

Wisconsin Human Resources Handbook

Chapter 116

Probationary Periods

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Sec. 116.010 Introduction

This chapter provides guidance and information related to probationary periods. The purpose of a probationary period is to evaluate an employee's performance to determine if the person is effectively able to carry out the assigned duties and responsibilities on a continuing basis. The employee attains permanent status in class upon successful completion of the probationary period. This handbook chapter provides guidance on the required probationary periods for original, promotional, and permissive probationary periods. Information on extended and lengthened probationary periods is also included. Trial periods for Career Executive positions are covered in Chapter 156 – Career Executive Employment, of the *Wisconsin Human Resources Handbook*.

Sec. 116.020 Statutory and Rule Authority

1. All original and all promotional appointments to permanent, sessional and seasonal positions in the classified service must serve a one year probationary period. However, the administrator may extend the probationary period for a maximum of 12 additional months. Probationary periods for an individual with a disability may be extended for up to one additional year (not to exceed 2 years). (Reference [s. 230.28, Wis. Stats](#) and Ch. [ER-MRS 13, Wis. Adm. Code](#).)
2. “The administrator may authorize a longer probationary period not to exceed 2 years for any administrative, technical or professional position, in order to provide the appointing authority assurance that the employee has had adequate exposure to the various responsibilities which are a part of the position or classification.” s. 230.28(1)(b), Wis. Stats.
3. Section 230.046(2), Wis. Stats., states, in part, that “After initial appointment to a supervisory position, each appointing authority shall ensure that each classified service supervisor successfully completes a supervisory development program.”
4. “An employee who transfers between agencies **may** be required by the appointing authority to serve a probationary period, **except** that a probationary period **shall be** required upon transfer to any position identified in s. ER-MRS 13.02(1) . . .” (Emphasis added). See s. ER-MRS 15.03, Wis. Adm. Code. See below for reference to s. ER-MRS 13.02(1), Wis. Adm. Code.
5. “In the case of an understudy, intern, trainee, student cooperative program or an apprentice appointment, the probationary period shall be lengthened by the total length of such understudy, intern, trainee, student cooperative program or apprentice period.” s. ER-MRS 13.02(1), Wis. Adm. Code

6. “An employee who transfers between different employing units of the same agency may be required by the appointing authority to serve a probationary period, except that a probationary period shall be required upon a transfer to a trainee position. If the transfer is to a position in a different class and no probationary period resulting from the transfer is required, the employee shall immediately attain permanent status in class. An employee who transfers while serving a probationary period may continue in the probationary status being served prior to transfer or begin a new probationary period under s. ER-MRS 15.07.” s. ER-MRS 15.04(1), Wis. Adm. Code
7. “An employee currently serving a permissive probationary period or an employee not currently serving a probationary period who is involuntarily transferred will not be required to serve a probationary period and the employee shall immediately attain permanent status in class.” s. ER-MRS 15.04(2), Wis. Adm. Code
8. A person who previously obtained permanent status in class and reinstates to an agency other than the one from which the person earned reinstatement eligibility or to a different employing unit in the same agency may be required by the appointing authority to serve a probationary period. However, a person shall not be required to serve a probationary period when reinstated to the same employing unit from which the person earned reinstatement eligibility and shall immediately attain permanent status in the class, except that a probationary period may be required for reinstatement to a supervisory or management position in accordance with the provisions of s. 230.28 (4), Wis. Stats. See s. ER-MRS 16.04(1), Wis. Adm. Code
9. “If the voluntary demotion is to a position in the same employing unit no probationary period for employment in the lower class may be required, except that a probationary period shall be required upon a voluntary demotion to a trainee position and a probationary period may be required upon voluntary demotion to a supervisory or management position in accordance with the provisions of s. 230.28(4) Wis. Stats. If the employee is not required to serve a probationary period, the employee immediately attains permanent status in class in the class to which voluntarily demoted.” s. ER-MRS 17.04 (3)(b), Wis. Adm. Code
10. “If the voluntary demotion is to a position in a different employing unit, the employee may be required by the appointing authority to serve a probationary period, except that a probationary period shall be required upon voluntary demotion to a trainee position. If the employee is not required to serve a probationary period, the employee immediately attains permanent status in class in the class to which voluntarily demoted.” s. ER-MRS 17.04 (3)(c), Wis. Adm. Code
11. “An employee who has completed a trial period [in a career executive position], upon transfer to a new agency, may be required by the appointing authority at the receiving agency to serve a permissive probation of up to 12 continuous months. At any time, during the permissive probationary period, the receiving agency may remove the employee from the career executive position without right of appeal. Any other removal or discharge during the probationary period shall be subject to s. 230.34, Stats. Termination of the permissive probationary period shall be in accordance with s. ER-MRS 13” s. ER-MRS 30.06(3), Wis. Adm. Code

Sec. 116.030 Definitions

The following are definitions of terms used in this Chapter.

1. **Appointing authority:** “. . . [T]he chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes. s. 230.03(4), Wis. Stats.
2. **Extended Probationary Period:** The extension of the time period during which an employee’s performance is evaluated upon appointment to a position. The extended period provides the employee with additional time to show that he/she is capable of performing the duties satisfactorily.
3. **Lengthened Probationary Period:** A longer approved probationary period for administrative, technical, and professional positions when the normal (12-month) probationary period will not provide the employee with adequate exposure to the responsibilities of the position.

4. **Permanent Appointment:** “. . . [T]he appointment of a person to a classified position in which permanent status can be attained.” s. ER-MRS 1.02(20), Wis. Adm. Code
5. **Permanent Status:** “. . . [T]he rights and privileges attained upon successful completion of a probationary period or career executive trial period required upon an appointment to permanent, seasonal or sessional employment.” s. ER-MRS 1.02(22), Wis. Adm. Code
6. **Position:** “. . . [A] group of duties and responsibilities in either the classified or the unclassified divisions of the civil service, which require the services of an employee on a part-time or full-time basis.” s. 230.03(11), Wis. Stats.
7. **Probationary Period:** The time period during which an employee's performance is evaluated after appointment to a position and prior to attaining permanent status.

Sec. 116.040 Probationary Periods

1. A one year probationary period, at a minimum, is required for all original and promotional appointments to positions in the classified service. See ss. 230.28 (1)(a) & (am), Wis. Stats. and ss. ER-MRS 13.02 and 13.03, Wis. Adm. Code
2. The duration of a permissive probation period, when required, shall be for one year, except that the last 6 months may be waived by the appointing authority. s. ER-MRS 13.02, Wis. Adm. Code.
3. Any probationary period, no matter how long, is for the employee to show that he or she is capable of doing the job for which he or she was hired. The expectation of any new employee is successful completion of the probationary period. A supervisor shall complete performance evaluations of the employee's work throughout the duration of the probationary period, normally at 3 month intervals.
4. The final evaluation will occur far enough in advance of the probationary period end date to permit sufficient time for a decision to be made and written notice provided (s. ER-MRS 13.09, Wis. Adm. Code) to the employee regarding whether the employee will successfully complete probation. Unless the employee is formally provided notice of failure to meet probationary status in advance of the end date, the employee will have attained permanent status in class.
5. An employee must be notified of the probationary period to be served. This information will be provided in the letter confirming an appointment. Section. ER-MRS 12.08, Wis. Adm. Code, states, “Confirmation of appointment shall be in writing by the appointing authority and shall be provided to the employee no later than the first day of employment. Such letter of appointment shall include conditions of employment such as starting date, rate of pay, and probationary period to be served.”
6. Employees who transfer or demote in lieu of layoff may be required to serve a probationary period. (See ss. ER-MRS 22.08(1) and (2), and chs. ER-MRS 15 and 17, Wis. Adm. Code, for requirements for the fulfillment of probationary periods.) See also Chapter 232—Permanent Layoff of Nonrepresented Employees of the *Wisconsin Human Resources Handbook*.
7. An employee may be released from a probationary period at any time. See Section 116.080 of this chapter for more information on Dismissal While on Probation. .

Note: See Attachment #1 for a chart on probationary periods including requirements pertaining to probationary periods on transfer, reinstatement, or voluntary demotion.

Sec. 116.050 Lengthened Probationary Periods

1. Lengthened probationary periods for administrative, technical, and professional positions may be established for up to two years.
2. Lengthened probationary periods may be approved when the normal (12-month) probationary period will not provide the employee with adequate exposure to the various responsibilities assigned to the position.
3. To obtain approval, a written request will be submitted to BMRS prior to beginning any recruitment activities for the position(s), allowing enough time for review and decision making before recruiting for the position(s). Without exception, a written request must be submitted no later than prior to certification of applicants per s. ER-MRS 13.02, Wis. Adm. Code. The request will:
 - a. Identify the position(s);
 - b. Provide evidence establishing that a standard 12-month period is insufficient for exposing the employee to the various responsibilities of the position(s); and
 - c. State the desired length of the probationary period.
4. Include information in the job announcement regarding the duration of the lengthened probationary period.
5. Approved requests for lengthened probationary periods can be applied to subsequent positions for a period of five years from the approval date of the initial request.
6. The appointing authority will notify the individual hired for a position of the lengthened probationary period.

Note: Notification must occur before or at the time an offer of appointment is made. The letter of appointment, as required under s. ER-MRS 12.08, Wis. Adm. Code, shall include the length of probation required.

7. The appointing authority may waive a portion of the lengthened probationary period of an employee, provided at least 12 months have been served. In addition, the appointing authority will provide the employee written notification prior to the effective date of the waiver. Agencies shall maintain copies of the documents relating to any probationary waivers granted by the appointing authority.

Sec. 116.060 Extensions of Probationary Periods

While a one year probationary period is required for all original and promotional appointments to positions in the classified service, occasionally the need to provide the employee with additional time to show whether he or she is capable of performing the duties of the position satisfactorily is needed. This means the appointing authority may want, or need, to extend an employee's probationary period. Extensions may be provided under the provisions below.

1. Sections 230.28(1)(a) and (am), Wis. Stats., establishes the authority of the BMRS Director to extend for up to 12 additional months any original or promotional probationary period in accordance with the rules. Extensions can be based on factors such as:
 - a. An unanticipated change in the program or duty assignment.
 - b. Substantial change in performance of the employee.

Note: An unanticipated change in duty assignment may occur due to an approved "light duty assignment" permitted as the result of employee injury. In the event light duty is assigned and the modified duties will not permit sufficient opportunity to evaluate the employee's ability to successfully perform the intended duties and essential job functions, an extension may be warranted.

2. Extensions under ss. ER-MRS 13.02(2)(a) and (b), Wis. Adm. Code are not available in cases in which the employee is already serving a lengthened probation period or permissive probationary period.

3. Section 230.28(1)(bm), Wis. Stats., allows the administrator, “[a]t the request of an appointing authority and an employee, . . . [to] authorize . . . an extended probationary period of up to one additional year for an individual with a disability, as defined in s. 111.32(8), Wis. Stats, who is the employee to allow the employee to do any of the following:
 - a. Complete any necessary comprehensive or vocational rehabilitation program.
 - b. Obtain or adapt to special modifications made to the employee’s workplace to accommodate the employee’s disability.
 - c. Achieve the knowledge, skills and abilities to competently perform the required tasks for the position for which the employee is appointed.”

In addition, s. ER-MRS 13.05, Wis. Adm. Code, provides that extending a probation due to absences greater than the allowable threshold of 348 hours is mandatory only when the probation being served is a required probation under s. ER-MRS 13.03, Wis. Adm. Code; i.e. original and promotional. Extending a probation under this provision is discretionary when the probation is permissive, provided that at least 6 months of the permissive probation is served, consistent with s. ER-MRS 13.02 (4), Wis. Adm. Codes. Extensions must be timely. Written notice of the extension must be delivered to the employee prior to completion of the last assigned day of work , regardless of whether the last day of work occurs on or before the last day of the probationary period. If timely notice is not provided, the employee attains permanent status in class. (See s. ER-MRS 13.09, Wis. Adm. Code.) If the employee is granted a leave of absence during a probationary period, the approval to the employee will include a statement advising that the probation may be impacted by duration of the leave and the employee will be provided notice of any such extension upon return.

4. Agencies shall maintain copies of the documents relating to any probationary extensions granted.

Sec. 116.070 Positions Brought Into Classified Service

1. Section 230.15(1m)(a), Wis. Stats., indicates that whenever the state becomes responsible for a function previously administered by another governmental agency or a quasi-public or private enterprise, or when positions in the unclassified service (excluding employees of the legislature) are determined to be more appropriately included in the classified service the affected positions will be included in the classified service. When this occurs, the administrator may waive the requirement to compete for the position and certify the employee for appointment to the position.
2. The director will determine the employee’s probationary status. However, the employee will receive credit toward his or her probationary period for the time that he or she had been employed in the position immediately prior to appointment as required by ss. 230.15(1m)(c), Wis. Stats., and ER-MRS 13.045, Wis. Adm. Code.

Sec. 116.080 Dismissal While on Probation

1. In accordance with s. ER-MRS 13.08, Wis. Adm. Code, the appointing authority may dismiss an employee without the right of appeal during the probationary period. Dismissal shall not be made on a discriminatory basis as defined under ss. 111.31 to 111.395, Wis. Stats.
2. When a probationary employee is dismissed, the appointing authority shall immediately provide written notice to the employee of the reasons for dismissal, the date of dismissal, and that the employee may be restored to the register from which he or she was appointed, if it still exists, upon request to and with the approval of the director s. 230.28(3), Wis. Stats. A copy of the notice shall be sent to the director.
3. When an employee with permanent status is dismissed while on probation under provisions of ss. ER-MRS 14.03 or 15.055, Wis. Adm. Code, the employee shall also be notified whether the employee will be restored

to the employee's former position, or to a position assigned to a class with the same pay range or counterpart pay range.

4. If an employee was terminated during a probationary period due to a pending layoff prior to July 1, 2016, and is later reinstated, the time served may be carried over at the discretion of the new appointing authority. However, if an employee resigns during a probationary period and is later reappointed from the same employment register, the time served will not be carried over. ss. ER-MRS 13.05(3) and (4), Wis. Adm. Code

Sec. 116.090 Administrative Information

This chapter was originally issued in February 1981 as part of the *Wisconsin Personnel Manual*.

It was revised and issued in June 2003 for the *Wisconsin Human Resources Handbook*. The chapter reflects current procedures and incorporates policy information from Bulletins MRS-15 dated November 12, 1984, and MRS-213, dated April 10, 2001. Bulletins MRS-15 and MRS-213 are now obsolete.

In September 2003, the chapter was revised to incorporate a statement regarding probationary periods for employees who transfer or demote in lieu of layoff.

Changes were made to the chapter in October 2003 to correct erroneous information regarding a probationary period for employees who transfer from a non-supervisory to a supervisory position. Section 116.060 has been updated to reflect that employees who transfer within an employing unit are not required to serve a probationary period but those who transfer to a different employing unit may serve a probationary period, at the appointing authority's discretion.

In May 2004, the chapter was updated to reflect that approved requests for lengthened probationary periods can be applied to subsequent positions for a period of five years from the approval date of the initial request.

The chapter was updated in August 2004, to remove an incorrect statement under Section 116.070 regarding employees who take a transfer or promotion to a different agency and are placed on a lengthened probationary period. Employees that transfer or promote do not have restoration rights back to their former agency.

In August 2018, the chapter was updated in accordance with 2015 Wisconsin Act 150, s. 230.28, Wis. Stats. and Administrative Code codes changes to ER-MRS 13, ER-MRS 14, ER-MRS 16, ER-MRS 15, and ER-MRS 17. There is no longer a significant distinction between probation for general classified positions and supervisory or management positions. As a result, sections were restructured to provide general guidance regarding probationary periods. A section on extensions of probationary periods was also added to provide clarity, including additional information regarding effects of "light or modified duty" on probation. With the publication of this chapter, Bulletin OSER-0049-MRS is obsolete. A section on dismissal during probation was also added to the chapter.

PROBATIONARY PERIODS

1. A one year probationary period is required for all original and promotional appointments to positions in the classified service.
2. Sections 230.28(1)(a) & (am), Wis. Stats., establishes the authority of the BMRS Director to extend probationary periods for up to 12 additional months.
3. Section 230.28(1)(bm), Wis. Stats., allows the director to extend a probationary period of up to one additional year for a person with a disability.
4. Successful completion of supervisory training is required after initial appointment to supervisory positions under s. 230.046(2), Wis. Stats., regardless of probationary status.

Type of Appointment	Within Agency		Between Agencies
	Within Employing Unit	Between Employing Units	
Original & Promotional	One year probation, which cannot be waived.	Same	Same
Voluntary Transfer	No probation permitted* if permanent status has been obtained by completing an initial probationary period or if involuntarily transferred. If serving a probationary period in the unit, time already served shall be carried over. ss. 230.28(4), Wis. Stats., and ER-MRS 15.03, 15.04, and 15.05 Wis. Adm. Code	1. Probation is permissive. s. 230.28(4), Wis. Stats. 2. If probation required, it is 12 months, any portion may be waived after 6 months served.	1. Probation is permissive. s. 230.28(4), Wis. Stats. 2. If probation required, it is 12 months, any portion may be waived after 6 months served.
Reinstatement	No probation permitted if reinstated to the same employing unit and permanent status previously held in the unit except that a probation may be required for reinstatement to a supervisory or management position in accordance with s. 230.28 (4), Wis. Stats. If separated, prior to July 1, 2016 during probation, appointing authority may carry over time already served if within 5 years of separation. s. ER-MRS 16.04(2), Wis. Adm. Code	1. Probation is permissive. s. 230.28(4), Wis. Stats. 2. If probation required, it is 12 months, any portion may be waived after 6 months served.	1. Probation is permissive. s. 230.28(4), Wis. Stats. 2. If probation required, it is 12 months, any portion may be waived after 6 months served.
Voluntary Demotion	No probation permitted.* Cannot demote unless permanent status gained at higher level. s. ER-MRS 17.04(3)(b), Wis. Adm. Code	Probation is permissive. s. ER-MRS 17.04(3)(c), Wis. Adm. Code	Probation is permissive. s. ER-MRS 17.04(3)(c), Wis. Adm. Code
Positions Brought Into Classified Service	One year probation, but credit will be applied for time worked in the position prior to appointment. ss. 230.15, Wis. Stats., and ER-MRS 13.045, Wis. Adm. Code		

* Probation is required upon transfer or demotion to a trainee position and may be permissive under s. 230.28(4), Wis. Stats for employees who transfer or demote under limited circumstances to a supervisory or management position.