



ADMINISTRATIVE INSTRUCTION 35

PROBATIONARY PERIOD FOR NEWLY APPOINTED MANAGERS AND SUPERVISORS

Originating Component: Office of the Director of Administration and Management

Effective: February 16, 2023

Releasability: Cleared for public release. Available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.

Reissues and Cancels: Administrative Instruction 35, "Probationary Period for Newly Appointed Managers and Supervisors," March 7, 2011, as amended

Approved by: Regina F. Meiners, Director, Washington Headquarters Services

Purpose: In accordance with the authority in DoD Directive 5110.04 and DoD Instruction 5025.01, this issuance establishes OSD policy, assigns responsibilities, and prescribes procedures for the establishment and administration of probationary periods served by individuals newly appointed to managerial or supervisory positions.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance:

a. Applies to OSD, the Defense Agencies, and the DoD Field Activities that are serviced by Washington Headquarters Services (WHS) (referred to collectively in this issuance as the “WHS-serviced Components”).

b. Governs all civilian employees in permanent positions without time limitations in the excepted and competitive service in accordance with Subpart I of Part 315 of Title 5, Code of Federal Regulations, including:

(1) Employees in the Acquisition Workforce Personnel Demonstration Project established by Pages 52104-52172 of Volume 82, Federal Register.

(2) Administrative law judges in accordance with Section 930.204(a) of Title 5, Code of Federal Regulations.

(3) Employees in designated cyber positions in the Cyber Excepted Service Personnel System, in accordance with Volume 3005 of DoD Instruction 1400.25.

(4) Employees in Schedules A and B positions in accordance with Section 213 of Title 5, Code of Federal Regulations.

c. Does **not** apply to civilian employees who are members of the:

(1) Senior Executive Service.

(2) Defense Civilian Intelligence Personnel System in accordance with Volume 2005 of DoD Instruction 1400.25.

1.2. POLICY.

a. Vacant supervisory or managerial positions will be filled with the best qualified candidates available from within or outside the WHS-serviced Components, in accordance with Part 300 of Title 5, Code of Federal Regulations.

b. The probationary period will be used to allow new supervisors and managers a chance to develop the unique skills and abilities that cannot readily be taught or developed in other kinds of positions.

c. WHS-serviced Component management officials will use the probationary period to:

(1) Assess a new appointee's supervisory or managerial performance (not technical ability or program knowledge).

(2) Return an employee to a non-supervisory or non-managerial position if the employee has not favorably completed the probationary period.

SECTION 2: RESPONSIBILITIES

2.1. DIRECTOR, WHS.

Under the authority, direction, and control of the Director of Administration and Management, the Director, WHS oversees implementation of this administrative instruction (AI).

2.2. CHIEF HUMAN RESOURCES OFFICER, WHS.

Under the authority, direction, and control of the Director, WHS, the Chief Human Resources Officer, WHS:

- a. Identifies and tracks managerial and supervisory positions within the WHS-serviced Components.
- b. Oversees the Labor Management Employee Relations Division, Human Resources Directorate, WHS, in coordination with the WHS and Pentagon Force Protection Agency Office of General Counsel on actions to reassign, demote, or separate an employee for failure to satisfactorily complete the supervisory or managerial probationary period.

2.3. WHS-SERVICED COMPONENT HEADS.

The WHS-serviced Component heads follow, and ensure their respective Components follow, the procedures in Section 3.

SECTION 3: PROCEDURES

3.1. REQUIREMENTS FOR NEWLY APPOINTED MANAGERS AND SUPERVISORS.

- a. On initial appointment to a supervisory and/or managerial position, employees must complete a probationary period of 1 year.
- b. An employee is required to complete a single probationary period in a supervisory position and a single probationary period in a managerial position, regardless of the number of agencies, occupations, or positions in which the employee serves.

3.2. REQUIREMENTS FOR IMMEDIATE SUPERVISOR.

The employee's immediate supervisor will:

- a. Establish written performance standards for evaluation and communicate to the employee on initial appointment to the position.
- b. Advise and assist the employee on the successful accomplishment of assigned duties and on the responsibilities of the position.
- c. Give the employee adequate opportunity to prove themselves, and direct efforts to help the employee succeed.
- d. Conduct two-way performance feedback throughout the appraisal cycle.
- e. Ensure the employee receives training in accordance with Section 412.202 of Title 5, Code of Federal Regulations.
- f. Ensure the employee receives specific skills training required as applicable.
- g. Maintain documentary evidence to support any failure to satisfactorily complete the supervisory or managerial probationary period, and provide such documentary evidence to the Labor Management Employee Relations Division, Human Resources Directorate, WHS.
- h. Coordinate all personnel actions to reassign, demote, or separate an employee for failure to satisfactorily complete the supervisory or managerial probationary period with the Labor Management Employee Relations Division, Human Resources Directorate, WHS.

3.3. CREDITING PRIOR SERVICE TOWARDS COMPLETION OF PROBATIONARY PERIOD.

Prior service in a supervisory or managerial position that is interrupted during the probationary period may be creditable toward completion of a probationary period as detailed in this section.

a. An employee who is reassigned, transferred, or promoted to another supervisory or managerial position while serving a probationary period under this subpart is subject to the probationary period prescribed for the new position. Service in the former position counts toward completion of the probationary period in the new position. When the former position was supervisory and the new position is managerial, service counts as prescribed in Paragraph 3.1.b.

b. An employee who serves in a detail, temporary promotion, or reassignment to another supervisory or managerial position while in a probationary period receives credit toward completion of the probationary period. Service in a nonsupervisory or nonmanagerial position is not creditable.

c. Absence in a non-pay status while on the rolls (other than absence because of compensable injury or military duty) is creditable up to 22 workdays. Any non-pay time beyond 22 workdays extends the probationary period by an equal amount.

d. Absence (whether on or off the rolls) due to compensable injury or military duty is creditable in full upon restoration to Federal service.

e. Service during a probationary period from which an employee was separated or demoted for performance or conduct reasons does not count toward completion of probation required under a subsequent appointment.

f. Temporary service in a supervisory or managerial position under temporary appointment, promotion, or reassignment prior to probation is creditable. Prior service under a detail may be credited only when a detail to a supervisory or managerial position is made permanent without a break in service.

3.4. RETURN TO A NON-SUPERVISORY POSITION.

a. General.

(1) Satisfactory completion of the probationary period is a prerequisite to continuation in a supervisory or managerial position. If, after a reasonable trial period, evaluation of the employee's performance reveals deficiencies in supervisory or managerial performance, the employee will be returned or reassigned to a non-supervisory or non-managerial position of no lower grade or pay band than the position from which they came. Such return is not considered an adverse action and is not directly appealable to the Merit Systems Protection Board unless the employee asserts the action was based on partisan political affiliation or marital status in accordance with Part 315, Title 5, CFR.

(2) The return of an employee to a non-supervisory or non-managerial position in accordance with this AI will not be used to deny the employee consideration for later assignment to another supervisory or managerial position. Position requirements and individual capabilities vary widely. Although an employee may prove to be unsuited for a particular position and fail to satisfactorily complete the probationary period, the same employee may be able to do well and meet all the requirements of another supervisory or managerial position. Each employee is entitled to be considered accordingly.

b. Placement After Failure to Complete Probationary Period.

(1) An employee in a managerial or supervisory position who does not satisfactorily complete the probationary period may be subject to:

(a) Placement in a vacant position in a WHS-serviced Component covered by this AI at no lower grade, salary, or pay band than the employee left to accept the supervisory or managerial position. If the former position is at a higher grade than the supervisory or managerial position, re-promotion will be in accordance with AI 33.

(b) Placement in a vacant position equal in grade, salary, or pay band to that currently held if appointment to the supervisory or managerial position was based on reinstatement eligibility in accordance with Part 335 of Title 5, Code of Federal Regulations.

(c) Separation pursuant to the procedures in Part 432 of Title 5, Code of Federal Regulations or in accordance with Part 752 of Title 5, Code of Federal Regulations if the appointment was made to a supervisory or managerial position.

(2) Placement in accordance with Paragraphs 3.4.b. will be made in this order:

(a) In the organizational entity to which the employee is currently assigned.

(b) In the WHS-serviced Component to which the employee is currently assigned.

(c) In the WHS-serviced Component from which the employee was selected, if applicable.

c. Reassignment After Failure to Complete Probationary Period.

(1) If there is no vacant position in any organization covered by this AI, the employing WHS-serviced Component head will establish a temporary position at the equivalent or current grade level to which the employee is entitled and assign the employee for a period not to exceed 90 business days. If no appropriate vacancy occurs during that period, the WHS-serviced Component head will determine which vacancy will be reclassified to accommodate the employee.

(2) Reduction-in-force procedures will not be used to determine the position to which the employee should be assigned.

(3) An employee who is promoted to a supervisory or managerial position and is subsequently returned to their former grade level is entitled to credit toward a within-grade increase at the lower grade for the time spent at the higher grade.

(4) An employee who is returned to a lower graded position for failure to satisfactorily complete probation pursuant to this AI is not entitled to grade or pay retention in accordance with Part 536 of Title 5, Code of Federal Regulations. An employee whose entitlement to grade retention ends when promoted to a supervisory or managerial position may resume the remainder of the period of eligibility if probation is not completed and the employee is returned to the position or an equivalent position in which they were entitled to grade or pay retention.

(5) An employee who is retroactively placed in a supervisory or managerial position because of a complaint settlement or grievance will not be allowed credit toward probation for the retroactive period.

3.5. APPEALS AND GRIEVANCES.

a. An action to return an employee to a non-supervisory or non-managerial position that is not lower in grade, salary, or pay band than the one the employee left to accept the supervisory or managerial position is not directly appealable to the Merit System Protections Board unless the employee alleges the action was taken based on partisan political affiliation or marital status.

b. An action to demote an employee to a lower grade than the one the employee left to accept the supervisory or managerial position for reasons other than supervisory or managerial performance is governed by Parts 315, 432, or 752 of Title 5, Code of Federal Regulations, as applicable.

c. Serving a probationary period pursuant to Part 315 of Title 5, Code of Federal Regulations and probation pursuant to this AI has appeal rights only in accordance with Part 315 of Title 5, Code of Federal Regulations.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
AI	administrative instruction
WHS	Washington Headquarters Services

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
managerial position	A position which directs the work of an organizational unit, is held accountable for the success of specific line or staff functions, monitors and evaluates the progress of the organization toward meeting goals, and makes adjustments in objectives, work plans, schedules, and commitment of resources.
supervisory position	A position that accomplishes work through the direction of other people.

REFERENCES

- Administrative Instruction 33, “Merit Promotion Plan,” December 17, 2015, as amended
Code of Federal Regulations, Title 5
- DoD Directive 5110.04, “Washington Headquarters Services (WHS),” March 27, 2013
- DoD Instruction 1400.25, Volume 2005, “DoD Civilian Personnel Management System:
Defense Civilian Intelligence Personnel System Employment and Placement,”
March 3, 2012, as amended
- DoD Instruction 1400.25, Volume 3005, “DoD Civilian Personnel Management System: Cyber
Excepted Service (CES) Employment and Placement,” August 15, 2017
- DoD Instruction 5025.01, “DoD Issuances Program,” August 1, 2016, as amended
- Federal Register, Volume 82, Pages 52104-52172, November 9, 2017