

GOVERNMENT MANAGERS COALITION

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January 11, 2016

The Honorable Jason Chaffetz, Chairman
Oversight and Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings, Ranking Member
Oversight and Government Reform Committee
2471 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Chaffetz and Ranking Member Cummings:

On behalf of the five major federal sector executive and management professional associations comprising the Government Managers Coalition (GMC), and our colleagues at the National Active and Retired Federal Employees Association (NARFE), we appreciate the Committee's willingness to consider H.R. 3023 and address legislative reforms related to the probationary period for federal employees under Title V. We support modifications to the existing probationary period to accommodate the needs of agencies with a longer training period; however, H.R. 3023, while a step in the right direction, does not provide agencies needed flexibility.

The GMC and NARFE collectively represent the interests of more than 200,000 supervisors, managers and executives throughout the federal government, as well as retirees and their survivors. Both groups' mission is to promote good government initiatives that foster effectiveness and efficiency throughout the federal government. Reforming the existing probationary period would accomplish that goal.

Research from the Merit Systems Protection Board (MSPB), including but not limited to its [2005 report](#) and the August 2015 primer titled "[Adverse Actions: The Rules and the Reality](#)," highlights the deficiencies with the current probationary period, as well as the fact that agencies are not using the probationary period as intended for new hires, nor for new supervisors. The research and recommendations presented by the MSPB should be acted on to improve application of the probationary period in the federal government.

Currently, most positions within the federal government are subject to a one-year probationary period for new employees. During this time, employees are in an "at-will" status, giving a manager time to assess the employee's performance and ability to do the job while also having the ability to terminate the employee without using lengthy performance channels.

However, many federal agencies employ labor forces requiring specialized, technical skills to carry out their duties. New employees and managers must often master broad and complex procedures and policies to meet their agencies' missions, necessitating several months of formal training followed by long periods of on-the-job instruction. To ensure each manager and supervisor oversees a workforce that exhibits the abilities required to execute its objectives, lawmakers must afford federal agencies the latitude to extend the probationary period beyond the current length of only one year for relevant jobs. Similarly, agencies must make better use of the probationary period for new supervisors, managers and executives.

For many federal jobs, the current one-year probationary period, which begins on the date of hire, is simply not enough time to evaluate whether or not an employee will be able to succeed in the job. Many times, employees will do well in formal training, but struggle once they start doing the actual work. For example, at the Social Security Administration (SSA), it takes most people at least two to three years to become proficient in the Claims Representative (CR) position, which is the primary interviewing and production position at the agency. Similarly, Revenue Agent positions at the Internal Revenue Service (IRS) also have lengthy training programs prior to working with the public. At the Federal Aviation Administration (FAA), newly hired air traffic controllers spend much of their first year in initial training at the FAA Academy and the remainder in training programs at the facility, and may be in facility qualification training for two or more years. Managers need an opportunity to not only ensure their employees are learning information needed to successfully carry out their duties, but are

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deploying that information appropriately, especially in cases where employees interact with members of the public.

The existing probationary period often places an unfair burden on both the employee and the manager. In many cases, managers are placed in the position of having to decide whether to retain employees when they may not have had sufficient time, or even any time, to evaluate them. If a marginal employee is not removed during the one-year probationary period, the burden of proof required to take a removal action becomes much greater. There is an incentive to dismiss the employee prior to the expiration of the one-year window even though the employee may not have had sufficient time to show that he/she could master the job. To this end, we support provisions that a manager must proactively certify that an employee has passed the probationary period, rather than the current framework in which, after 366 days of employment, the employee's probationary period is over.

Extension of the probationary period is supported by a 2015 Government Accountability Office (GAO) report, [GAO-15-191](#). Chief Human Capital Officers (CHCO) commented to GAO that often supervisors within federal departments and agencies are not given sufficient time to accurately review performance before the probationary period is complete. CHCOs recommended to the GAO an extension of the probationary period in order to accurately assess an employee's abilities in the federal workforce. Further, we note that the Congress already approved a two-year probationary period for employees at the Department of Defense, as part of the fiscal year 2016 National Defense Authorization Act (NDAA). The current economic environment requires agencies to take on greater responsibility while receiving fewer resources, and it is critical that agencies fill positions with the best men and women to fulfill the mission on behalf of the American public.

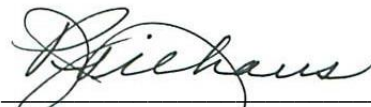
Learning the lesson from the 112th Congress, the last time probationary period reform was considered in Congress, we recommend that the Committee adopt a more flexible framework, such as language under consideration in the U.S. Senate. A one-size-fits-all probationary period does not reflect the complexity of duties and skill sets in the federal workforce. For some jobs, a one-year probationary period is completely adequate. If an employee is subject to formal training lasting more than one month, the employing agency may require a probationary period for the position that begins on the date of the initial appointment and ends one year after the date on which the employee completes formal training. In order to help ensure that new supervisors, managers and executives perform adequately in their new roles, the committee should also consider language calling for the probationary period to be utilized appropriately in these roles.

The GMC and NARFE are grateful for the Committee considering this legislation at the markup and believe that linking the probationary period to initial training and extending the period of time to adequately assess a new employee are steps in the right direction of commonsense federal workforce reform. A reasonable extension for positions that require longer training programs would lead to an improved federal government that can better serve the American public, and we urge support for these reforms. Should you require additional information or want to discuss this issue further, please contact Greg Stanford with the Federal Managers Association at gstanford@fedmanagers.org or (703) 683-8700.

Sincerely,



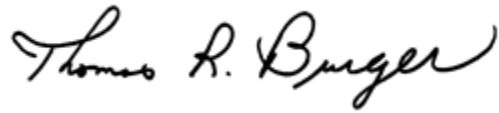
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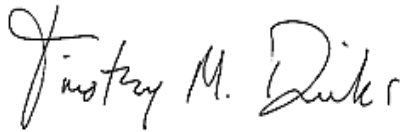
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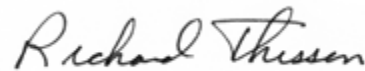
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cc: Members of the Oversight and Government Reform Committee