

# Human Resources

## Probation Guidelines Teaching Service



# PROBATION – TEACHING SERVICE

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## OVERVIEW

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Clause 9.6.1 of *Ministerial Order 199* provides that, unless otherwise approved by the delegate, the employment of a person who is not an ongoing employee to an ongoing position in the teaching service will be subject to a period of probation. A person remains a probationer until his or her employment is confirmed or annulled in accordance with these Guidelines.

The purpose of the probationary period is to ascertain whether the conduct and work performance of the employee meet the standard expected of employees in the teaching service in Victorian government schools before the full rights and responsibilities of ongoing employment are confirmed. Probation also provides support and feedback to an employee in the first year of ongoing employment and complements the induction process.

The probationary and induction processes are closely linked as both span the initial period of employment and both are designed to assist in the integration of new ongoing employees. Appropriate induction complements the probationary process in ensuring that employees are given adequate information and training to enable them to perform the duties of their position efficiently at an early stage. Similarly, the probationary process enhance the effectiveness of induction by requiring regular monitoring and assessment of an employee's conduct and work performance together with counselling as required.

On employment to an ongoing position in the teaching service a twelve month period of probation is required for employees in the principal and teacher classes and a six month period of probation for employees in the education support class. The delegate has the discretion to employ a person on a shorter probationary period or without a probationary period. The offer of employment is to specify whether or not a probationary period is to apply including the duration of the probationary period where one is required.

Circumstances where the delegate may consider it is appropriate to employ a person without the requirement to undertake a probationary period include, but are not limited to, the following:

- where the person has had a satisfactory period of employment in a similar position
- where it is considered desirable to offer ongoing employment in order to attract the person to the position
- where a person's substantiated record supports that he or she can satisfactorily meet all the requirements of the position.

Where a person is transferred or promoted during a probationary period the transfer or promotion has the effect of confirming the person's employment in the teaching service (i.e. the probationary period has concluded).

A probationary period is not required in respect of the transfer or promotion of an existing ongoing employee in the teaching service or where a person is employed fixed term or on a casual basis.

The conduct and work performance during the probationary period is to be assessed against the standard of work applicable to the employee's classification level.

The standards of performance and conduct that can be expected of employees are set out in a number of documents or instruments including but not limited to:

- [Ministerial Orders](#)
- [Industrial Agreements](#)
- [Department policy statements](#) including the Performance and Development Guidelines
- The Victorian Public Sector [Code of Conduct](#)
- Roles and Responsibilities statements.

The [delegate](#) is responsible for the probation process for employees in the teaching service and for all decisions taken in relation to the outcome of a probationary period. For assistant principals, teachers and education support class employees the principal is the [delegate](#). For principals the Regional Director is the [delegate](#).

Section 2.4.8 of the *Education and Training Reform Act 2006* and Division 6 of Part 9 of Ministerial Order 199 provide the legal framework for probation. These guidelines set out the process to be used in a probation assessment. All documentation in relation to probation should be placed on the employee's personnel file.

## PROBATIONARY PROCESS

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There are three stages of the probationary process:

### **Stage 1**      *Commencement of probationary period*

At the commencement of the probationary period the [delegate](#) will ensure that the employee understands:

- the probationary process, in particular the duration of the probationary period;
- the required standard of performance within the context of the employee's role and experience; and
- the consequences of not meeting the required standard of performance.

### **Stage 2**      *During probation*

During the probationary period the [delegate](#) will monitor the employee's performance and provide regular feedback. The employee should be given the opportunity to discuss his or her performance with the [delegate](#).

Where the performance of an employee makes it probable that the probationary period will not be completed satisfactorily the [delegate](#) will meet with the employee and explain clearly:

- the required standard of performance;
- how the employee has failed to meet the required standard of performance;
- the consequences of continued or repeated failure to meet the required standard including any impact on salary progression; and
- the support that will be provided to assist the employee meet the required standard.

Where an employee's performance makes it likely that the [delegate](#) will determine:

- that there is a need for the employee to undertake a further probationary period of not more than twelve months (or six months for an education support class employee), or
- the employee is not suitable for continued employment and the employment will be annulled,

the employee may request that a panel be established to review his or her performance.

In this case, when determining the composition of the panel, the [delegate](#) must ensure that:

- the panel comprises at least three persons one of whom is from the same employment class as the probationer;
- at least one member of the panel is a person trained by the Merit Protection Boards in the principles of merit and equity; and
- provision is made for gender representation.

The [delegate](#) should ensure that members of the panel comprise people who between them possess a detailed knowledge of the position requirements, an understanding of the required standard of performance within the context of the employee's role and experience and have an understanding of the probation process.

The role of the panel is to review the employee's performance and provide a written report to the [delegate](#).

### **Stage 3 Conclusion of probationary period**

At the conclusion of the probationary period the [delegate](#) will meet with the employee to discuss the employee's performance and advise the employee of the outcome of the probationary period. At this stage the [delegate](#) may:

- confirm the ongoing employment of the probationer; or
- extend the probation for a period not exceeding twelve months for principal and teacher class employees or six months for education support class employees. In determining the period of the extension the [delegate](#) will have regard to the time required to improve the employee's conduct and work performance in the area(s) identified. The procedures set out above should be followed during the extension period; or
- annul the employment of the probationer.

Where the [delegate](#) extends the probation for a further period, before the expiration of that further period, the [delegate](#) will meet with the employee to discuss the employee's performance and advise the employee of the outcome of the extended probationary period.

At this stage the [delegate](#) must:

- confirm the ongoing employment of the probationer; or
- annul the employment of the probationer.

## Annulment

Where annulment is being considered the [delegate](#) should seek advice from the Employee Conduct Branch.

Where the [delegate](#) has formed the preliminary view that annulment of employment is likely the employee is to be informed in writing:

- that his or her performance is below the required standard;
- how the employee has failed to meet the required standard of performance;
- of the details of any assistance and support provided to the employee, including any training recommended, and whether the training was undertaken;
- of any other relevant details relating to the employee's unsatisfactory performance;
- that the employment is likely to be annulled; and
- that the employee has seven days from the date the written advice is received to provide a written response raising any other matters in relation to the proposed annulment.

Following consideration of any response from the employee to the delegate's preliminary view, or in the absence of a response, the [delegate](#) may:

- confirm the employment;
- extend the probationary period where there has not been an extension previously; or
- annul the employment.

The delegate must advise the employee of the decision in writing and the action, if any, to be taken.

Nothing in these Guidelines prevents the [delegate](#) from annulling the employment of a person at any time prior to the conclusion of an employee's probationary period pursuant to section 2.4.8(3) of the *Education and Training Reform Act 2006*.

Where employment is annulled the annulment will take effect from such date as is determined by the [delegate](#). The effective date of annulment cannot be retrospective and the employee must be provided with any period of notice required under the *Fair Work Act 2009*.

A person may lodge a grievance with the [Merit Protection Boards](#) in relation to a decision to annul his or her employment.

## PROBATION AND REGISTRATION WITH THE VICTORIAN INSTITUTE OF TEACHING

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A teacher may be required to complete the probationary requirements set out above as well as satisfying the [Victorian Institute of Teaching](#) requirements for full registration.

In order to minimise the duplication of processes, satisfying the Victorian Institute of Teaching requirements for full registration meets the work performance component of the probationary requirements. However, for an appointment to be confirmed the principal must also be satisfied that the teacher meets the conduct standards required of teachers in Victorian government schools.

As such the probation decision and the full registration assessment are separate decisions but the processes may run concurrently. It should be noted that it is possible that a teacher will satisfy the requirements for full registration but not satisfy the probationary requirements.

In practical terms this means that the teacher's offer of employment must indicate that the teacher is on probation. Concurrent with the Victorian Institute of Teaching's full registration process the teacher must be advised that where the Victorian Institute of Teaching's full registration requirements are met this will satisfy the work performance component of probation. However during the probationary period the teacher's conduct will also be considered.

Where issues of concern with the teacher's work performance and/or conduct emerge during the probationary period these must be brought to the teacher's attention in accordance with Stage 2 of the probationary process set out above. This should occur separate from the Victorian Institute of Teaching's full registration process.

### **SALARY PROGRESSION AND PROBATION**

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In order to minimise the duplication of processes a person is not required to participate in the normal performance and development processes during the probationary period. A successful probationary assessment meets the performance and development requirements for that period of the performance and development cycle. The normal performance and development process will commence at the conclusion of a successful probation period for the remainder of that performance and development cycle or the next cycle depending on the length of the probationary period.

Where an employee is eligible for salary progression prior to the conclusion of a probationary period an assessment should be done as to whether he or she has met the required standard of performance within the context of his or her probationary period.

Where any prior fixed term employment during the current performance cycle was not at the employee's current school, the principal should consult with the principal(s) of the other school(s) regarding the employee's performance.

Where the performance of an employee makes it probable that the probationary period will not be completed satisfactorily and the employee is otherwise eligible for salary progression, the employee must be notified prior to 1 March in accordance with the notification requirements of the *Victorian Government Schools Agreement 2013*.

### **LEAVE WHILE ON PROBATION**

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An absence on leave during a probationary period does not alter the duration of that probationary period. If at the end of the initial probationary period the [delegate](#) does not have sufficient information to determine the outcome because of the absence on leave the probationary period may be extended once only for a further period. At the end of that further period the [delegate](#) must either confirm or annul the person's employment. A further extension of the probationary period is not possible.

## FURTHER ASSISTANCE

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For advice or assistance on any matters related to probation contact Schools People Services on 1800 641 943.