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Title 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.3. Classifications, Examinations, and Appointments
Article 14. Probationary Period (~~Refs & Annex~~)

§ 321. Extension of Probationary Periods.

(a) In the event a probationer has not, ~~during a prescribed calendar length of the probationary period,~~ worked the hours set forth below during the prescribed calendar length of the probationary period, ~~probation the probationary period will be~~ automatically be extended until the probationer has worked the required number of hours specified below:

- (1) 840 if serving a six-months' probationary period; or
- (2) 1260 if serving a nine-months' probationary period; or
- (3) 1680 if serving a one-year probationary period.

(b) Vacation, sick leave, military leave or other ~~leave~~ leaves of absence, compensating time off, suspension or other separations, including separations subsequently voided or otherwise set aside, shall not be considered working time.

(c) ~~Where a probationary period is automatically extended pursuant to subdivision (a),~~ The board the probationer shall be notified in writing of an the extension under this section.

~~(b) If a probationer has had a continuous period of absence of 60 or more working days and upon return from such absence the appointing power determines that the remaining portion of the probationary period is insufficient to evaluate that probationer's current performance the appointing power may extend the probationary period with the approval of the executive officer. The length of such extension shall be determined by the length of the completed portion of the probationary period at the beginning of the probationer's absence as follows:~~

~~(1) If up to one-third of the minimum number of hours required for the probationary period was worked, the remainder of the probationary period plus the extension shall not exceed the minimum number of hours required for the original probationary period.~~

~~(2) If over one-third but not more than two-thirds of the minimum number of hours required for completion of the probationary period was worked, the remainder of the~~

~~probationary period plus the extension shall not exceed two-thirds of the minimum number of hours required to complete the original probationary period.~~

~~(3) If over two-thirds of the minimum number of hours required to complete the probationary period was worked, the remainder of the probationary period plus the extension shall not exceed one-third of the minimum number of hours required to complete the original probationary period.~~

(d) Where a probationer is continuously absent from work for a period of time that is one-third or more of the length of the probationary period as specified in subdivision (a) and the appointing power finds that the automatic extension of the probationary period provides insufficient time to properly evaluate the probationer's job performance, the appointing power may, as specified in subdivision (e), extend the probationary period beyond the time periods specified in subdivision (a), not to exceed the length of time, calculated in hours, that the probationer was continuously absent. For purposes of this subdivision, the following calculations apply:

(1) One-third of the six-month probationary period equals 280 hours.

(2) One-third of the nine-month probationary period equals 420 hours.

(3) One-third of the one-year probationary period equals 560 hours.

(e) To extend a probationary period under subdivision (d), the appointing power shall submit to the Department and serve on the probationer a written request for extension of the probationary period. The request shall include all of the following information:

(1) The length of the applicable probationary period.

(2) The dates of the probationer's continuous absence and hours of work missed on each of those dates.

(3) The number of hours completed in the probationary period prior to the probationer's continuous absence.

(4) The number of hours remaining in the probationary period upon the probationer's return to work after the continuous absence.

(5) The length of the requested extension of probation that is in addition to the automatic extension.

(6) The reasons why the automatic extension of the probationary period is insufficient to properly evaluate the probationer's job performance.

(f) The written request for extension of the probationary period shall be submitted to the Department and served on the probationer at least 10 calendar days prior to the expiration of the probationary period.

(1) A probationer served with such a request may submit a written response to the Department within five calendar days after service of the request.

(2) After submission of all documents, the Department shall promptly prepare for and submit to the Executive Officer a written evaluation of the request with a recommendation of whether to approve, modify, or deny the requested extension of the probationary period. The Executive Officer may approve, modify, or deny the requested extension, or request further information before making a decision.

~~(e)~~ (g) The A probationary period may be extended for a maximum of five working days in order to comply with notice requirements as set forth in Section section 52.6, for concerning rejections during probation.

~~(d) Pursuant to Government Code Section 19170, an appointing power and an employee, who alleges that he/she has a disability as defined in Government Code Section 12926, may submit a written agreement for approval by the board, that would extend the employee's probationary period within his/her existing classification for up to six months to provide a reasonable accommodation to the employee as follows:~~

~~(1) The agreement shall describe the period of the extension, beginning and ending dates, and how the extended probationary period will allow the employee to demonstrate, before the extended probationary period ends, the ability to satisfactorily perform the essential functions of the position with the reasonable accommodation. The written agreement must be received by the board for review prior to the end of the employee's probationary period.~~

~~(2) If the employee's probationary period will end during the board's review, the board will automatically extend the probationary period until a determination is made to approve or disapprove the agreement. This period of time is inclusive of the extension time requested by the department. If the board does not approve the agreement, the board will extend the employee's probationary period by an additional ten working days from the date of service of the board's determination, to allow the appointing power sufficient time to proceed with a rejection during probation. This ten working day extension is in addition to that provided under subsection (c) above.~~

(h) Where an appointing power and a probationer with a disability, as defined in Government Code section 12926, have entered into a proposed written agreement to extend the probationary period in order to provide the probationer with reasonable accommodation, all of the following shall apply:

(1) The period of the extension shall not exceed six months.

(2) The written agreement shall set forth the beginning and ending dates of the extension of probation and describe how the extension will allow the probationer to demonstrate the ability to satisfactorily perform the essential functions of the position with reasonable accommodation before the extended probationary period ends.

(3) The appointing power shall submit the written agreement to the Board for review prior to the end of the probationary period. The Board may approve, disapprove, or modify the written agreement, or require additional information. The Board shall notify the appointing power and probationer in writing of its decision.

(4) If the probationary period will end during the Board's review, the probationary period shall be automatically extended within the terms of the written agreement until the Board's decision is issued. If the written agreement is approved or otherwise modified, this period of time shall count toward the extension of time specified in the written agreement. If the Board declines to approve the written agreement, the probationary period shall be automatically extended by an additional ten working days from the date of service of the Board's decision to allow the appointing power sufficient time to proceed with a rejection during probation. This ten working day extension is in addition to that provided under subdivision (g) above.

~~(e) Prior to the completion of the probationary period, the appointing power shall notify the employee in writing that the probationary period is being extended under this rule and of the length of the extension. Employees whose probationary periods are extended under this rule must also, over the entire course of their original and extended probationary periods, meet the minimum service requirements specified in subsection (a) above. The State Personnel Board shall notify the employee and the appointing power in writing of its decision to approve or disapprove any agreement reached pursuant to subsection (d) above.~~

Note: Authority cited: Cal. Const., art. VII, § 3; Sections 18502 and 18701, Government Code. Reference: Cal. Const., art. VII, § 3; Sections 19170 and 19173, Government Code.