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**MANAGEMENT**

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**EMPLOYEE PROBATIONARY PERIOD APPRAISAL**

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**PURPOSE** ● The purpose of this guide is to provide guidance to supervisors in evaluating the performance of new employees during the required probationary period.

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**BACKGROUND**

- An employee who is appointed on a career-conditional or career appointment by selection from a certificate of eligible candidates is required to serve a probationary period of **one year** following appointment. Clarifications regarding the requirements for specific appointments should be obtained from the Office of Human Resources and Management Services (OHRMS).
- If a new employee is subject to a probationary period, the dates of probation appear on the Standard Form 50 (Notification of Personnel Action) prepared at the time of appointment. Reinstated employees who did not complete a probationary period are required to begin a new probationary period of one year starting on the date of reinstatement.
- The probationary period is the final and most important phase of the selection process. During this time, employees are evaluated to see if they are suitable for Federal service and capable of meeting the needs of the position for which they were hired. If it becomes apparent to the supervisor that an employee cannot perform the assigned duties, after reasonable efforts have been made to help, action should be initiated to separate the employee. Discharge of probationary employees may be based on:

- deficiency in work performance, attendance, or conduct,
  - lack of aptitude or cooperativeness, and/or
  - undesirable suitability characteristics evidenced by the employee's activities either during or outside official work hours.
- The probationary employee may appeal his/her termination to the Merit Systems Protection Board (MSPB) only if he/she claims discrimination due to marital status or political affiliation and discrimination on the basis of race, color, age, national origin, sex, religion, or disability. With respect to allegations of discrimination because of sexual orientation, DHHS policy provides for appeals to be considered by the Director, Equal Employment Opportunity (EEO), DHHS. **NOTE:** Appeal rights are different for terminations based on matters that occurred **before** the employee's appointment, i.e. falsification of application information.

**REFERENCES**

- 5 CFR 315.801 - 315.806 (Subpart H), "Probation on Initial Appointment to a Competitive Position" (January 1, 1995).
- 5 CFR 315.901 - 315.909 (Subpart I), "Probation on Initial Appointment to a Supervisory or Managerial Position" (January 1, 1995).
- FDA Supervisor's Desk Reference Guide: Chapter 7, "Performance and Conduct", pages 21 and 22 "New Employee Probation" (January 1994).

**POLICY**

- It is the policy of the Center for Drug Evaluation and Research that employees serving a probationary period be provided adequate orientation, training, and counseling in the new position. It is the supervisor's obligation to make clear to the employee what is expected in order to complete the probationary period satisfactorily, and to counsel the employee on deficiencies in a frank, constructive and timely manner. If the employee fails to make a successful adaptation to the job, the supervisor is obligated to terminate the appointment before the probationary period ends. The supervisor's failure to counsel, provide training, etc., does not constitute a basis to retain the employee if the employee's performance, attendance, or conduct otherwise warrants termination.

**RESPONSIBILITIES**

- The FDA Office of Human Resources and Management Services (OHRMS) will:
  1. Send an advisory memorandum, within the first month of employment, to

the supervisor of the employee summarizing supervisory responsibilities during the probationary period (see Attachment A).

2. Keep a log of probationary employees for administrative and status purposes.
  3. Make in-person or telephone follow-up contacts with the supervisor of the probationary employee during the third month of employment.
  4. Provide a Form HHS-33, Probationary Employee Certification and Recommendation, in duplicate to the supervisor, through the Program Specialist, no earlier than the beginning of the ninth month nor later than the end of the tenth month of the probationary period.
  5. Advise both the supervisor and employee as to responsibilities and rights in the case of terminations and appeals.
  6. Prepare a termination letter, when necessary, to be signed by the appropriate supervisor, notifying the employee of the action and informing of his/her rights to appeal.
- The Supervisor is responsible for:
    1. Discussing the advisory memorandum (Attachment A) with the employee, giving the employee a copy, and returning the Form HHS-33 to the servicing personnel office through proper supervisory channels.
    2. Discussing with the employee the mission of the organization, job requirements, standards of performance, and available equipment and facilities.
    3. Planning assignments, and providing training opportunities to the employee.
    4. Discussing work performance in regard to established standards of performance.
    5. Documenting counseling sessions. This is particularly important in the case of employees whose performance, attendance, or conduct is below satisfactory levels.
    6. Informing the next level supervisor and the CDER Employee Relations Specialist, OHRMS, of a probationary employee's unsatisfactory work performance, attendance, or conduct as soon as deficiencies in these areas are discovered.

7. Completing Form HHS-33 to recommend retention of a satisfactory employee or termination of an unsatisfactory employee. This form should be completed no earlier than the beginning of the ninth month nor later than the end of the tenth month. Specific documentation of either satisfactory or unsatisfactory performance, attendance, or conduct is required. The supervisor is responsible for knowing the status of probationary employees and notifying the Program Specialist if forms are not received at the end of the employee's ninth month of work. The Center's failure to counsel, provide training, etc., does not constitute a basis to retain the employee if the employee's performance, attendance, or conduct otherwise warrants termination.
  8. Requesting the Program Specialist to initiate a Request for Personnel Action (SF-52) to separate an unsatisfactory probationary employee after the employee has been notified in writing of the intent to terminate the probationary appointment.
- The Program Specialist is responsible for:
    1. Reviewing the Form HHS-33 received from OHRMS for complete and accurate information;
    2. Forwarding Form HHS-33 to the appropriate supervisor for completion of the form in a timely manner;
    3. Assuring that forms are completed and returned on time by contacting supervisors during the ninth month;
    4. Providing a completed SF-52, after requested by the supervisor, to terminate an unsatisfactory probationary employee, and;
    5. Receiving completed forms from the supervisor, reviewing for completeness, and forwarding the original to OHRMS.
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**EFFECTIVE DATE**

This guide is effective upon date of publication.

## Attachment A

DATE:

FROM: Personnel Management Specialist  
OHRMS/CDER Team

SUBJECT: Probationary Period Advisory - (employee's name)  
Probationary Period Ends:

TO: (supervisor)

THROUGH: Program Specialist

This employee is currently serving a probationary period which will end on the date shown above. This period is the final and highly significant step in the examining process, i.e., the test of actual performance on the job. As a supervisor, you, along with a reviewing official, will ultimately decide if the employee is fully successful in completing this test.

Due to the importance of your responsibility in this final step, this memorandum is sent to you as a reminder of what is expected of you. To make the probationary period a meaningful one, you should be sure to:

Advise the employee of the duties, responsibilities, and requirements of the position and the manner in which the individual is expected to perform duties and responsibilities and meet work and attendance requirements.

Advise the employee of when you will appraise the employee's performance of these duties, responsibilities, and requirements. Performance should be reviewed at least twice during the probationary period.

Observe the probationary employee's conduct, attendance, and work performance to determine whether problems are developing that might raise a question about the retention of the employee beyond the probationary period.

Have periodic discussions with the employee to inform the employee of how his/she is doing in relation to what is expected, and to provide the employee with proper guidance and assistance when needed.

Approximately 90 calendar days before the end of the employee's probationary period, you will receive from us a Form HHS-33, Probationary Employee Certification and Recommendation. At that time, you will be required to make a decision on retaining or terminating the employee based on the performance, attendance, and conduct which you have observed.

Please contact me, if you have any questions about the probationary period or wish assistance with respect to your part in it.

Personnel Management Specialist