

## Chapter ER-Pers 13

## PROBATIONARY PERIODS

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Note: Chapter Pers 13 was renumbered Chapter ER-Pers 13, effective March 1, 1983.

**ER-Pers 13.01 Definitions.** The following are definitions for terms used in this chapter.

(1) "Student cooperative program" means those cooperative programs in which individuals participate as provided in s. 230.22 (4), Stats.

(2) "Understudy" means any person appointed under s. 230.04 (11), Stats.

Note: The definition of probationary period is set forth under s. ER-Pers 1.02 (24).

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. Register, February, 1981, No. 302, eff. 3-1-81; am. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, May, 1988, No. 389, eff. 6-1-88.

**ER-Pers 13.015 Purpose.** During the probationary period the work of the employe is to be closely observed to determine if the employe is effectively able to carry out the assigned duties and responsibilities on a continuing basis.

History: Cr. Register, May, 1988, No. 389, eff. 6-1-88.

**ER-Pers 13.02 Duration.** All probationary periods shall be for 6 months duration, except:

(1) 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.

(2) In the case of employes who have not demonstrated the capacity to be granted permanent status in class within 6 months after the beginning of an original or promotional probationary period, the administrator may, at the request of an appointing authority, extend the probationary period for up to 3 additional months, provided the extension is desirable on the basis of factors such as:

- (a) Unanticipated change in the program or duty assignment, or
- (b) Substantial change in performance.

(3) In the case of administrative, technical or professional positions, at the request of an appointing authority, the administrator may, prior to certification of applicants, establish a probationary period of up to 2 years in order to provide the appointing authority assurance that the employe will have adequate exposure during the probationary period to the various duties and responsibilities which are a part of the position.

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(4) In the case of permissive probationary periods, the duration may be less than 6 months at the discretion of the appointing authority.

(5) In the case of initial original or promotional appointments to positions designated as supervisory or managerial as defined under s. 111.81, Stats., all probationary periods shall be for one year duration unless the last 6 months or a portion thereof is waived by the administrator at the request of the appointing authority.

(6) In cases where it is specifically provided otherwise in separate pay schedules.

**History:** Cr. Register, October, 1972, No. 202, eff. 11-1-72; r. (2), am. (1) and (6), renum. (3) to (5) to be (2) to (4) and am., cr. (5), Register, February, 1981, No. 302, eff. 3-1-81; am. (1), Register, May, 1988, No. 389, eff. 6-1-88.

**ER-Pers 13.03 When probation required.** A probationary period is required for:

(1) All original appointments;

(2) All promotional appointments;

(3) The duration that an employee is serving a trainee, intern, apprentice, student cooperative program or understudy appointment; and

(4) Upon qualifying for the objective classification after completion of the trainee, intern, apprentice, student cooperative program or understudy period.

**History:** Cr. Register, October, 1972, No. 202, eff. 11-1-72; cr. (intro.), am. (1) and (2), renum. (3) to be (3) (a) and am., cr. (3) (b), r. (4), Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.04, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, May, 1988, No. 389, eff. 6-1-88.

**ER-Pers 13.04 Permissive probationary period provisions.** (1) For the application of permissive probationary periods on:

(a) Transfer: See ss. ER-Pers 15.03 and 15.04.

(b) Reinstatement: See s. ER-Pers 16.04 (1).

(c) Voluntary demotion: See s. ER-Pers 17.04 (3) (b) and (c).

(2) The appointing authority shall make a determination as to whether the appointee shall serve a permissive probationary period and shall so notify that employee in the letter of appointment.

(3) The appointing authority may waive these permissive probationary periods at any time. The employee shall be notified by the appointing authority of the determination to waive such employee's probationary period.

**History:** Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.05, Register, February, 1983, No. 326, eff. 3-1-83.

**ER-Pers 13.045 Probationary period for positions brought into the classified service.** If an incumbent employee is certified and appointed under s. 230.15 (1m) (c), Stats., the administrator shall determine the employee's probationary status under s. 230.28, Stats., except that the employee shall receive credit toward any probationary period for the time the em- Register, August, 1993, No. 452

ploye had been employed in the position immediately prior to appointment under s. 230.15 (1m) (c), Stats.

History: Emerg. cr. eff. 3-5-93; cr. Register, August, 1993, No. 452, eff. 9-1-93.

**ER-Pers 13.05 Absence from employment. (1) UP TO 174 WORK HOURS.** If an employe has absences from employment not exceeding 174 work hours or prorated portion for part-time employes for any reason approved by the appointing authority, the appointing authority shall determine whether such absence shall be waived from the probationary time or the probationary period is to be extended to cover such absence. The employe shall be given written notice of such extension.

(2) **MORE THAN 174 WORK HOURS.** If an employe has such absence from employment totaling more than 174 work hours or the prorated portion for part-time employes, the probationary period shall be extended by the length of the time absent, except that up to 174 work hours or prorated portion for part-time employes may be waived by the appointing authority.

(3) **TERMINATION DUE TO PENDING LAYOFF.** If an employe is terminated during a probationary period due to a pending layoff, and is later reinstated, the time served may be carried over at the discretion of the new appointing authority. Determination of any such carry-over shall be specified at the time of the reinstatement and written notice given to the employe and a record of such notification kept on file.

(4) **RESIGNATION.** If an employe resigns during a probationary period, and is later reappointed from the same employment register, the time served shall not be carried over.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (5) Register, September, 1975, No. 237, eff. 10-1-75; am. (1) and (5), Register, December, 1976, No. 252, eff. 1-1-77; am. (1) to (4), r. (5), Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.06, Register, February, 1983, No. 326, eff. 3-1-83.

**ER-Pers 13.06 Transfer while serving a probationary period.** See s. ER-Pers 15.07.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; r. and recr. Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.07, Register, February, 1983, No. 326, eff. 3-1-83.

**ER-Pers 13.07 Time not counted.** Time served in a project appointment or limited term appointment, including an emergency or provisional appointment, shall not be counted as a part of any probationary period.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.08, Register, February, 1983, No. 326, eff. 3-1-83.

**ER-Pers 13.08 Dismissal. (1) ACTION BY APPOINTING AUTHORITY.** Except as provided in par. (b), the appointing authority may dismiss any employe without the right of appeal during the employe's probationary period. Dismissals shall not be made on a discriminatory basis as defined under ss. 111.31 to 111.395, Stats.

(2) **DISMISSAL NOTICE REQUIRED.** When a probationary employe is to be dismissed, the appointing authority shall immediately provide written notice to the employe to be dismissed of the reasons for dismissal, the date on which dismissal is to occur, and that the employe may be restored to the register from which he or she was appointed, if it still exists,

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upon request to and with the approval of the administrator pursuant to s. 230.28 (3), Stats. A copy of such notice shall be sent to the administrator. An employe who has permanent status and is dismissed while on a probationary period under the provisions of s. ER-Pers 14.03 or 15.055, shall also be notified whether or not the employe will be restored to the employe's former position, or to a position assigned to a class having the same pay rate or pay range maximum, or to a position in a class assigned to a counterpart pay rate or pay range.

**Note:** For rights of employes who are terminated from a position while serving a probationary period resulting from promotion, transfer or demotion, see ch. ER-Pers 14, 15 or 17, respectively.

**History:** Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. (1) and (2), Register, December, 1976, No. 252, eff. 1-1-77; am. Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.09 and am. Register, February, 1983, No. 326, eff. 3-1-83; r. (1) (b) and (3), am. (2), Register, May, 1988, No. 389, eff. 6-1-88.

**ER-Pers 13.09 Attainment of permanent status in class.** Permanent status in class is attained immediately upon completion of the last work period to which the employe was assigned to work during his or her probationary period regardless of whether it falls on or before the last day of the probationary period. Prior to the end of the probationary period, the appointing authority shall notify the employe in writing that the employe will attain permanent status in class. No employe may be denied permanent status in class after successfully completing a probationary period because an appointing authority fails to submit notice.

**History:** Cr. Register, October, 1972, No. 202, eff. 11-1-72; am. Register, February, 1981, No. 302, eff. 3-1-81; renum. from Pers 13.10, Register, February, 1983, No. 326, eff. 3-1-83; am., Register, May, 1988, No. 389, eff. 6-1-88.