



# Operating Procedure

<b>Effective Date</b> November 1, 2016	<b>Number</b> 145.1
<b>Amended</b> 11/27/17	<b>Operating Level</b> Department
<b>Supersedes</b> Operating Procedure 170.2/145.1 (10/1/13)	
<b>Authority</b> COV §2.2-2900 Virginia Personnel Act; §53.1-10	
<b>Subject</b> <b>PROBATIONARY PERIOD</b>	
<b>ACA/PREA Standards</b> 4-4059; 4-ACRS-7E-07; 4-APPFS-3D-18; 2-CO-1C-15	
<b>Incarcerated Offender Access</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Public Access</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <b>Attachments</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Office of Primary Responsibility</b> Human Resources Director	

## I. PURPOSE

This operating procedure provides guidance for the establishment and administration of probationary periods for Department of Corrections' employees who are entering or re-entering State service or who are moving into a Corrections Officer position.

## II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

## III. DEFINITIONS

**Classified Position** - A position covered by the [Virginia Personnel Act](#)

**Excepted Position** - A position that is not covered by the Virginia Personnel Act including positions in Virginia Correctional Enterprises and the Judicial and Legislative Branches of State government

**Organizational Unit** - A DOC operating unit, such as a correctional facility, regional office, probation and parole office, Virginia Correctional Enterprises (VCE), Academy for Staff Development, Corrections Construction Unit, Agribusiness Unit, or other separate operational unit

**Organizational Unit Head** - The person occupying the highest position in a DOC organizational unit

**Probationary Period** - Introductory period of employment that allows the employee and the agency to determine if the employee is suited for the position

**Probationary Progress Review** - The form used to document the probationary employee's progress during the probationary period

**Reviewer** - The supervisor of an employee's immediate supervisor, or another person designated to review an employee's work description, performance plan, performance rating, and who responds to appeals of performance ratings

## IV. PROCEDURE

A. All persons who begin original employment or who are rehired into classified positions, including employees who move from excepted positions to classified positions or from classified positions to excepted positions in VCE, must serve a 12-month probationary period effective from the date of employment or re-employment. (4-4059; 4-ACRS-7E-07; 2-CO-1C-15)

### B. Corrections Officer Positions

1. All persons hired, re-employed, transferred, promoted, or demoted to a position in the Corrections Officer series must serve a new 12-month probationary period. The exception to this rule applies to any employee already working in a VADOC security (uniformed) position who goes into a Corrections Officer series position.

2. An employee who is promoted within the DOC to a Corrections Officer position shall be offered to

be returned to his or her previous position or an equivalent vacancy if the new probationary period is not completed for any reason other than misconduct.

#### C. VCE Positions

1. All persons hired, re-employed, or transferred to an excepted position in VCE, including employees who transfer from a state classified position, are required to serve a 12-month probationary period.
2. All VCE employees who are hired, re-employed, or transferred into classified positions with the DOC are required to serve a 12-month probationary period.

D. Employees who have satisfactorily completed the probationary period will not be required to serve another probationary period if they change positions within the DOC, with the exception of employees going into Corrections Officer positions as outlined above and employees transferring from an excepted position to a classified position or from a classified position to an excepted position.

E. Change of positions during probation - A probationary employee who moves into another position within the initial 12-month probationary period must complete the remainder of the probationary period in the new position as outlined below.

1. *First six months* - If an employee moves to a new position within the first 6 months of probation, the remainder of the 12 month probationary period must be completed. The probationary period may be extended beyond 12 months for performance reasons or for absences as described in this operating procedure.
2. *Second six months* - If an employee moves to a new position within the second 6 months of probation, the probationary period may remain at 12 months or the supervisor may extend it for up to 18 months (6 additional months) if a longer probationary period in the new job is desired.

#### F. Extensions for Performance

1. Probationary periods may be extended for up to 6 additional months for performance reasons. The reasons for the extension must be documented on the [Probationary Progress Review](#) 145\_F1 and must be given to the employee. Reviewers must approve the extension.
2. The employee must be notified in writing prior to the end of the probationary period that the probationary period is being extended. Documentation used to support extending the probationary period must provide information to the employee about performance deficiencies, expected levels of performance including improvement needed, and the period for which the probationary period is extended.

#### G. Extensions for Absences

1. Probationary periods must be extended when probationary employees are on any leave, with or without pay, for more than 14 consecutive calendar days. This includes all absences in excess of 14 calendar days, such as workers compensation, family medical leave, military leave with or without pay, and Virginia Sickness and Disability Plan (VSDP) absences (Short Term Disability or Long Term Disability-working status). Also included are periods of short-term disability where the employee is working in an "active employment" status with restrictions/modifications.
2. The number of days to be extended includes the first 14 calendar days of absence and all days in excess of 14, up to the return to work date. The employee should be notified in writing of the extension.

#### H. Performance Management

1. Supervisors should establish performance expectations for probationary employees within 30 calendar days of the employee's start date.
2. Supervisors should provide feedback to new employees throughout their probationary period. Documentation of an employee's progress shall be discussed with the employee and kept in the supervisor's fact file. Employees must be provided copies of all documentation in the supervisor's

- file immediately, upon request.
3. Supervisors shall meet with probationary employees who have been employed in their position for 6 months, to advise the employee of their progress toward meeting the expectations set forth in the established performance plan. (4-APPFS-3D-18) A [Probationary Progress Review](#) 145\_F1 must be completed and discussed with the employee at this meeting. The supervisor shall send the original form to the Human Resource Office for retention in the employee's personnel file. A copy must be given to the employee and a copy may be kept in the supervisor's file. .
  4. Decline in performance or unsatisfactory performance following a satisfactory 6 month performance review, or at any time during the probationary period, may be a basis for termination.
  5. Supervisors shall meet with probationary employees approximately 3 weeks prior to the end of their probationary period to provide a progress review. The [Probationary Progress Review](#) 145\_F1 should be used; however the [Employee Work Profile \(EWP\)](#) 145\_F2 may also be used for this purpose.
    - a. If the employee's performance is rated as satisfactory, the supervisor should notify the employee in writing when the probationary period has been satisfactorily completed.
    - b. If a probationary employee works beyond the end of the probationary period without receiving written notification of their status or that the probationary period is being extended for performance reasons, the employee will have successfully completed the probationary period.
  6. If it is determined anytime during the probationary period that the employee is not suited for the position, the employee should be terminated or allowed to resign. Notice of termination should be by letter or memorandum. Notification by mail must be sent certified or registered mail. Records must reflect that the employee was terminated for "unsatisfactory performance during the probationary period" or that the employee "resigned during the probationary period."
  7. Employees may be disciplined during probation, using the Standards of Conduct only as a guide. Probationary employees may be terminated for any level of offense, provided the termination is consistent with other similar actions. Written notices are not needed, and should not be used, for probationary employees who are "at will," because they may be terminated at any time.
  8. Employees may file a discrimination complaint with the appropriate office or agency if they believe that termination or other disciplinary action was discriminatory based race, sex (including sexual harassment, pregnancy, and marital status) color, national origin, religion, sexual orientation, gender identity, age, political affiliation, veteran status, or against otherwise qualified persons with disabilities unless there are bona fide occupational qualifications. (see Operating Procedure 145.3, *Equal Employment Opportunity*)

#### V. REFERENCES

[DHRM Policy 1.45, Probationary Period](#)

Operating Procedure 145.3, *Equal Employment Opportunity*

#### VI. FORM CITATIONS

[Probationary Progress Review](#) 145\_F1

[Employee Work Profile \(EWP\)](#) 145\_F2

#### VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years after the effective date.

*The office of primary responsibility reviewed this operating procedure in November 2017 and necessary changes have been made.*

*Signature Copy on File*

**9/23/16**

N. H. Scott, Deputy Director of Administration

Date