

DEPARTMENTAL PERSONNEL MANUAL

Chapter 315 Probationary Periods

THIS DPM CANCELS AND REPLACES ALL PREVIOUSLY ISSUED DPM-315 BULLETINS, LETTERS AND CHAPTERS RELATED TO MANAGERIAL AND SUPERVISORY PROBATIONARY PERIODS.

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CHAPTER 315, Probationary Periods

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SECTION 2. Newly Appointed Employees in the Competitive and Excepted Services

A. Background

1. Under civil service rules, newly appointed employees, who are appointed on a career-conditional or career appointment from an OPM certificate of eligible candidates, or conversion to a career conditional appointment, are required to serve a probationary period of one year. For newly appointed excepted service employees, the Department requires a two-year trial period.
2. A probationary/trial period is the final step of the selection process. It is designed to protect the Government from giving status to a person who is found in actual practice to lack ability, fitness, or suitability for permanent Government service. If it becomes apparent that the employee cannot perform his/her assigned duties, after reasonable efforts have been made to help, action will be initiated to separate the employee from Federal service without undue formality.
3. This probationary/trial period policy for newly appointed employees incorporates several new requirements and suggested best practices to assess employee potential and to provide them with opportunities to demonstrate the knowledge, skills and attributes necessary to be successful.
4. Good performance management begins with the selection process by determining whether the prospective employee is the right fit for the job. Performance management continues through the probationary period, a crucial time to prevent later problems by clearly communicating expectations, evaluating the employee's demonstrated ability to perform his/her work, providing proper coaching, and taking timely, appropriate action to correct performance deficiencies.

B. General

1. This Section sets Departmental policy for establishing probationary/trial periods for employees on initial appointments in the competitive and excepted services within the U.S. Department of Transportation. It supersedes all previous policy and instructions.
2. Operating Administrations (OAs) may develop separate probationary/trial period policies for their employees, consistent with this policy.

C. Authorities and References

1. This Section is based upon and conforms to the requirements and policy set forth in Sections 2103, 3321(a)(1) and (2) of 5 U.S.C.; and 5 CFR Parts 213, 302, 315.801-806 and 316.

2. This Section supplements policies and requirements contained in the references cited above. It is not self-contained, and must be read with the references cited.
3. The Federal Aviation Administration (FAA) shall abide by the general concepts contained in this Chapter, but the FAA Administrator may use his/her discretion and the flexibilities authorized by Section 40122, title 49 U.S. Code, in administering FAA's personnel management system.
4. A "Supervisory Toolkit" is available to assist supervisors and managers in the performance of their duties. It is located at: <http://dothr.ost.dot.gov/toolkit/toolkit.html>

D. Related Topics

1. DPM Chapter 430, Performance Management, dated December 29, 2003, rev. March 5, 2004 <http://dothr.ost.dot.gov/HRPolicy/Subject/subject.html#PerformanceManagement>
2. DPM Chapter 302, Excepted Service, dated May 20, 2005

E. Definitions

1. **Probationary/Trial Period** – A trial period to assess an employee's competencies, performance capabilities, and compatibility for continued employment.
2. **Probationary Employee** – A newly appointed employee in the competitive or excepted service required to serve a probationary or trial period.
3. **Operating Administrations** – For purposes of this Section, the term refers to the Department's Operating Administrations, the Office of the Secretary (OST), and the Office of the Inspector General (OIG).

F. Roles and Responsibilities

1. The first level supervisor of a newly appointed employee must:
 - a. Adhere to the principles and policy contained in this document;
 - b. Communicate Departmental, OA and office missions, strategic goals and objectives;
 - c. Communicate Departmental, OA and office policies, administrative procedures, work hours, leave policies, etc;
 - d. Inform the employee of the requirement for, and the purpose and duration of, the probationary/trial period;

- e. Collaborate with the employee to develop performance expectations and standards that align with mission, goals and objectives which will be used to assess the employee's performance, and discuss how performance assessment will be conducted;
 - f. Issue a performance plan within 30 days of appointment;
 - g. Monitor, provide formal, quarterly feedback, appraise, and document the probationary employee's performance;
 - h. Describe how multi-source feedback from peers and customers who have observed the employee's performance will be obtained, and how it will be used, if adopted by an OA;
 - i. Provide assistance, formal development, mentoring or counseling as deemed appropriate;
 - j. Notify the probationer of the determination regarding successful completion of the probationary/trial period;
 - k. Decide whether the probationary employee is willing and capable of correcting performance or conduct issues; and
 - l. Determine whether an employee has demonstrated his/her qualifications for continued employment.
2. The second-level supervisor of probationary employee must:
- a. Ensure compliance with Departmental and OA probationary/trial period policies;
 - b. Meet periodically with the first-level supervisor to discuss the employee's performance and development, as appropriate; and
 - c. Ensure that appropriate resources are being provided to the employee to ensure a successful probationary/trial period, including resources for training and development activities.
3. Probationary employees are to:
- a. Take responsibility for successfully completing the probationary period;
 - b. Take full advantage of any training, mentoring, and/or counseling provided;
 - c. Be proactive in seeking assistance;
 - d. Provide input for any developmental activities to achieve the appropriate competencies;

- e. Independently find ways to enhance their development; and
- f. Provide self-assessments of competencies and performance, as appropriate.

G. Policy

It is the policy of DOT to provide new employees with: (1) a reasonable opportunity to prove themselves as productive workers; and (2) training, positive feedback, and mentoring during their first year so that they develop and apply effective competencies.

1. An employee may be required to complete a probationary period of one year upon an initial career or career-conditional appointment in the competitive service. OAs shall determine whether an employee with previous government experience should complete a probationary period.
2. OAs shall consider whether the holding in *McCormick v. Air Force*, 307 F.3d 1339 (Fed Cir 2002) is applicable to anticipated separations of probationary employees for misconduct or performance. *McCormick* holds that an individual qualifies as an "employee" under either subsection (i) or subsection (ii) of section 7511(a)(1)(A) of title 5, United States Code (U.S.C.). Under 5 USC 7511(a)(1) (A), an employee is an individual in the competitive service "(i) who is not serving a probationary or trial period under an initial appointment" or "(ii) who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less." Any employee meeting this test is entitled to due process and has appeal rights to the MSPB.
3. An employee is required to serve a trial period of two years upon initial appointment to a continuing excepted position without time limitation and without authority for future noncompetitive conversion to competitive appointment. This applies not only to the first such appointment, but to any subsequent new appointment of this type of excepted service.
4. The period of service performed by a person appointed to an excepted position with authority for future noncompetitive conversion to a competitive appointment (e.g., Presidential Management Fellow, Federal Career Intern) may be credited toward completion of the probationary period requirement in the competitive service. The requirements stated in the appointing authority provide a period of conditional employment (generally 2 or more years) which must be completed prior to conversion to a career or career-conditional appointment.
5. No trial period is required for appointments to an excepted position with time limitation and without authority for future noncompetitive conversion to competitive appointment. These authorities generally may not be extended beyond a given date or period of time.
6. Supervisors shall inform all probationary employees of their probationary status; describe their duties and responsibilities; and provide them with a written performance plan.

7. All probationary employees shall receive formal, quarterly feedback from their supervisors. To the extent possible, feedback should be given in face-to-face meetings. OAs shall establish internal controls to ensure that probationary employees receive feedback every three months.
8. An Individual Development Plan (IDP) may be developed based on a needs assessment. Every effort should be made to ensure that any formal development documented in an IDP is completed within the first six months of the probationary period.
9. OAs shall separate probationary employees before the end of the probationary/trial period if they demonstrate a lack of ability, fitness, or suitability for permanent Federal service.
10. To be retained, the performance of a probationary employee must be at an acceptable level (rated at level 3 or higher).
11. Operating Administrations are strongly encouraged to adopt the following processes:
 - a. For the duration of the probationary/trial period, assign a mentor who will help and support the new employee. The mentor should be a person who has a willingness to help another employee learn, achieve and advance professionally. Traits of a successful mentor include extensive knowledge about the profession; strong leadership skills; willingness to be responsible for someone else's growth and advancement; well networked within the professional community; and have the ability to communicate with the employee in an open and honest manner about development needs and performance. The mentor is not involved in any facet of the employee's performance evaluation.
 - b. Use multi-source feedback to provide performance feedback and to determine the developmental needs of the probationary employee. Generally, multi-source feedback is received by supervisors from peers and customers who have observed the employee's performance. This feedback is used to identify strengths and areas for improvement. Multi-source feedback shall not be used for evaluative purposes unless the OA has formally developed such a program that is also applicable to non-probationary employees.

H. Creditable Service

1. Prior Federal civilian service (including non-appropriated fund service) counts toward completion of the probationary/trial period when the prior service:
 - a. Is in DOT;
 - b. Is in the same line of work (determined by the employee's actual duties and responsibilities); or
 - c. Contains or is followed by no more than a single break in service that does not exceed 30 calendar days.

2. Periods of absence while in a pay status counts toward completion of the probationary/trial period.
3. Absence in a non-pay status while on the rolls (other than for compensable injury or military duty) is creditable up to a total of 22 workdays. Non-pay time in excess of 22 workdays extends the probationary/trial period by an equal amount of time.
4. Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service.

I. Separation from Federal Service

1. If performance or conduct is not at an acceptable level, the probationary employee must be separated. Notice must be provided to the employee, which informs him/her as to why he/she is being separated and the effective date of separation.
2. Employees may be separated from Federal service for reasons arising before appointment. Notice must be provided to the employee, which informs him/her of the reasons, specifically and in detail. Such employees are entitled to a reasonable time to respond. Additionally, OAs must consider an employee's response, if any, and issue a decision at its earliest convenience. The decision must be in writing and must inform the employee of his/her right of appeal to the Merit Systems Protection Board.

EFFECTIVE DATE AND IMPLEMENTATION

This policy is effective immediately upon signature.

for Nancy A. Prosperi
 Patricia A. Prosperi
 Director, Departmental Office of
 Human Resource Management

5/15/06
 Date

Effective Date: The date of signature.
Review Date: One year from effective date.
Distribution: Human Resources Council and OST Administrative Officers