

# ARS □ CSREES □ ERS □ NASS

## *Policies and Procedures*

**Title:** Appraisal of Probationary and Trial Period Employees

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This P&P establishes policy for the appraisal of probationary and trial period employees. It also states procedures and assigns responsibilities for carrying out this requirement.

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# 1. Introduction

The first year of service of an employee who is given a career or career-conditional appointment and the first full year of work for an employee serving a conditional appointment under Schedule A Authority or a term appointment is considered to be a probationary period. The probationary period serves as the appraisal period for probationary and trial period employees.

The first 3 years of service of an employee who is given a career or career-conditional appointment hired in a Category 1 research scientist position in ARS is considered to be a probationary period. The 3-year probationary period is authorized through the Department of Agriculture's Demonstration Project and only applies to ARS. The extended probationary period provides a more adequate period of time within which to evaluate employees in scientific positions.

# 2. Purpose of the Probationary Period

The probationary period is the final important step in the examining process. The probationary period provides the test of actual job performance and an opportunity to observe the employee's conduct. It protects the Government from giving career status to a person who is found in actual practice to lack ability, fitness, or suitability for permanent Government service. It also offers the employee a degree of protection from being retained in a position in which there is little or no prospect of success.

Supervisors are encouraged to use this probationary period for training and development as well as for evaluation and, if necessary, the termination of unsatisfactory employees. It is particularly important for the supervisor to assign work that will adequately challenge the probationer's capabilities. This is done so that the employee is placed in full production as quickly as possible and the supervisor has an opportunity to objectively rate the employee's performance.

# 3. Definitions

**Probationary period** is the first full year of work for any career or career conditional appointment selected from a certificate of eligibles.

**Trial period** is the first full year of work for an employee serving a conditional appointment under Schedule A Authority or a term appointment.

**Category 1 Research Scientists** are permanent positions in which the highest level of work, for a major portion of time, involves personal conduct, or conduct and leadership, of theoretical and

experimental investigation primarily of a basic or applied nature such as: biological, and psychological phenomena and processes; creating or developing principles, criteria, methods, and a body of knowledge generally applicable for use by others.

## **4. Coverage and Length of the Period**

ARS Category 1 appointees selected from a certificate are required to complete a probationary period of 3 years under the Department of Agriculture's Demonstration Project. This 3-year probationary period is to allow managers an adequate period of time to assess the job performance of employees in Category 1 positions and provide the employee with an adequate period of time to demonstrate professional competence.

All other competitive appointees selected from a certificate are required to complete a probationary period of 1 year. This requirement for a 1-year probationary period applies to career or career-conditional appointments where the selection is made from a certificate of eligibles, regardless of whether the appointee had previously completed a probationary period. Exceptions are made in some cases involving reinstatements, appointments under special authorities, and conversions to career or career-conditional employment.

Each employee given a conditional appointment under Schedule A Authority will serve a 1-year trial period. If the appointee had previous service under any type of appointment in the same type of work without a break of 30 calendar days or more, that service will be credited toward completion of the trial period.

The probationary or trial period can be extended if the employee is in a nonpay status for more than 22 calendar days for purposes other than the Federal Employees Compensation Act or military service. The period is generally lengthened for an equivalent amount of time in excess of the 22 calendar days.

## **5. Authorities**

5 CFR 315.801, Probationary Period

Department of Agriculture's Demonstration Project

## **6. Separation of Employees**

For unsatisfactory performance or conduct after appointment:

- If, after a full and fair trial, the employee demonstrates a lack of either fitness or the capacity to acquire fitness for permanent employment, the supervisor will initiate action to separate the employee. The supervisor may take this action at any time during the period for problems with conduct or general character traits. The employee must be given at least 90 calendar days to work under performance standards before action can be taken for performance problems. In any event, action should be taken in sufficient time for the employee to be notified that they will not be retained before the expiration of the probationary or trial period.
- The effective date of the separation must be no later than the day **before** the employee's regularly scheduled workday prior to the last day of the probationary or trial period. Otherwise, separation must be processed under procedures for the separation of an employee who has completed the probationary or trial period.
- If supervisors wish to initiate a separation action prior to the issuance of form AD-507, Probation or Trial Period Report, they should contact their servicing employee relations specialist.

If an employee is to be separated during the probationary or trial period for deficiencies in performance or conduct after entrance on duty, the employee will be notified in writing by the Employee Relations Branch (ERB), Administrative and Financial Management (AFM). The reasons for separation, the effective date of separation, and the agency's conclusions on the inadequacies of the performance or conduct will be included, as a minimum, in the written notice. Merit System Protection Board (MSPB) appeal rights must be included.

For conduct before appointment:

- An employee whose separation is based in whole or in part on conduct before employment is entitled to advance notice, a specific and detailed statement of reasons, the right to reply, consideration of employee's reply, a decision, and information of appeal rights to MSPB.
- The written notice must state the reasons in sufficient detail for employees to be able to understand them and reply to them. Employees must be told that they may reply in writing and submit affidavits in support of their reply. The notice must identify the person or persons to receive the reply and inform them of the time limit for submitting the appeal.
- Bona fide consideration must be given to the employee's answer. If the charges are rebutted successfully, the employee should be notified that they are being dropped. Mitigating circumstances may justify a lesser penalty.
- If employees are to be separated, they must be furnished a written decision. The decision must state the reasons, identify the charges or reasons relied on by the agency, and the effective date of the separation. MSPB appeal rights must be included.

## **7. Employee Appeal Rights**

### **Separation for unsatisfactory performance or conduct after appointment.**

- Employees may appeal this type of separation (which is not required by law) to MSPB. Appeals are based on (1) partisan political reasons or marital status, or (2) race, color, religion, sex, national origin, physical disability, or age, if such discrimination is raised in addition to 1 above.
- An appeal must be filed no later than 30 calendar days after the separation has been effected.

### **Separation for conduct before appointment.**

- An employee separated for reasons based in whole or in part on pre-employment conduct may appeal to MSPB based on the reasons stated above or on the grounds that the agency failed to observe the procedures required for separation.
- An appeal must be filed no later than 30 calendar days after the separation has been effected.

Appeals of discrimination based solely on race, color, religion, sex, national origin, physical disability, or age are subject to Equal Employment Opportunity Commission regulations and should be processed under the agency discrimination complaint system.

## **8. Summary of Responsibilities**

### **Immediate Supervisors**

During the probationary or trial period, the supervisor must do the following:

- Within 30 calendar days after the employee reports for duty, meet with the employee and develop a performance plan for the employee.
- Deliver a written copy of the completed performance plan to the employee. This plan will be developed in accordance with P&P 435, Performance Planning and Appraisal (each REE agency may refer to their appropriate section).
- Observe the employees conduct, general character traits, and performance.
- Evaluate the employees fitness for permanent employment.

- Discuss progress on the job with the employee. Positive feedback to the employee can increase job satisfaction and help retain desirable employees. Constructive criticism of performance deficiencies, misconduct, or behavior problems may be one way to inform the employee about needed changes. Review and/or revision of performance plans may be an outcome of these review sessions.

If at anytime during the probationary period it becomes apparent that employees' conduct, general character traits, or performance render them unfit for permanent service, supervisors must contact their servicing employee relations specialist for advice and guidance.

No earlier than the beginning of the 9th month and no later than the end of the 10th month of the probationary or trial period, the supervisor must complete form AD-507. The form AD-507 will be sent from the ERB with items 1 through 12 completed. The supervisor is responsible for:

- Completing items 13 through 17.
- Signing and dating the report.
- Discussing the report with the employee.
- Forwarding the report to the reviewing official.
- Continuing to observe the employee's performance and reporting any significant change which would affect the appraisal or the recommendation for retention or separation of the employee before the end of the probationary or trial period.

Employees should only be retained if their performance is acceptable, i.e., has a performance appraisal score of Fully Successful or above and if their conduct is acceptable.

### **Reviewing Officials**

The reviewing official is usually the employee's second-level supervisor. This official will:

- Review and evaluate the supervisor's appraisal of the employee on form AD-507.
- Request any clarifying information from the supervisor.
- Discuss the rating and recommendations with the supervisor, if appropriate.
- Attach any comments to form AD-507 and forward to their servicing employee relations specialist.

**Employee Relations Branch, HRD**

- When AD-507 is received from NFC, forward to the employee's supervisor.
- Servicing employee relations specialist will provide guidance and advice to supervisors during the probationary period.
- If an employee is to be separated during the probationary or trial period for deficiencies in performance or conduct after entrance on duty, the servicing employee relations specialist will work with the supervisor and prepare the written notification.

*-Sd-*

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