

		Policy # 805
Subject: Releasing A Probationary Employee		
Responsible Department: Personnel Services		
Effective Date: 01/1987		Revision Date: 12/1987
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1. **Purpose**

To implement administrative procedures for releasing employees during the probationary period.

2. **Authority**

Sacramento County Charter, Section 71-G and Civil Service Commission Rules, Sections 8 and 12 provide authority for releasing employees during the probationary period.

3. **Scope**

Employees in civil service classifications must be notified in writing when they have not passed probation in a County classification. Civil Service Rules mandate the use of specific forms, which have been prepared and approved by County Counsel.

4. **Policy**

DEFINITIONS

Status means the employee's current appointment, such as permanent, temporary, provisional or probationary. (Personnel Ordinance, Section 2.78.286; Civil Service Rule 15.51)

Probationary period means the period of continuous service following appointment from an eligible list to a class in the civil service and prior to obtaining permanent status in the class. (Personnel Ordinance, Section 2.78.264; Civil Service Rule 15.36)

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- a. The probationary period is regarded as part of the civil service testing process. This period is used for closely observing the employee's work, for ensuring the employee's effective adjustment to the position, and for releasing a probationer whose performance does not meet the required standards of work. (Civil Service Rule 8.2)
- b. For most classes the probationary period is 6 months; for some it is 12 months. Additionally, probationary periods may be extended according to Civil Service Rule 8.5.
- c. The last day of the established probationary period is not necessarily the last day of an employee's probation.
- d. Probationary periods also may be required in other specific circumstances, such as reinstatement to County service after resignation.

PROCEDURES: RELEASE DURING PROBATION - OPERATING DEPARTMENTS

Decision to Release an Employee from Probation

1. The employee's supervisor should consult with the appointing authority or an authorized representative in the employing department when deciding whether to release an employee during the probationary period.
 - a. Employees must be notified in writing when they are released from probation. Notice must be served using documents approved by County Counsel. These documents are the Notice of Release From Probationary Status and Affidavit of Service.
 - b. Determining an effective date of release is part of the decision process. For guidance in determining the date of release, contact County Counsel and refer to the Effective Date of Release Section below.
2. If the basis for the release might be considered "stigmatizing", consult County Counsel before proceeding.
 - a. Stigmatizing reasons include fraud, theft, dishonesty, immorality or similar conduct.

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- b. The employee may have a right to a hearing similar to a "Skelly" hearing before the Notice of Release is prepared.
- 3. Peace Officers. If the employee is a peace officer, applicable law may require a hearing similar to a "Skelly" hearing, whether or not the basis for release is stigmatizing. Consult County Counsel before releasing any peace officer from probation.
- 4. Resignation. If the employee who is about to be released resigns, either orally or in writing, promptly consult County Counsel.
- 5. Leave of Absence. A probationary employee may be authorized to take a leave of absence that exceeds thirty consecutive calendar days. In these cases, the authorized number of consecutive calendar days exceeding thirty is added to the probationary period as an extension. [Refer to CSC Rule 8.5(a) and County Personnel Policies and Procedures No. L-2: Leaves of Absence without Pay/Extension of Probationary Period]
- 6. Light Duty Assignment. A probationary employee may be assigned to light duty for a period exceeding thirty consecutive calendar days. The number of consecutive calendar days exceeding thirty is added to the probationary period as an extension, if the conditions listed below are met. [Refer to CSC Rule 8.5(b) The probationary period will be extended if:
 - a. The light duty assignment does not include duties essential to determining the employee's performance in the probationary classification; and
 - b. The employee has been assigned to light duty for medical reasons; and
 - c. The appointing authority authorizes the light duty assignment; and
 - d. The appointing authority notifies the employee and the Director of Personnel Management in writing. Written notice must include the following: the effective date of assignment to light duty and the applicability of Civil Service Rule 8.5(b); and the termination date of the light duty assignment, as soon as it is known.

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County Counsel Recommendation

1. County Counsel strongly recommends that the effective date on a Notice of Release be at least seven days earlier than the date calculated as the last day of the employee's probation. In doubtful cases, contact County Counsel as soon as possible for guidance regarding the effective date.
 - a. The Notice of Release from Probationary Status must be served on or before its effective date.
 - b. Refer to the section below on the "Last Day of the Established Probationary Period" for assistance in determining a date at least seven days earlier than the last day of probation.
 - c. The effective date of release cannot be later than the last day of the employee's probation. The release cannot be effective retroactively.

Effective Date of Release

1. The release of a probationary employee is effective on the date and at the time specified in the Notice of Release from Probationary Status. The Notice of Release must be served before the date and time it is effective.
2. Releasing an employee may be appropriate at any time during the probationary period. In each case the effective date should be determined on the basis of all relevant circumstances.
 - a. When releasing an employee who has the right to return to a former department, the releasing department must give the former department reasonable notice.
3. An employee's probationary period may be extended according to CSC Rule 8.5. See the sections below on Leave of Absence and Light Duty Assignment.
4. Last Day of the Established Probationary Period and Last Day of an Employee's Probation. The last day of the established probationary period is not necessarily the last day of an employee's probation. The last day of the established probationary period is determined by

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counting the number of months from the date of hire. The last day of an employee's probation is the employee's last regularly scheduled work day within the established probationary period. An employee's probation ends at the end of the employee's last regularly scheduled work shift within the established probationary period. The end of shift may be on or before the last day of the established probationary period.

a. Last day of the established probationary period.

The last day of the established probationary period is determined by counting the number of months from the date of hire. For most classes the established probationary period is 6 months; for some it is 12 months. Examples in the table below illustrate the method of calculating the last day of an uninterrupted, six month probationary period.

Hired On	Last Day of Established Probationary Period
Feb 2	Aug 1
Apr 30	Oct 29
May 30	Nov 29
Aug 29	Feb 28
Aug 30	Feb 28/29
Aug 31	Feb 28/29

Established probationary periods may be extended according to Civil Service Rule 8.5.

b. Last day of an employee's probation.

The last day of an employee's probation is the employee's last regularly scheduled work day within the established probationary period. The last day of an employee's probation may be on or before the last day of the established probationary period.

The last day of an employee's probation is not the same as the last day of a pay period or the last day of a work week, although these may coincide.

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An employee's probation ends at the end of the employee's last regularly scheduled work shift, whether the employee is present or not present, paid or unpaid. The end of shift may be on or before the last day of the established probationary period.

- c. To calculate the last day of an employee's probation: 1) determine the end of the established probationary period; and 2) determine the employee's last regularly scheduled work shift within the established probationary period.
- d. An employee attains permanent status at the end of the shift which begins on the last working day of the established probationary period. (Refer to Civil Service Rule 8.1)

Date of Service

- 1. The Notice of Release from Probationary Status must be served on or before its effective date.

Method of Service

- 1. The original Notice of Release from Probationary Status must be served on the employee.
- 2. If at all possible, notice should be served in person by the employee's immediate supervisor, personnel officer, department head or other manager (usually in the employee's direct chain of command). It is preferable to serve notice in a private setting.
 - a. The server should not attempt to explain reasons for the employee's release except to state that the employee did not complete the probationary period.
 - b. The server should answer questions on procedure or refer the employee to a resource person.
- 3. If the employee is unavailable for any reason and cannot be served in person, consult County Counsel or the Employee Relations Division, Department of Personnel Management for advice on alternate methods of service. Alternate methods of service may be more time consuming, therefore it is imperative that the employing department act quickly in these instances.

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Documentation of Service

1. Prepare the Notice of Release from Probationary Status and four copies.
2. The original Notice of Release and all copies must be signed by the department head or an authorized representative.
3. The person who serves notice should complete the Affidavit of Service immediately. Attach a copy of the Affidavit to each copy of the Notice of Release.
 - a. The Affidavit of Service documents the probationary employee's receipt of legally-mandated information contained in the Notice of Release. This documentation will be used to prove timely delivery of the release, if the employee appeals.
4. Distribute documents immediately after the Affidavit has been completed.
 - a. The original Affidavit of Service and a copy of the Notice of Release must be filed with the Civil Service Commission.
 - b. The remaining documents should be distributed to: County Counsel's Office; Personnel Actions Section, Department of Personnel Management (with the Masterfile and terminal pay form); and the operating department's personnel file.

PROCEDURES: RIGHT TO RETURN

Right to Return to a Former Class. Employees may have transferred or promoted to the probationary class from a class in which they hold permanent civil service status. These employees have a right to return to the class from which they transferred or promoted, unless the reasons for the release from probation would be cause for dismissal from County service under Civil Service Rule 11.

1. If it is necessary or appropriate to dismiss a probationary employee who has permanent status in a former class, always contact County Counsel promptly.

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Example: A probationer's unsatisfactory conduct may be so serious, that the employee should be dismissed from the former class in addition to being released from probation. In this case procedures under Civil Service Rule 11 apply.

2. Return to a Former Department. Usually, an employee with prior permanent status who is serving probation in a new department will be returned to the former class in the former department.
 - a. The immediate supervisor in the releasing department notifies the former department that the employee is being released to the former class in the former department. Notice should be given at least seven days before the anticipated date of return.
 - b. The personnel officer or other management representative of the former department determines an appropriate placement for the returning employee.
 - c. The former department sends written notice to the releasing department, including the employee's new position title, the person to whom the employee should report, and the date of return indicated by the releasing department.
 - d. The immediate supervisor in the releasing department notifies the employee of the new assignment in the former department.
 - e. If no vacancy exists in the former class in the former department, the former department should contact the Chief of Employee Services, Department of Personnel Management (DPM). The possibility of placing the employee in a vacant position in the class in another department will be considered. If the employee cannot be placed in another department, s/he will return to the former department in the former class.
 - f. The releasing department sends the Masterfile, the Notice of Release and Affidavit of Service to the gaining department. The gaining department obtains appropriate authorization signatures and forwards the Masterfile and attachments to Personnel Actions, DPM.

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3. Release from Probation Following Reinstatement to County Service.

- a. An employee who is on probation because of reinstatement does not have the right to return to a former class in which permanent civil service status was held. The employee may be eligible to request reinstatement to a former class. (Refer to County Personnel Policies and Procedures No. C-7: Reinstatements and Split-off Rights)

APPEALS

1. A probationary employee may appeal the release to the Civil Service Commission (CSC) only on the grounds of alleged unlawful discrimination based on race, color, religion, sex, national origin, political belief, age, or physical or mental handicap.
2. If a release is appealed, the appointing authority is not required to prove facts constituting "good cause" for release.
3. Refer to CSC Rule 12 for entire appeal procedure. The Notice of Release from Probationary Status contains information on the employee's rights and responsibilities.

5. **Review** Not Applicable