

CAPSule

E-Mail CAPS at: caps@capsscientists.org

Website: www.capsscientists.org


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Furlough Checks Still Due in March

Backpay checks honoring the furlough decision that became final last October are still on schedule to be delivered by the end of March, according to CalHR. CAPS regrets the repeated delays, but unfortunately delivery is at the mercy of the state's payroll system. Fortunately, interest continues to accrue.

The specific wording of the ruling requires the state to *"set aside as unlawful the second and third unpaid furlough days in March 2011, and take any and all actions required by law to make those employees whole by providing back pay..."* This means that every rank-and-file state scientist covered by the case is due to receive two days back pay, plus interest at the statutory rate of 2.2%.

The award of back pay is especially significant because affected state scientists *already* received 16 hours Personal Leave as compensating time off for the salary reduction.

 **Base Remediation Element Reversed.** One of CAPS' challenges to this particular episode of mandatory furloughs was rejected. The appellate court reversed the trial court's finding regarding scientists involved in hazardous waste remediation and management on military bases. The appellate court held the Legislature had the authority to furlough these scientists through the State Budget, meaning they won't get additional back pay.



Off-Budget Makes The Cut. Finally, the final judgment allows another key part of the original trial court ruling to be implemented. Scientists working in the "off budget" agencies of the Prison Industry Authority and the California Earthquake Authority should not have been furloughed at all and are entitled to back pay. This part of the ruling will result in a more substantial back pay award for this small number of CAPS members. CalHR did not appeal this part of the original ruling.

Travel Reimbursements Still At Issue. CAPS still has an appeal pending on the decision by the Sacramento Superior Court to overturn the May 2014 decision by Arbitrator Catherine Harris. That decision awarded CAPS members higher lodging and meal reimbursement rates that had previously been implemented for virtually all other state employees. CalHR refused to extend those rates to state scientists as a penalty for CAPS' refusal to agree to the Governor's terms at the bargaining table. At stake are several months' worth of increases in the meal and lodging rates for scientists who traveled during the period July 2013 through September 2014. The new, higher rates took effect during October 2014 as a result of the new CAPS MOU.



Mentoring Leave

State scientists are entitled to receive matching state time for mentoring kids and related activities. All of this is provided for in Article 3.16 of the CAPS MOU. That section states full-time permanent employees may receive up to forty (40) hours of mentoring leave per calendar year to participate in mentoring activities. Time is awarded once they have used an equal amount of personal time for these activities.

Many CAPS members from all over California already participate in multiple volunteer activities that may qualify for mentoring leave. There are, for example, many mentoring and volunteer activities offered by schools and community organizations. CAPS has a special affinity for science fairs. CAPS is a cosponsor of the Synopsys Sacramento STEM Fair, and it provides volunteer judges (all CAPS members) to judge 15 regional fairs in support of its Science Fair Program which delivers young scientists the Science Achievement Award and allows them eligibility into the Outstanding Young Scientist competition. Kids in those competitions earn a memento, a \$100 cash award and the ability to compete for statewide honors. That competition is now underway.

This is all part of CAPS' effort to help students realize their dreams of a career in a scientific field. The state of California does its part by offering limited mentoring leave. Any member interested in taking advantage of mentoring leave should observe these guidelines.

- If an employee requests two (2) hours of mentoring leave, he/she must have used two (2) verified hours of his/her personal time prior to receiving approval for the mentoring leave. Travel to and from the mentoring location isn't considered matching time.
- Earned state matching mentoring leave must be requested and used before the end of the calendar year.
- Prior to requesting mentoring leave, the scientist must provide his/her supervisor with verification of personal time spent mentoring from the mentoring organization.
- Permanent part-time and permanent intermittent employees may receive a pro-rated amount of mentoring leave based upon their time base. For example, a halftime employee is eligible for twenty (20) hours.

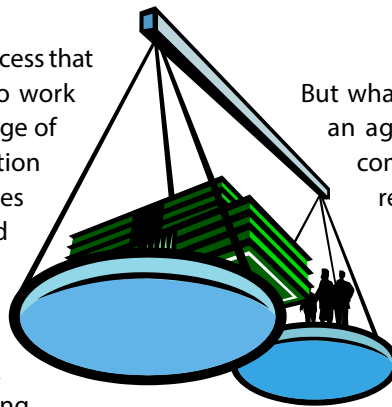
Scientists should submit written verification to their supervisor of their participation in a legitimate mentoring program prior to requesting matching time. If you are interested in volunteering, please visit the CAPS website for more information about educational programs supported by CAPS (<http://capsscintists.org/outreach/>).



Out-of-Class Claims

Section 17.2 of the CAPS MOU outlines the process that compensates scientists who are assigned to work more than 50% of the time doing the full range of duties in a higher paid classification. The section also includes a process for resolving disputes when the work isn't explicitly assigned and compensated with agreement in advance by state management.

A state scientist can be assigned to do work out of class. That work is defined as including duties that require "more than 50% of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the employee has a current, legal appointment." Such work is supposed to be limited to 120 consecutive calendar days during any 12-month period. Work continuing beyond 120 consecutive calendar days requires approval of the CalHR.



But what if the scientist is assigned the work without an agreed-upon term and without an increase in compensation? That's when the scientist needs to request recognition and compensation. If the request is denied, CAPS will help evaluate the nature of the work and can file a grievance. Some important prerequisites: the grievance must be filed within 60 days of finalizing the work. If the grievance is upheld, the back pay for the work completed is limited to one year of compensation at the rate of pay that

the employee would have received if appointed to the higher class for the entire duration of the assignment. If YOU believe you are working out of class for a prolonged period at a higher level for more than 50% of your work day, feel free to contact CAPS: caps@capsscintists.org!

SALARY EQUITY NOW!

By David Miller, President



Governor Brown's negotiators hear it every time they meet with the CAPS Bargaining Team: Salary Equity NOW!

Your CAPS Bargaining Team won't budge from its demand for full salary equity for ALL state scientists — and neither should you! The Team hasn't yet presented its salary proposal to CalHR, but there won't be any surprises — full salary equity, immediately. We waited nearly 10 years to have salary equity restored with state engineers, and we're 30% to 40% behind both our private and public sector counterparts, and now even state supervisors.

I can already hear the reasons why this won't work: it costs too much, departmental budgets can't afford it, it will prevent important state work from getting done because of increased personnel costs, etc., etc., etc.

YOU can help by carrying this message to your departmental management — and sticking with it: state scientists deserve the professional recognition that comes with an equitable, competitive salary range. That was recognized last summer when Governor Brown extended the Like Pay for Like Work decision to most state supervisors. That August 20, 2014 pay letter resulted in salary increases of between 28% and 42% for most state scientist supervisors and scientist managers. THANKS Governor Brown for finally doing that. Now we need him to do the same thing for rank-and-file state scientists.

Background. During January 2014 Governor Brown's Department of Finance inserted language and funding in the state budget for the Like Pay Like Work decision CAPS won in 2008. That budget item is by law limited in its application to state scientific supervisors, so the CAPS Bargaining Team pushed the companion item at the bargaining table. When the dust settled, salary equity was implemented for scientific supervisors — in line exactly with the Like Pay for Like Work decision — and the CAPS Team embarked on the Reclassification and Pay Project.

That project is largely complete. It's ready to have salary ranges attached to each of the new state classifications. In a

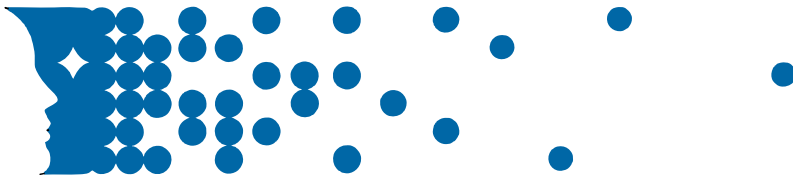
few instances where existing state scientists haven't been moved into a new classification, there's ample reason to establish market competitive salary ranges for each of those classifications as well. That can all be readily established based on the salary relationship between Environmental Scientists, ES Specialists and ES Supervisors. When salary equity is restored between these three classifications, it is simple to extend the equivalent salary ranges to all other Unit 10 classification based on its minimum educational requirement: Bachelor of Science, Master's degree and PhD (or the equivalent).

CAPS never ceases to point out the negative impact of the wide salary gap state scientists have with counterparts in government, and with state engineers, for whom the work is comparable. The CAPS Team will continue to demand that salary equity be realized before any final agreement is reached.

Salary Surveys. In past rounds of bargaining we have jointly prepared the salary survey with the cooperation of CalHR. This year we are open to doing another survey, but we don't think it's necessary. This issue was solved with last summer's Pay Letter. That is an adequate starting point for setting the salaries of all rank-and-file scientific classifications (and the remaining supervisory classifications).

Sticking Together. Final agreement won't occur anytime soon. I expect negotiations to last well into the spring, and for CalHR to get serious about its final offer to correspond with adoption of a final state budget. The state Constitution requires the Legislature to adopt a budget by June 15 or they don't get paid. So I expect legislators to meet that deadline, and for Governor Brown to sign a budget by July 1.

We should know where things stand by mid-to-late May. That's what we should all shoot for: salary equity for ALL state scientists by this summer!



CALIFORNIA ASSOCIATION OF PROFESSIONAL SCIENTISTS

● 455 Capitol Mall, Suite 500
Sacramento, CA 95814

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Range Placement Correction

An Environmental Scientist hired in 2012 was placed by the CDFW at Range B of the classification. She discovered after a few months of employment that her past experience should have entitled her to placement in Range C. When she requested advancement, her request was denied. Rather than just forget about it, she called CAPS. A merit issue complaint was filed on her behalf, and she was subsequently moved into Range C with the requisite back pay. A few of her written comments to CAPS:

"I did not pursue a change in the range placement at the time of hire, but I contacted Human Resources a year later to request a range adjustment when I needed to seek a new position and realized the range placement was holding me back from the upward mobility I was qualified for. CDFG denied my request, so I reached out to CAPS for assistance... CAPS was successful in assisting me with this dispute and ensuring that I received the status and wages I was entitled to based on my level of experience. I extend my sincere gratitude to CAPS for not only my case, but for all of its hard work on behalf of fairness to California State scientists."

