

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: **PROBATIONARY PERIOD**

POLICY NUMBER: **104**

EFFECTIVE DATE: **December, 1995**

PAGE: **1 of 7**

REVISED DATE: **May 2011**

POLICY

All permanent appointments in the Classified Service shall be subject to a probationary period of six months or longer as established by the Director of Human Resources and defined by class specifications . Probationary periods shall not exceed one year except for Deputy Sheriffs, which shall not exceed 18 months.

DEFINITION

A probationary period is a trial period during which an appointee is required to actually demonstrate the ability to perform the duties and responsibilities of a position following permanent appointment from an authorized employment list.

EXCEPTIONS TO PROBATIONARY PERIOD PROVISIONS

- No probationary period is required when an employee is appointed from a Reinstatement List in the department from which he/she was laid off;
- The probationary period shall be waived when an employee is appointed from a Transfer List to a position in a different class in the same department if the knowledge, skills and salary, including compensation for specified skills or assignments, for the new class are the same as those in the former class;
- Probation may be waived upon request of the appointing authority, when an employee is appointed from a Transfer List to a class in which probation was previously passed.

DURATION OF PROBATIONARY PERIOD

The duration of the probationary period is determined by class. No probationary period may extend beyond twelve (12) months except for the Class of Deputy Sheriff which shall be eighteen (18) months. If the duration for a class changes, the change shall only apply to employees hired after the change.

Notes:

- Certified Temporary Appointment (CTA) time may count towards completion of probation if CTA occurred within one year prior to permanent appointment and the Appointing Authority's request is approved by the Director.
- The probationary period shall not include time served as an emergency, provisional, seasonal or temporary employee or appointee and the CTA provision does not apply to such an employee or appointee.

EXTENSION OF PROBATIONARY PERIOD

Probationary periods of less than twelve (12) months in length may be extended on an individual basis up to twelve (12) months upon request of the appointing authority and

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: **PROBATIONARY PERIOD**

POLICY NUMBER: **104**

EFFECTIVE DATE: **December, 1995**

PAGE: **2 of 7**

REVISED DATE: **May 2011**

approved by the Director. If the probationary period is already 12 months or longer, it cannot be extended by class or on an individual basis.

1. The Appointing Authority writes a memo to the Director, DHR to request an extension. The memo should include rationale for extension and period of extension.
2. Director, DHR investigates request and either approves request and forwards an Agreement to Extend Probationary Period form DHR 1089505 or denies the request.
3. Employee and Appointing Authority then complete the agreement to extend, sign and forward to the Director, DHR, before the expiration of the probationary period.
4. Director, DHR approves the agreement and distributes copies to Appointing Authority, employee and file.

Notes:

- The request to extend the probationary period should be submitted well in advance (at least 10 working days) of the expiration of probation to allow sufficient time for processing. Probationary periods cannot be extended after the probationary period has expired.
- An employee's probationary period is extended for leaves of absence or doctor-ordered limited duty assignment. (For administrative purposes, every eight hours leave of absence or limited duty extends the probationary period by one workday.) Any leave of absence or limited duty assignment of 15 days or less may, however, be credited toward completion of the probationary period upon the written request of the appointing authority and approval of the Director, DHR.

DISMISSAL DUE TO FAILURE OF PROBATION

The Appointing Authority shall dismiss a probationer who is found to be unsatisfactory for or incompetent to fulfill the duties of the position to which he/she is appointed.

PROCEDURE

The following applies when an employee is dismissed during the probationary period.

1. The Appointing Authority provides the dismissed employee with a written statement of the reason(s) for the dismissal.

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: **PROBATIONARY PERIOD**

POLICY NUMBER: **104**

EFFECTIVE DATE: **December, 1995**

PAGE: **3 of 7**

REVISED DATE: **May 2011**

2. The Appointing Authority contacts dismissed employee's former supervisor/ department to arrange for the employee's return **if** dismissed employee held permanent status in a position prior to the failure of the current probation.
 - a. The Department from which the employee is leaving (sending department) shall enter the appropriate data into the Human Resources system.
 - b. The Department to which the employee is returning (receiving department) shall enter any additional data required into the Human Resources system.
3. If an employee's former classification has been abolished, the employee will be placed in a position in an equivalent classification or be laid off from the abolished classification by applying Civil Service Rule XIV as though the employee was an incumbent at the time the classification was abolished.
4. An employee restored to a position, placed in a position in an equivalent classification, or demoted in lieu of layoff as a result of this rule is not required to complete another probationary period. A permanent employee separated as a result of an employee being restored to a former position will be laid off as provided by Civil Service Rule XIV. A probationary employee so separated will be returned to an appropriate eligibility list with a grade determined by the Director of Human Resources, based on education, experience and record of efficiency in the County service. Eligibility will expire after one year.
5. If employee does not hold rights to a classification, then termination process is initiated.
6. Appointing Authority completes and submits to DHR a copy of written statement and Employee Separation Worksheet (DHR125).
7. DHR files paperwork in employee's master personnel file.
8. Department makes transaction change to Human Resource system.

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

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POLICY NUMBER: **104**

EFFECTIVE DATE: **December, 1995**

PAGE: **4 of 7**

REVISED DATE: **May 2011**

ADMINISTRATIVE REMEDIES

A probationary employee does not have the right to appeal the reasons given for his/her dismissal under Civil Service Rule 4.2.5. However, the probationer may have other administrative remedies available with the Civil Service Commission.

The probationer has the right to file a request with the Commission for a liberty interest hearing under Civil Service Rule 4.2.5, if the probationer contends that the dismissal violated his/her liberty interest. Liberty interest involves a dismissal for misconduct that stigmatizes an individual's reputation, seriously impairs the opportunity to earn a living or damages the individual's community standing or associations. Separation for incompetence or inefficiency or poor performance does not violate a probationer's liberty interest. A request for a liberty interest hearing must be filed with the Commission within sixty (60) calendar days after the probationer's receipt of the dismissal notice.

In addition, a probationer has the right to file a complaint of discrimination with the Commission under County Charter section 901 and Civil Service Rule VI, if the probationer contends that the dismissal was the result of discrimination based on a non-job-related factor. A request for a hearing under Rule VI must be filed with the Commission within sixty (60) calendar days of the alleged discriminatory action.

- The Appointing Authority should advise the dismissed probationer to review the County Charter and/ Civil Service Rules if the probationer has any questions regarding any administrative remedies.
- Unless charges are filed, the dismissed employee may be retained on the employment list at the discretion of the Director, Human Resources and shall be eligible for certification to departments other than the terminating department.

FURTHER INFORMATION

For further information, please contact the Human Resources Services Division at (619) 236-2191.

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: PROBATIONARY PERIOD

POLICY NUMBER: 104

EFFECTIVE DATE: December, 1995

PAGE: 5 of 7

REVISED DATE: May 2011

REFERENCES

CAO Admin. Manual Policy 0080-04-5
Civil Service Rule Sections 4.2.5(a)(b)(c).
Civil Service Rule Section 14.3.1
Charter Article IX, Section 901
Charter Article IX Section 909.1
Charter Article IX Section 910.1(g)
Civil Service Rule VI
DHR Policy 101, Employment Lists
DHR Form 108, Agreement to Extend Probationary Period
DHR Form 125, Employee Separation Worksheet

SUPERCEDES

DHR Policy 0143A, Probationary Period
DHR Policy 0188, Separation After Transfer or Promotion

APPROVED BY:

Document approved by Don Turko on May 18, 2011

Donald W. Turko, Director
Department of Human Resources

See sample letter on the following page.

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: PROBATIONARY PERIOD

POLICY NUMBER: 104

EFFECTIVE DATE: December, 1995

PAGE: 6 of 7

REVISED DATE: May 2011

SAMPLE LETTER – DISMISSAL DURING PROBATION

Re: Dismissal During Probation

Dear [Employee]:

Please be advised that you are being dismissed from your position as a _____ in the Department of _____, effective at the close of business _____, 20xx. The reason for the dismissal is because you have been found [unsatisfactory for or incompetent to fulfill] the duties of the position during the probationary period.

Please review the County Charter, Civil Service Rules, and/or DHR Policy #104 if you have any questions regarding any administrative remedies.

Department Head

COUNTY OF SAN DIEGO
DEPARTMENT OF HUMAN RESOURCES
POLICY AND PROCEDURES MANUAL

SUBJECT: **PROBATIONARY PERIOD**

POLICY NUMBER: **104**

EFFECTIVE DATE: **December, 1995**

PAGE: **7 of 7**

REVISED DATE: **May 2011**

Form DHR 108 9505
Revised: 5/15/03
(Attachment to Policy 104)

AGREEMENT TO EXTEND PROBATIONARY PERIOD

Employee name (please print): _____

Employee Identification # _____

Employee Job Classification Number and Title: _____ / _____

County Department: _____

Pursuant to the provisions of Section 910.1(g) of the County charter for the County of San Diego, I, _____ hereby agree to an extension of the probationary period in the above mentioned class for which I was appointed which is scheduled to expire _____, 20__ to a new expiration date of _____.

SIGNATURES:

Employee: _____

Date: _____

Appointing Authority: _____

Date: _____

APPROVED BY:

Donald W. Turko, Director
Department of Human Resources

Date: _____

- File original in Department of Human Resources' Personnel File
- Copy to employee
- Copy to appointing authority