



## **NOTICE OF PROPOSED REVISION TO STATE EMPLOYMENT APPLICATION**

**DATE:** June 5, 2006

**TO:** ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND  
MEMBERS OF THE GOVERNOR'S CABINET

**SUBJECT:** PROPOSED REVISION TO THE STATE EMPLOYMENT APPLICATION  
(Form STD. 678 (Rev. 12/2001))

### **PUBLIC HEARING:**

**Date and Time:** July 11, 2006; 9:45 a.m. – 10:15 a.m.

**Place:** State Personnel Board  
Auditorium  
801 Capitol Mall  
Sacramento, CA 95814

**Purpose:** To receive oral and/or written comments regarding whether employee's who have been rejected during their probationary period are required to answer "Yes" to Question No. 5 of the State Employment Application (STD. 678 (Rev. 12/2001)).

### **ISSUE PRESENTED:**

During its meeting of November 6-7, 2001, the State Personnel Board (Board) issued a precedential decision in *Richard C. Toby* (2001) SPB Dec. No. 01-04. In that Decision, the Board directed its staff to revise Question 5 of the State Employment Application in such a manner so as to inquire only whether an applicant had ever been dismissed or terminated from any position for performance or disciplinary reasons, and to further clarify Question 5 to provide that an applicant who received a dismissal or termination that was subsequently withdrawn, whether as part of a settlement agreement or otherwise, need not disclose the dismissal on the Application.

As a result of the Board's directive, during December 2001, Question 5 of the State Employment Application was modified as follows:

Have you ever been dismissed or terminated from any position for performance or for disciplinary reasons? (Applicants whose dismissals or terminations have been overturned, withdrawn [unilaterally or as part of a settlement agreement] or revoked need not answer 'Yes'.) If 'Yes' to Question #5, give details in Item #12, and refer to the instructions for further information.

The instructions section of the State Employment Application thereafter provides, in pertinent part:

Employment History/Discharges. This question must be answered by all applicants. You must answer 'Yes' if you have ever, because of poor performance or misconduct, been fired from a job, let go, or had a work contract terminated ... .

Board staff have recently been receiving a number of inquiries regarding whether employees who have been rejected during their probationary period, or employees whose rejections during probationary period have been overturned by the Board, or withdrawn by the employer (either unilaterally or as part of a settlement agreement), are required to answer Question 5 affirmatively.

Based on the information received, the Board may elect to either: take no action with respect to the application; or direct staff to revise the application to designate that individuals who have been rejected during their probationary period are required to answer Question 5 affirmatively; or direct staff to revise the application to designate that individuals who have been rejected during their probationary period are required to answer Question 5 affirmatively, except in those cases where the rejection has been overturned by the Board or withdrawn by the employer (either unilaterally or as part of a settlement agreement); or direct staff to revise the application to designate that individuals who have been rejected during their probationary period are not required to answer Question 5 affirmatively.

Any written comments that any interested party would care to make regarding the issue should be submitted no later than July 3, 2006, to Senior Staff Counsel Bruce Monfross at the following address:

State Personnel Board  
801 Capitol Mall, MS 53  
Sacramento, CA 95814