, CalHR or its authorized representative will hold a hearing within a reasonable time.

Sincerely,

JOHN DOE
Commander
Sunshine Area

cc: Office of Internal Affairs
Human Resources Section



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ANNEX D

SAMPLE PROOF OF SERVICE BY MAIL

State of California

Transportation Agency

Memorandum

Date: November 11, 2018

To: Human Resources Section

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Sunshine Area

File No.: 096.12345.A14321.123

Subject: REINSTATEMENT AFTER RESIGNATION

I declare that I am employed in the County of Sacramento, California. I am over the age of 18 and not a party to the within captioned cause, and my business address is 543 Rodeo Drive, Jacksonville, CA 91234. On November 10, 2018, I served the Warning Letter of Absent without Leave Separation Notice on the party listed below by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, first class, in the United States mail at 987 Post Office Street, Jacksonville, CA 91234, addressed as follows:

JANE A. SMITH
123 DONNER WAY
SACRAMENTO, CA 95123

I declare under penalty of perjury the foregoing is true and correct, and that this declaration was executed on November 10, 2018, at 321 Sunshine Street, Jacksonville, CA 91234.

JOHN DOE
Commander

cc: Office of Internal Affairs

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ANNEX E

UNEMPLOYMENT INSURANCE AND JOB SERVICES

1. **Employment Development Department (EDD) Unemployment Insurance Program.**
The Unemployment Insurance (UI) Program provides the weekly unemployment insurance payments for workers who lose their job through no fault of their own. Eligibility for benefits requires the claimant be able to work, be seeking work, and be willing to accept a suitable job.
2. **Filing Unemployment Insurance Claims.** Unemployment insurance claims are filed with the local EDD. The name and address of the former employer should be listed as California Highway Patrol, Human Resources Section, 601 North 7th Street, Sacramento, CA, 95811. Do not list the Division/Area/section last worked.
3. **EDD Locations.** Claimants may check with their local and/or state telephone directory for office locations. Claimants may also visit the EDD Internet Web site at www.edd.ca.gov for office locations.
4. **Claimant Benefits.** The amount for benefits available is based on the claimant's earnings in the base period (the "base period" is 12 months). The maximum amount of a regular UI claim is either 26 times the claimant's weekly benefit amount or one-half of the claimant's base period earnings, whichever is less. The maximum weekly benefit is 26 weeks. Eligible employees may qualify for an additional 20 weeks of federally funded extended UI benefits.
5. **EDD Job Service.** The EDD's Job Service works in partnership with many other local employment and training agencies. Through this service, job seekers are matched with job openings listed by employers. Job Service also provides information about other services, such as job search training workshops to develop and practice job finding, interview skills, and referral to employment related training. Contact the local EDD office for additional information.
6. **Additional Information on Unemployment Insurance.**
 - **Form DE 2320 - For Your Benefit.** The purpose of this form is to inform claimants about the programs offered by EDD for the benefit of unemployed Californians. Available through the local EDD office and Web site.
 - **EDD Internet Web site address - www.edd.ca.gov.** Provides comprehensive unemployment insurance information and job services.
 - **Telephone Services – 1-800-300-5616 (English), 1-800-815-9387 (TTY).** Interactive Voice Response System provides general unemployment insurance information with step-by-step instruction to guide claimants with specific services.

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ANNEX F

NOTICE TO EMPLOYEES OF UNEMPLOYMENT INSURANCE BENEFITS



NOTICE TO EMPLOYEES **UNEMPLOYMENT INSURANCE BENEFITS**

This employer is registered under the California Unemployment Insurance Code and is reporting wage credits that are being accumulated for you to be used as a basis for unemployment insurance benefits.

You may be eligible to receive Unemployment Insurance benefits if you are:

- Unemployed.
- or
- Working less than full-time **AND** ready, willing, and able to work full-time, or as instructed by the Employment Development Department (EDD).

Employees of Educational Institutions:

Unemployment Insurance benefits based on wages earned while employed by a public or nonprofit educational institution may not be paid during a school recess period if the employee has reasonable assurance of returning to work at the end of the recess period (California Unemployment Insurance Code Section 1253.3). Benefits based on other covered employment may be payable during recess periods if the unemployed individual is in all other respects eligible, and the wages earned in other covered employment are sufficient to establish an unemployment insurance claim after excluding wages earned from a public or nonprofit educational institution(s).

NOTE: Some employees may be exempt from unemployment and disability insurance coverage.

The fastest way to file for Unemployment Insurance (UI) is online with eApply4UI at www.edd.ca.gov/eapply4ui.

You may also file for unemployment benefits by calling toll-free from anywhere in the U.S. at:

English	1-800-300-5616	Mandarin	1-866-303-0706
Spanish	1-800-326-8937	Vietnamese	1-800-547-2058
Cantonese	1-800-547-3506	TTY (nonvoice)	1-800-815-9387

Note: If contacting us to file a claim, you must contact us by Friday to receive credit for the week. If calling, EDD representatives are available Monday through Friday between 8 a.m. and 12 noon (Standard Time).

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