

CLIENT NEWS BRIEF

AB 1353 Limits Classified Employee Probationary Period To Maximum Of Six Months

Governor Gavin Newsom has signed Assembly Bill (AB) 1353 into law. AB 1353 limits the probationary period for classified employees to six months, or 130 days of paid service, whichever is longer.

This purpose of this bill is to harmonize the varying probationary periods for classified employees between merit system school districts and non-merit system school districts. Merit system school districts administer the hiring and retention of their classified employees through a personnel commission, independent of the district's governing board. The merit system requires that probationary periods for classified employees be no longer than six months, after which a school employer may only discharge the employee for good cause and after due process, as specified.

Non-merit system districts have relied on a combination of the Education Code requirements and the collective bargaining process for the length of classified probationary periods. The Education Code prohibited non-merit districts from having a probationary period for longer than twelve-months. However, the collective bargaining system allowed classified employee unions to negotiate shorter probationary periods. As a result, neighboring school districts may have two completely different probationary periods. The differing probationary periods under the two systems led to inconsistent probationary periods for classified employees. This bill eliminates the difference in probationary periods and sets the probationary period for all classified employees, regardless of district type, to whichever is longer: six (6) months or 130 days of paid service. Any paid days, including holidays, should be included in counting 130 days of "paid service."

AB 1353 also provides a grace period for districts who, prior to January 1, 2020, entered into an agreement with their classified union that conflicts with this bill. Under such circumstances, the provisions of AB 1353 shall not apply to the school district until expiration or renewal of the collective bargaining agreement. After January 1, 2020, districts will need to update both their board policies and/or administrative regulations as well as any collective bargaining agreement language which conflicts with the new six months/ 130 days requirement.

If you have questions regarding AB 1353, classified probationary employees, or labor and employment issues in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#), and [LinkedIn](#) or download our [mobile app](#).

November 2019
Number 67



Michelle L. Cannon
Partner and Co-Chair
Labor and Employment Practice Group
Sacramento Office
mcannon@lozanosmith.com



Allison B. Hernandez
Associate
Sacramento Office
ahernandez@lozanosmith.com



As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.