

1-2-64. Probationary employee. “Probationary employee” means any individual serving a probationary period pursuant to K.A.R. 1-7-4 (a) or (d). (Authorized by K.S.A. 75-3706 and K.S.A. 2008 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2946, 75-3707, and 75-3746; effective P-_____.)

1-2-65. Probationary status. “Probationary status” ~~is~~ means the status of an employee ~~during the~~ -serving a probationary period pursuant to K.A.R. 1-7-4 (a) or (d). (Authorized by K.S.A. 75-3706 and K.S.A. 2008 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1979; amended P-
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1-7-3. Probationary period required. (a) The probationary period shall be considered as a working test of the employee's ability to perform adequately in the position to which the employee was hired. In order to aid the agency in developing efficient employees, the supervisor shall give reasonable instruction and training that may be required throughout the probationary period. Each appointing authority shall establish procedures so that any problems with probationary employees will be brought to the attention of the agency management for appropriate action before the end of the probationary period.

(b) Before the end of the probationary period, the appointing authority shall provide the director with results of a performance review for the employee. If the overall performance review rating given to a probationary employee before the end of the employee's probationary period is less than satisfactory unsatisfactory, the employee shall not be granted permanent status. The performance review ratings required by this subsection shall not be required to occur within the time period established in K.A.R. 1-7-10 (a)(3).

(c) Except as provided in K.A.R. 1-7-4, all new hires, promotions, and rehires shall be tentative and subject to a probationary period as authorized by K.A.R. 1-7-4. If the probationary period of an employee is to be extended as authorized by K.A.R. 1-7-4, the appointing authority, before the end of the probationary period, shall furnish the employee with a copy of the performance review stating that the probationary period is extended. Results of the performance review shall be provided to the director.

(d) Any probationary employee, other than an employee on probation due to a promotion from a position in which the employee had permanent status, may be dismissed by the appointing authority at any time during the ~~probation~~ probationary period.

(e) This regulation shall be effective on and after ~~June 5~~ October 1, 2005 2009.

(Authorized by K.S.A. 75-3706 and K.S.A. ~~2004~~ 2008 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended June 5, 2005; amended P-_____.)

1-7-4. Duration of probationary period. (a) Each new hire and each rehire made on a basis other than reemployment or reinstatement who is employed in a regular position shall be subject to a ~~standard~~ probationary period of six months. This probationary period may be extended by the appointing authority for ~~up to~~ not more than six additional months if action to extend the probationary period is taken ~~prior to~~ before the end of the original six-month probationary period. A probationary period of ~~up to~~ not more than 12 months may be established by the appointing authority ~~when~~ if specific training or certification requirements for a position cannot be completed within six months.

(b) Each employee who is promoted shall be subject to a probationary period of not less than three months ~~or~~ and not more than six months as determined by the appointing authority. However, a probationary period of ~~up to~~ not more than 12 months may be established by the appointing authority ~~when~~ if specific training or certification requirements for a position cannot be completed within six months. Each employee with permanent status who serves a probationary period in accordance with this subsection shall retain permanent status throughout the probationary period.

(c) Each person rehired on the basis of reemployment shall have permanent status effective on the date of rehire.

(d) Each person rehired on the basis of reinstatement shall be subject to a probationary period of not less than three months ~~or~~ and not more than six months as determined by the appointing authority.

(e) Time on leave with or without pay of more than 30 consecutive calendar days shall not count towards total time served on probation. The employee's probationary period shall be continued effective with the employee's return from leave until the total probation time served equals the time required for the position.

(f) ~~An~~ Each employee with permanent status who is transferred from one agency to another, or transferred within the same agency, shall continue to have permanent status.

(g) ~~When~~ If a probationary employee is transferred from one position in a class to another position in the same class or another class in the same pay grade, the transfer shall have no effect on the employee's probationary period. The probationary period may be extended by the appointing authority for ~~up to~~ not more than six additional months by giving written notice of the extension to the employee and director ~~prior to~~ before the expiration of the original six-month probationary period.

(h) Each employee who is transferred, demoted, or promoted from a ~~temporary position in the classified service or any position in the unclassified service to a regular position in the classified service~~ shall serve a ~~standard~~ probationary period of six months.

(i) Persons serving in temporary positions shall not be subject to a probationary period.

(j) Each employee in a governor's trainee position or a position in a training classification shall be placed on probation for six months when promoted to the regular class at the end of the training period.

(k) This regulation shall be effective on and after ~~December 17, 1995~~ October 1, 2009. (Authorized by K.S.A. ~~1994 Supp.~~ 75-3706 and K.S.A. 2008 Supp. 75-3747;

implementing K.S.A. 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983;
amended May 1, 1985; amended Dec. 27, 1993; amended Dec. 17, 1995; amended P-
_____.)

1-7-6. Notices relating to probationary periods and extensions. (a) ~~Prior to~~

Before the expiration of each employee's probationary period, a performance review shall be completed and a rating shall be assigned, and the appointing authority shall notify the employee and the director ~~that~~ in writing of one of the following:

(1) The employee has been dismissed or demoted;

(2) The probationary period is being extended, if extension is permissible under the provisions of K.A.R. 1-7-4; ~~or~~;

(3) The employee is being given permanent status.

(b) ~~If the appointing authority or the authority's representative~~ a probationary employee has not been notified ~~the employee of the performance review rating in~~ accordance with subsection (a) by the end of any probationary period, the employee shall be deemed to have ~~received~~ been given permanent status. In case of dispute as to whether the employee was notified, a determination shall be made by the director. ~~This regulation shall be effective on and after December 17, 1995.~~ (Authorized by K.S.A. ~~1994 Supp. 75-3706 and K.S.A. 2008 Supp. 75-3747~~; implementing K.S.A. 75-2943, 75-2946, 75-3707, and K.S.A. 1994 Supp. 75-2943, as amended by SB 175, § 8 75-3746; effective May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 17, 1995; amended P- _____.)

1-7-7. ~~Removal~~ Dismissal of probationary employee by director. The director may ~~remove an~~ dismiss a probationary employee at any time during the employee's probationary period, after giving the employee notice and an opportunity to be heard, if the director finds that the employee was appointed as a result of a violation of the provisions of the act or these regulations. (Authorized by K.S.A. ~~1982 Supp.~~ 75-3706 and K.S.A. 2008 Supp. 75-3747; implementing K.S.A. ~~1982 Supp.~~ 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended P- _____.)

1-7-10. Performance reviews. (a) Each agency's appointing authority shall establish and implement a the state performance review system management process that was developed in accordance with L. 2008, Ch. 159, Sec. 1 and shall ensure that performance reviews are conducted in accordance with this process for each employee in the classified service. The performance review shall be used to inform employees of their expected performance outcomes and to assess the effectiveness of each employee.

(1) The performance review of each employee shall be completed by the employee's immediate supervisor or, if the employee's immediate supervisor has not supervised the employee for at least 90 days, by another qualified person designated by the appointing authority. "Qualified person" ~~means~~ shall mean a person who is familiar with the duties and responsibilities of the employee's position and ~~with~~ has significant knowledge of the job performance of the employee.

(2) A performance review shall be completed and a rating assigned at least annually in the manner required and on the forms prescribed by the director. An agency may add additional, job-related performance criteria and measures to the forms prescribed by the director, as determined by the appointing authority.

(3) Performance ratings for all permanent employees shall be assigned on an annual basis within the period beginning October 1 and ending December 31.

(4) Midyear reviews for all permanent employees shall be conducted on an annual basis within the period beginning April 1 and ending June 30.

(5) The appointing authority may conduct a special performance review rating for any employee at any time, unless prohibited under K.A.R. 1-14-8 due to pending layoffs.

(6) Each employee who receives an unsatisfactory rating on either of the essential requirements set out on the form prescribed by the director shall have an overall performance review rating of unsatisfactory.

~~(4)~~ (7) Each employee shall be given the opportunity to sign the employee's performance review as evidence that the employee has been informed of the performance review rating. The employee's signature shall not abridge the employee's right of appeal if the employee disagrees with the rating. The failure of the employee to sign the performance review shall not invalidate the rating.

(b)(1) Any employee entitled to appeal a rating under K.A.R. 1-7-11 may do so within seven calendar days after being informed of the rating. After the period of seven calendar days for filing appeals has expired and if no appeal has been filed, the appointing authority or the authority's designee shall review the rating, ~~shall~~ make any changes deemed necessary, ~~shall~~ sign the performance review, ~~shall~~ place the entire original performance review in the employee's official personnel file, and ~~shall~~ provide a copy of the review to the employee. In addition, the appointing authority may provide copies to each reviewer if the appointing authority deems necessary.

(2) If the appointing authority makes any change in the rating or adds any comment on the performance review, the review shall be returned to the employee to be signed again, and the employee, if eligible to appeal the rating, shall again have seven calendar days to file an appeal to the appointing authority. The final results of the performance review shall be reported to the director.

(c) Subject to the provisions of K.S.A. 75-2949e, and amendments thereto, two performance review ratings of less than ~~satisfactory~~ meets expectations that are conducted within 180 days may be utilized as a basis for demotion, suspension, or dismissal of the employee.

(d) If the overall performance review rating assigned to ~~an a~~ probationary employee ~~with probationary status~~ at the end of the employee's probationary period is ~~less than satisfactory~~ unsatisfactory, the employee shall not be granted permanent status.

(e) This regulation shall be effective on and after ~~June 5, 2005~~ October 1, 2009.
(Authorized by K.S.A. 75-2943, K.S.A. 75-3706, and K.S.A. ~~2004~~ 2008 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2949e, 75-3706, and 75-3746; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995; amended June 5, 2005; amended P-_____.)

1-7-11. Employees entitled to appeal performance reviews. (a) Any employee who receives a performance rating that is lower than the highest possible rating may appeal that rating if the employee meets either of the following conditions:

(1) The employee has permanent status, including an employee with permanent status who is serving a probationary period due to a promotion.

(2) The employee is ~~on probation~~ serving a probationary period due to a rehire on the basis of reinstatement.

(b) (1) ~~When~~ If an action concerning the end of probationary status is dependent upon the performance review, the appeal committee may make a recommendation to the appointing authority concerning whether or not to grant permanent status to the employee. However, the appointing authority shall have the right to make the determination of whether or not to grant permanent status, subject to whatever limitations are imposed by the ~~adjective~~ performance rating of the performance review prepared by the appeal committee.

(2) Notwithstanding the limits on the duration of probationary periods established elsewhere in these regulations, the appointing authority may extend the probationary period for a limited period of time as necessary to allow the appeal committee to prepare the final performance review. The total amount of time of this extension shall not exceed 60 calendar days.

(3) The appointing authority shall report to the director each extension of a probationary period made pursuant to this regulation.

(c) This regulation shall be effective on and after ~~June 5, 2005~~ October 1, 2009.

(Authorized by K.S.A. 75-2943, K.S.A. 75-3706, and K.S.A. ~~2004~~ 2008 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended Oct. 24, 1997; amended June 5, 2005; amended P- _____.)

1-7-12. Performance review appeal procedure. (a) (1) Each employee who is eligible to appeal a performance review under K.A.R. 1-7-11 may, within seven calendar days after the employee has been informed of the rating, submit an appeal in writing to the appointing authority.

(2) Within seven calendar days following receipt of the employee's written notice of appeal, the appointing authority shall have the option either to make any changes in the rating deemed appropriate or to appoint a committee of three or more persons to hear the appeal.

(3) If the appointing authority makes any change in the rating or adds any comments to the rating form, the rating form shall be returned to the employee to be signed again. The employee shall be informed that, if the employee disagrees with the revised performance review, the employee may, within seven calendar days, file an appeal in writing to the appointing authority. If the employee files an appeal of the revised review, the appointing authority shall, within seven calendar days following receipt of the employee's written notice of appeal, appoint a committee of three or more persons to hear the appeal.

(4) If an appeal committee is appointed to hear the appeal, persons shall be appointed who, in the appointing authority's judgment, will be fair and impartial in discharging their responsibilities. Before appointing the appeal committee, the appointing authority shall give the employee a reasonable opportunity for consultation on the matter of appointment of the appeal committee. The appeal committee shall not include the initial rater or raters. In general, the members of the appeal committee shall be officers or employees of

the agency. However, the appointing authority may select one or more members of the committee from one or more other state agencies if the appointing authority determines that the objective of a fair and impartial hearing can best be served by doing so.

(b) (1) As soon as the committee has been appointed, the appointing authority shall notify the employee of the names of the members of the committee and the date, time, and place of the hearing.

(2) (A) Before the beginning of the hearing, the employee may object to any individual proposed to serve as a member of the committee in writing and shall include the reasons upon which the employee is basing the objection.

(B) The appointing authority shall make a determination either to deny the objection or to grant the objection and appoint another individual to the committee before the commencement of the hearing.

(C) The appointing authority shall inform the employee of the determination in writing.

(D) Each objection taken pursuant to this subsection and each determination regarding each objection shall be included as part of the documentation of the appeal.

(3) The appeal committee shall consider any relevant evidence that may be offered by the employee and the rater and shall make available to the employee any evidence that the committee may secure on its own initiative. The employee and rater shall have an opportunity to question any person offering evidence to the appeal committee. The appeal committee may limit the offering of evidence that it deems to be repetitious or irrelevant.

(3) (4) Within 14 calendar days of the date the members of the committee were appointed, the committee shall prepare and sign a rating for the employee. That rating shall be final and not subject to further appeal. The appeal committee shall give the rating to the appointing authority, who, within five calendar days, shall provide copies to the employee and each person who originally rated the employee. The appeal committee shall report the rating to the director.

(4) (5) If the appointing authority cannot appoint an appeal committee within the prescribed seven calendar days, the employee requests an extension of the time limit, or if the appeal committee cannot make its rating within 14 calendar days of the date of its appointment, the appointing authority may extend these time limits for a reasonable period of time.

(c) This regulation shall be effective on and after ~~June 5, 2005~~ October 1, 2009.

(Authorized by K.S.A. 75-2943, K.S.A. 75-3706, and K.S.A. ~~2004~~ 2008 Supp. 75-3747; implementing K.S.A. 75-2943, 75-3707, and 75-3746; effective May 1, 1983; amended, T-84-20, July 26, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended June 5, 2005; amended P-
_____.)

1-14-8. Computation of layoff scores. (a) A layoff score shall be computed by the appointing authority for each employee in the agency who has permanent status and who either is in a class of positions identified for layoff or ~~that may~~ could be affected by the exercise of bumping rights.

(b) Layoff scores shall be computed according to the formula: $A \times L$, where A and L have the following values:

(1) A = the average performance review rating of the employee, as described in subsection (d); and

(2) L = the length of service, as defined in K.A.R. 1-2-46(a), expressed in months.

Length of service for a retired employee who has returned to work shall be calculated ~~on the same basis as a new hire~~ in accordance with K.A.R. 1-2-46 (g). The layoff scores shall be prepared in accordance with a uniform score sheet prescribed by the director.

(c) Layoff scores computed by the appointing authority shall be made available for inspection by each employee upon request at ~~or before~~ the time the agency gives written notice of a proposed layoff to the director and the secretary pursuant to K.A.R. 1-14-7. Upon request of any employee, the appointing authority shall review the manner in which the employee's score was calculated. ~~Any~~ Each dispute as to the proper calculation of a layoff score of any employee shall be resolved by the director.

(d) Except as otherwise authorized by this subsection, the performance review ratings used in computing the layoff score of an employee shall be the most recent ratings for the employee during the last five years up to and including five ratings, if the employee has as many as five ratings. However, a rating resulting from a special performance review

that is given for a rating period ending within 90 calendar days of any notice of the layoff to the director shall not be counted. Performance reviews completed for rating periods ending on or after the date the appointing authority notifies the director in writing that a layoff is to occur shall not be considered in computing layoff scores; however, the appointing authority may designate a uniform earlier cutoff date to identify which performance review ratings are to be used in computing layoff scores.

(1) For the purposes of calculating layoff scores in accordance with the formula established in subsection (b), for performance reviews conducted on or before September 30, 2009, a rating of exceptional shall have a value of five, a rating of satisfactory shall have a value of three, and a rating of unsatisfactory shall have a value of zero.

(2) For the purposes of calculating layoff scores in accordance with the formula established in subsection (b), for performance reviews conducted on or after October 1, 2009, a rating of exceptional shall have a value of five, a rating of exceeds expectations shall have a value of four, a rating of meets expectations shall have a value of three, a rating of needs improvement shall have a value of two, and a rating of unsatisfactory shall have a value of zero.

(3) If an employee does not have a total of five performance review ratings for use in computation of a layoff score, the layoff score shall be an average of the ratings that the employee has actually received.

(~~3~~) (4) If an employee has no performance review ratings that may be used to compute a layoff score, the employee shall be deemed to have been given a single performance review rating of ~~satisfactory~~ meets expectations, and the value of that rating

shall be used to compute a layoff score. New hires and rehires employed on a basis other than reinstatement who are ~~on probation~~ servicing a probationary period and employees in training classes shall be subject to subsections (e), (f), and (g).

~~(4)~~ (5) In case of identical layoff scores, and if some, but not all, of the persons with the same score ~~need to~~ must be laid off, preference among these persons shall be given to any veteran, ~~any surviving spouse of a veteran,~~ as defined in K.S.A. 73-201 and amendments thereto, and any orphan ~~of a veteran,~~ as defined in this paragraph, in that order. For the purpose of this regulation, ~~the following terms shall be defined as follows:~~

~~(A) "Person who served in the armed forces of the United States" means any person who served in the army, navy, air force, or marine corps of the United States in world war I or world war II, and any person who served with the armed forces of the United States during the military, naval, and air operations in Korea, Vietnam, or other places under the flags of the United States and the United Nations or under the flag of the United States alone.~~

~~(B) "Veteran" means any person who served in the armed forces of the United States and who was honorably discharged or discharged under honorable conditions from the armed forces.~~

~~(C) "Surviving spouse" means the spouse of a person who served in the armed forces of the United States and who died while in the U.S. armed forces, unless the spouse has remarried.~~

~~(D)~~ "orphan" ~~means~~ shall mean a minor who is the child of a ~~person who served in the~~ armed forces of the United States and who died while serving in the U.S. armed forces ~~veteran who died while, and as a result of, serving in the armed forces.~~

If further ties remain, a method of breaking the ties shall be established by the secretary that is consistent with agency affirmative action goals and timetables for addressing underutilization of persons in protected groups. If further ties remain, preference in retention shall be given to the person with the greatest length of service as defined in K.A.R. 1-2-46. If a tie still exists, the next preference shall be given to the person with the greatest length of service, as defined in K.A.R. 1-2-46, within that agency. If a tie still exists, the appointing authority shall be responsible for determining an equitable tie-breaking system.

(e) New hires and rehires ~~on probation~~ with probationary status shall not be granted permanent status on or after the date the appointing authority has notified the director of a proposed layoff. However, any new hire or rehire ~~on probation~~ with probationary status in a position for which no employee subject to layoff meets the required selection criteria may be given permanent status. New hires and rehires ~~on probation~~ with probationary status shall have their probationary period extended until it is certain that no employee with permanent status whose position is to be vacated by layoff or who otherwise would be laid off through the exercise of bumping rights is claiming the position held by the employee with probationary status.

(f) ~~Any~~ Each employee serving a probationary period as a result of one of the following shall be considered to have permanent status for layoff purposes:

- (1) Promotion of an employee who has permanent status;
- (2) reallocation of a position if the incumbent has permanent status; or
- (3) promotion from a classified position with at least six months of continuous classified service.

(g) ~~Any~~ Each employee who is in training status in a governor's trainee position, or in any identified training position, and who has at least six months of continuous service shall be considered to have permanent status for layoff purposes only.

(h) The layoff list shall be based on the order of the layoff scores. The person with the lowest layoff score shall be laid off first. If more than one person is to be laid off, the persons to be laid off shall be selected on the basis of the lowest layoff scores.

(i) This regulation shall be effective on and after ~~June 5~~ October 1, 2005 ~~2009~~.

(Authorized by K.S.A. ~~2004 Supp.~~ 75-2943, K.S.A. 75-3706, and K.S.A. 2008 Supp. 75-3747; implementing K.S.A. ~~75-2943 and~~ 75-2948, 75-3707, and 75-3746; effective May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 27, 1993; amended Dec. 17, 1995; amended June 5, 2005; amended P-
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