PRESIDENTIAL ACTIONS

STRENGTHENING PROBATIONARY PERIODS IN THE FEDERAL SERVICE

Executive Orders | April 24, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, it is hereby ordered:

Section 1. Purpose. The American people deserve a Federal workforce that is high-quality, efficient, dedicated to the public interest, and no larger than necessary. Probationary periods (for employees in the competitive service) and trial periods (for employees in the excepted service) have provided a longstanding critical tool to assess the fitness of newly hired Federal employees before finalizing their appointments to Federal service.

The Government Accountability Office has documented, however, that agencies have not been using probationary and trial periods as effectively as they could to remove appointees whose continued employment is not in the public interest. As a result of this failure to remove poor performers, agencies have often retained and given tenure to underperforming employees who should have been screened out during their probationary period.

Conditions of good administration require that agency approval should be required before probationary employees become tenured Federal employees. As the Merit Systems Protection Board recommended in its 2005 report *The Probationary Period: A Critical Assessment Opportunity*, there should be “procedures so that a probationer does not automatically become an employee in the absence of agency action.” And in the absence of agency certification that the probationer will be an asset to the Government, “the probationer’s employment should automatically terminate upon the expiration of the probationary period.” This order directs this commonsense change.

Further, the regulations at subpart H of part 315 of title 5, Code of Federal Regulations, which purport to limit agency action with respect to employees serving a probationary period, are not statutorily required, place undue burdens on agencies in terminating probationary employees, and deter managers from undertaking that effort.

To ensure that agencies make better use of probationary and trial periods, this order issues a new Civil Service Rule XI that will supersede subpart H. Under Civil Service Rule XI, agencies will have to affirmatively determine that the continued employment of individuals serving probationary or trial periods would benefit the Federal service before such appointments are finalized.

Sec. 2. Repeal of Civil Service Rule 2.4. Civil Service Rule II is amended by removing section 2.4 of part 2 of title 5, Code of Federal Regulations.

Sec. 3. Civil Service Rule XI. A new Civil Service Rule XI is added following Civil Service Rule X, to read as follows:

“PART 11—PROBATIONARY AND TRIAL PERIODS (RULE XI)

Sec.

11.1 Scope

11.2 Probationary Period; When Required

11.3 Trial Period; When Required

11.4 Crediting Service

11.5 Completion of Probationary or Trial Period

11.6 Appeals

§ 11.1 Scope

This rule applies to probationary periods in the competitive service and trial periods in the excepted service, except where provided otherwise by statute. It has no application to probationary periods in the Senior Executive Service.

§ 11.2 Probationary Period; When Required

(a) The first year of service of an employee who is given a career or career-conditional appointment in the competitive service under the Civil Service Regulations is a probationary period when the employee:

(1) Was appointed from a competitive list of eligibles.

(2) Was reinstated (including reinstatement from a Reinstatement Priority List), unless during any period of service that affords a current basis for reinstatement the employee completed a probationary period of at least 1 year or served with competitive status under an appointment that did not require a probationary period; provided that the date of reinstatement begins a new 12-month probationary period if one is required under paragraph (a) of this section.

(b) A person who is required to go through a probationary period and then is transferred, promoted, demoted, or reassigned in accordance with the Civil Service Regulations before he or she completes such period is required to complete the remainder of the probationary period in the new position.

(c) Upon noncompetitive appointment to the competitive service under the Postal Reorganization Act (39 U.S.C. 101 *et seq.*), an employee of the Postal Career Service (including a substitute or part-time flexible employee) who has not completed 1 year of Postal service must serve the remainder of a 1-year probationary period in the new agency.

(d) A person who is appointed to the competitive service either by a special appointing authority or by conversion to a career or career-conditional appointment under the Civil Service Regulations must serve a 1-year probationary period unless specifically exempt from such period by the special appointing authority itself.

(e) Employees promoted, transferred, or otherwise assigned, for the first time, to supervisory or managerial positions shall be required to serve a probationary period under terms and conditions prescribed by the Office of Personnel Management (OPM). If an employee is required to concurrently serve both a probationary period in a supervisory or managerial position under 5 C.F.R. part 315, subpart I, and a probationary or trial period following initial appointment or reinstatement under this Civil Service Rule, the latter takes precedence and fulfills the requirements of this paragraph.

§ 11.3 Trial Period; When Required

(a) The first year of continuous service in the same or similar position of a preference eligible in the excepted service, or the first 2 years of continuous service in the same or similar position of an individual in the excepted service (other than a preference eligible), is a trial period.

(b) A person who is required to go through a trial period and is transferred, promoted, demoted, or reassigned before he or she completes the trial period is required to complete the remainder of the trial period in the new position.

(c) An individual who separates from the Federal service for a period of more than 30 days after completing a trial period, and who subsequently is reappointed to an excepted service position, must complete a new trial period unless such individual is appointed to the same or a substantially similar position in the same agency as their most recently held position.

§ 11.4 Crediting Service

(a) Prior Federal civilian service (including nonappropriated fund service) counts toward completion of a probationary or trial period, as applicable, when the prior service:

(1) Is in the same agency, e.g., Department of the Army;

(2) Is in the same line of work, as determined by the employee's actual duties and responsibilities; and

(3) Contains or is followed by no more than a single break in service that does not exceed 30

calendar days.

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

(c) The probationary or trial period for part-time employees is computed on the basis of calendar time, in the same manner as for full-time employees. For intermittent employees, i.e., those who do not have regularly scheduled tours of duty, each day or part of a day in pay status counts as one day of credit toward the 260 days or 520 days, as applicable, in a pay status required for completion of a probationary or trial period. Under no circumstances shall the probationary or trial period be completed in less than 1 year of calendar time.

§ 11.5 Completion of Probationary or Trial Period

(a) Agencies shall utilize probationary and trial periods required upon initial appointment or subsequent reinstatement to evaluate employees' fitness and whether their continuation of employment advances the public interest. If not terminated sooner, an employee's service terminates before the end of the tour of duty on the last day of their probationary or trial period unless their agency certifies within the 30 days prior to that date that finalizing their appointment advances the public interest.

(b) A probationary or trial period ends when the employee completes his or her scheduled tour of duty on the day before the anniversary date (or, as applicable, 2-year anniversary date) of the employee's appointment. For example, when the last workday is a Friday and the anniversary date is the following Monday, a probationer will be separated before the end of the tour of duty on Friday if their agency does not make the requisite certification that their continued appointment advances the public interest.

(c) An employee on a probationary or trial period bears the burden of demonstrating why their continuation in employment through the finalization of their appointment to the Federal service is in the public interest.

(d) In determining whether it is in the public interest to finalize the appointment to the Federal service of an employee in a probationary or trial period, the agency head, or his or her designee, may consider, in his or her sole and exclusive discretion:

(1) the employee's performance and conduct;

(2) the needs and interests of the agency;

(3) whether the employee's continued employment would advance organizational goals of the agency or the Government; and

(4) whether the employee's continued employment would advance the efficiency of the service.

(e) Before an agency terminates the service of an employee serving a probationary or trial period, it shall notify such employee in writing as to the effective date of the action.

(f) If an agency fails to make a certification under Civil Service Rule 11.5 due to an administrative error, the agency head may petition the Director of OPM within 30 days from the date of termination to reinstate the employee.

(g) This section shall not apply to an employee serving a probationary period due to being promoted, transferred, or otherwise assigned, for the first time, to a supervisory or managerial position, unless such employee is required to concurrently serve both a probationary period in a supervisory or managerial position and a probationary or trial period following initial appointment or reinstatement under this Civil Service Rule.

§ 11.6 Appeals

(a) The Director of OPM may by regulation prescribe circumstances under and procedures by which employees terminated from a probationary or trial period may appeal such termination.

(b) Except as otherwise required by law, such appeals shall be the sole and exclusive means of appealing terminations during probationary or trial periods."

Sec. 4. Modifications to the Civil Service Regulations. (a) This order supersedes subpart H of part 315 of title 5, Code of Federal Regulations (Probation on Initial Appointment to a Competitive Position), which is hereby rendered inoperative and without effect. No agency shall give force or effect to its provisions.

(b) The Director of OPM shall within 30 days of the date of this order prepare and publish a rule rescinding subpart H and making conforming amendments.

Sec. 5. Review During Probationary and Trial Periods. (a) Within 15 days of the date of this order:

(i) The head of each executive department and agency (agency) shall identify each employee at their agency serving an initial probationary or trial period in the Federal service that ends 90 days or more from the date of this order.

(ii) Each agency head shall designate in writing individuals at their agency who shall be responsible for evaluating the continued employment of employees serving an initial probationary or trial period in the Federal service. Agency heads should limit such designations to those individuals who can properly assess the needs and interests of the organization and alignment with the organizational goals of the agency or the Federal Government.

(b) At least 60 days prior to the end of each employee's initial probationary or trial period, individuals designated pursuant to subsection (a) of this section shall, to the extent practicable, meet with each employee serving an initial probationary or trial period to discuss the employee's performance and conduct (based in part on input from the employee's supervisor), the needs of the agency, and whether the employee's continued employment would advance the public interest, the organizational goals of the agency, and the efficiency of the service.

(c) Within 30 days of the end of each employee's probationary or trial period, the agency head or an individual designated by the agency head pursuant to subsection (a) of this section, consistent with Civil Service Rule XI and other applicable law, shall determine whether to finalize the employee's appointment to the Federal service, or whether to terminate their service.

(d) Before finalizing an employee's appointment to the Federal service at the conclusion of the probationary or trial period, the agency head or an individual designated by the agency head pursuant to subsection (a) of this section must certify in writing that such individual's continued employment will advance the public interest.

Sec. 6. Effective Date. This order is effective immediately, except that the requirements of sections 5(b) through 5(d) of this order and of Civil Service Rule 11.5 shall become effective 90 days from the date of this order.

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, including any of its applications, is held to be invalid, the remainder of this order and all of its other applications shall not be affected thereby.

DONALD J. TRUMP

THE WHITE HOUSE,

April 24, 2025.