

Final Text

Text added to the Board's regulation is shown in underlined;
Text deleted from the Board regulations is shown in ~~strikethrough~~.

TITLE 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1.3.
Article 8.

§ 211. Eligibility. Petitions to Participate in Examinations.

(a) Except as otherwise provided in section 211.2, if an employee is dismissed from state employment by adverse action or as a result of disciplinary proceedings, that dismissed employee he or she shall not thereafter be permitted to take any state civil service examination or be certified from an eligible list to any position in the state civil service without the prior consent of the Department as set forth herein.

(b) Dismissed employees' requests Petitions to participate in state civil service examinations by dismissed employees shall be subject to all of the following:

(a) (1) Requests The petition must be in writing and filed with the Department, with a copy of the petition served on the agency that initially served the adverse action of dismissal, at least five working days prior to the final filing date of the examination(s) for which the dismissed employee wishes to apply. Where that agency no longer exists or has undergone significant organizational and administrative changes, the Department shall determine whether a different or new agency should be notified of the petition, and, if so, the Department shall serve the agency with a copy of the petition.

(b) (2) All requests shall be in writing and accompanied by a completed state examination application must be submitted along with the petition.

(c) Requests shall clearly identify the facts, circumstances, and reasons that support the dismissed employee's request to take the examination(s). The request, at a minimum, shall include the date of the dismissal, the reasons for the dismissal, and the reasons why the dismissed employee believes that he or she should be permitted to take the examination(s). The dismissed employee may also submit substantiation of corrected

~~behavior, letters of recommendation, employment evaluations, and other materials and/or declarations to support the request.~~

(3) At a minimum, the petition shall include the following information:

(A) The effective date of the dismissal.

(B) The reason(s) for the dismissal.

(C) An explanation setting forth the reason(s) why the petition should be granted. The explanation must clearly identify the facts and circumstances supporting the stated reason(s).

(D) Proof of service that a copy of the petition was submitted to the agency that initially served the adverse action of dismissal, unless that agency no longer exists or has undergone significant organizational and administrative changes.

(c) Substantiation of corrected behavior, including, but not limited to, letters of recommendation, employment evaluations, or declarations of corrected behavior may be submitted along with the petition.

(d) Within the time as specified by the Department, the agency that initially served the adverse action of dismissal may submit to the Department a response to the petition that shall include only information that is relevant to one or more of the factors set forth in subdivision (e)(2) through (6) and (8).

~~(e) Requests will~~ Petitions shall be reviewed on a case-by-case basis, ~~taking into consideration based upon consideration of~~ the following factors:

1. The type of ~~examination/classification~~ examination(s) for which the dismissed employee ~~wishes to apply~~ seeks to take and the classification(s) of the examination(s).

2. The ~~circumstances/causes~~ circumstances and causes surrounding the dismissal and any restrictions placed on the dismissed employee as a result of the adverse action that may impact the request petition.

3. Any pattern of successful employment after the dismissal.

4. ~~Confirmation/assurance~~ Evidence of corrected and/or sustained improved behavior.

5. Acceptance of responsibility for past wrongful actions.

6. Demonstration of readiness to re-enter state service.

7. ~~Information, in writing, from the dismissing agency responding to the dismissed employee's request to participate in the examination(s). Any written response to the petition or relevant information submitted by the agency that initially served the dismissal.~~

8. Any other factor deemed relevant to the request, including those factors set forth in Government Code section 18935.

~~(f) No later than 30 days after receipt of the request petition, the Department shall determine whether to deny or grant the dismissed employee permission to participate in the requested examination(s). If the Department determines that additional time is necessary in order to obtain relevant information to make a thorough and thoughtful determination and/or to acquire additional information from the dismissed employee and/or agency that initially served the adverse action of dismissal, ~~he or she~~ the Department may extend the time for determination and notify the dismissed employee of the extension and the reasons therefor. If the Department determines that the information submitted by the dismissed employee so warrants, the Department may grant the dismissed employee a blanket waiver to apply for any examination for which the dismissed employee meets the minimum qualifications. The Department shall set forth its decision in writing. ~~A dismissed employee may appeal to the Board from the Department's decision within 30 days after receipt of that decision.~~~~

~~(g) If the Department denies the petition in part or in its entirety, the dismissed employee may appeal to the Board within 30 days after receipt of the written determination.~~

Note: Authority cited: Sections ~~18211, 18213~~ 18502 and 18701, Government Code.
Reference: Sections 18935 and 18941, Government Code.

§ 211.2. Petitions to Participate in Examinations After A Board Decision.

~~(a) Where the Board issues a decision or resolution concerning an adverse action dismissing an employee from state civil service and the Board sustains the dismissal, the employee shall not thereafter be permitted to take any state civil service examination or be certified from an eligible list to any position in the state civil service absent the approval of the Executive Officer.~~

~~(b) Petitions by dismissed employees to participate in state civil service examinations under this section shall be subject to all of the following:~~

(1) The petition must be in writing and filed with the Executive Officer, with a copy of the petition served on the Department and agency that initially served the notice of adverse action of dismissal. Where that agency no longer exists or has undergone significant organizational and administrative changes, the Executive Officer shall determine whether a different or new agency should be notified of the petition, and, if so, the Executive Officer shall serve the agency with a copy of the petition.

(2) A completed state examination application must be submitted along with the petition.

(3) At a minimum, the petition shall include the following information:

(A) The effective date of the dismissal.

(B) The reason(s) for the dismissal.

(C) The case number of the appeal filed with the Board.

(D) An explanation setting forth the reason(s) why the petition should be granted. The explanation must clearly identify the facts and circumstances supporting the stated reason(s).

(E) Proof of service that a copy of the petition was timely submitted to the Department and the agency that initially served the notice of adverse action of dismissal, unless that agency no longer exists or has undergone significant organizational and administrative changes.

(c) Substantiation of corrected behavior, including, but not limited to, letters of recommendation, employment evaluations, or declarations of corrected behavior may be submitted along with the petition.

(d) Within the period of time specified by the Executive Officer, the Department and the agency that initially served the notice of adverse action of dismissal may submit to the Executive Officer responses to the petition that shall include only information that is relevant to one or more of the factors set forth in section 211, subdivision (e) (2) through (6) and (8).

(e) Petitions shall be reviewed on a case-by-case basis based upon consideration of the factors set forth in section 211, subdivision (e) and upon any responses and relevant



information submitted by the Department and agency that initially served the notice of adverse action of dismissal.

(f) No later than 30 days after receipt of the petition, the Executive Officer shall determine whether to deny or grant the dismissed employee permission to apply for the requested examination(s). If the Executive Officer determines that additional time is necessary to make a thorough and thoughtful determination and/or to acquire additional information from the dismissed employee and/or agency that initially served the adverse action of dismissal, he or she may extend the time for determination and notify the dismissed employee of the extension and the reasons therefor. If the Executive Officer determines that the information submitted by the dismissed employee so warrants, the Executive Officer may grant the dismissed employee a blanket waiver to apply for any examination for which the dismissed employee meets the minimum qualifications. The Executive Officer shall set forth the decision in writing.

(g) If the Executive Officer denies the petition in part or in its entirety, the dismissed employee may appeal to the Board within 30 days after receipt of the written decision.

Note: Authority cited: Cal. Const., art. VII, § 3; Sections 18502 and 18701, Government Code. Reference: Cal. Const., art. VII, § 1; Sections 18900 and 18931, Government Code.